SB 787 - Digital Ad Tax Exemption BT Testimony_BFe

Uploaded by: Ferguson, Senate President Bill

Position: FAV

Bill Ferguson
President of the Senate
Legislative District 46
Baltimore City

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The Senate of Maryland
Annapolis, Maryland 21401-1991

SB 787 – Digital Advertising Gross Revenues Tax – Exemption and Restriction
Testimony of Senate President Bill Ferguson
On February 17, 2021
Before the Budget and Taxation Committee

Why This Bill Matters:

Massive technology corporations have ballooned in influence over the last two decades. Over that time, innovative companies and platforms have grown in their ability to monetize personal data for targeted advertising. While Maryland is a state that fosters innovation, we must ensure that it is done in a way that maximizes individuals' potential. As more people shop, consume news, and generally engage online, these companies' profits will continue to grow exponentially.

Right now, the growth of these companies has resulted in negative externalities socialized and borne by the public. In order for a more efficient and fair marketplace to exist in this new media environment, externalities created by private actors' actions must be borne by that actor. At the federal level, there has been conversation about antitrust laws, or targeted regulatory action. That is a discussion for a different forum.

Over the last year, Maryland led the nation in creating a Digital Advertising Tax on the gross revenues of big tech companies that use Marylanders' data without cost to address these externalities. In doing so, it has come to our attention that the bill inadvertently included certain media and broadcast companies. Our intent was not for media and broadcast organizations to bear those costs.

Further, we want to make explicitly clear that the giant technology companies profiting off user data are unable to pass the cost of the Digital Ad Tax onto small business consumers.

What This Bill Does:

Senate Bill 787 exempts media and broadcast companies from the bill. In addition, the bill prohibits a company from directly passing on the cost of the tax through a separate fee, surcharge, or line-item. This would not make these companies unable to profit, rather it would make them responsible for their own costs.

We are asking the committee to amend this bill to make it Emergency, so this can take effect as quickly as possible.

Why You Should Vote For This Bill:

We passed the Digital Ad Tax to ensure that our largest technology companies that benefit from free, personal user data pay their fair share towards building our State's civic infrastructure. This corrective bill makes certain those companies impacted by the Digital Ad Tax cannot pass down the costs, and media and broadcast companies will be excluded as originally intended.

Thank you for your consideration of Senate Bill 787 and I urge the committee to move this bill with a favorable report, amended to make this bill an emergency measure.

SB0787--02.17.21--Digital advertising Revenue .fin
Uploaded by: Fry, Donald
Position: FAV

gbc POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE BUDGET & TAXATION COMMITTEE

SENATE BILL 787 - DIGITAL ADVERTISING GROSS REVENUES TAX – EXEMPTION AND RESTRICTION
Sponsor – Senator Ferguson

February 17, 2021

DONALD C. FRY
PRESIDENT & CEO
GREATER BALTIMORE COMMITTEE

Position: Support

The Greater Baltimore Committee (GBC) supports Senate Bill 787, which prevents a business that collects revenues from digital advertising services from passing the cost of the digital advertising gross revenues tax to its customers in a line-item manner. In addition, the bill clarifies that broadcasters and news media entities are not subject to the digital advertising gross revenues tax.

The GBC's *2021 Maryland General Assembly Legislative Priorities* advocate for policy, funding, and regulatory solutions to accelerate economic recovery with an emphasis on support for small and minority-owned businesses.

Without the change proposed in SB 787, there is concern that businesses who collect revenues from digital advertising services will simply pass the cost along to already struggling Maryland businesses, rather than absorb the cost of the tax.

In order for Maryland businesses to recover from the economic downturn caused by the COVID-19 pandemic, it is incumbent upon the legislature to limit additional burdens imposed on small and minority-owned businesses, including the pass-down of the digital advertising gross revenues tax.

For these reasons, the Greater Baltimore Committee urges a favorable report on Senate Bill 787.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 66-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

MD Digital Ad Tax Bill- WTTG Support.pdf
Uploaded by: Gillespie, Jamie
Position: FAV

Chairman Guy Guzzone
Budget and Taxation Committee
Miller Senate Office Building, 3 West Wing
11 Bladen St., Annapolis, MD 21401

February 15, 2021

RE: Statement of Support for SB787

Dear Senator Guzzone:

On behalf of WTTG and WDCA I write in support of SB787 and HB1200 the 'Digital Advertising Gross Revenues Tax – Exemption and Restriction,' legislation introduced by Senate President Bill Ferguson and House Majority Leader Eric Luedtke. Local media, including local broadcast television stations, were never the intended target of a digital advertising tax and we appreciate your willingness to rectify this matter. If left unchecked, it would burden FOX5 and other local broadcasters with an onerous tax at a time when local broadcasting is fighting to remain viable.

FOX5 local news production is an extremely expensive endeavor. While news costs consistently account for more than one quarter of our station's total annual operational expenses, we continue to make major capital expenditures to support our award-winning news operations. As you know, we are excited to move our approximately 200 employees to Bethesda, Maryland later this year. This new state-of-the-art facility will allow us to continue to deliver high-quality local news to Maryland communities and many of your constituents while keeping us in the heart of the Washington, D.C. metro area. We take pride in delivering relevant and informative local news over many different platforms- including over-the-air. However, our ability to continue to provide over 80 hours of local news each week has been stressed by seismic shifts in advertising practices.

Local television's ability to serve vulnerable populations has been on display extensively during the current health emergency. Our stations bring the DMV the most trusted news and information as well as the entertainment they love- anywhere and anytime. Specifically, WTTG and WDCA have run over 13,850 COVID-19 related PSAs from the Ad Council, National Association of Broadcasters, American Red Cross and The Salvation Army. This represents over 103.17 hours of donated airtime to these important causes, a practice we are proud to facilitate. This is in addition to the countless hours of in-depth reporting from our outstanding team on COVID-19 transmission information, protective measures, vaccine distribution and other lifesaving information.

We thank you for your support of local broadcasters and the leadership you have provided on SB787. Passage of the legislation will provide much-welcomed relief. Please reach out to me if there is anything I can do to assist your efforts.

Sincerely,

Patrick Paolini (Feb 15, 2021 11:39 EST)

Patrick C. Paolini, Jr.
Sr. Vice President & General Manager
202-895-3090 *phone*
202-359-0548 *cell*
5151 Wisconsin Ave. Washington, DC 20016
patrick.paolini@foxtv.com

MDCD Broadcasters Association - Testimony in Suppo
Uploaded by: Nelson, Timothy
Position: FAV

MARYLAND GENERAL ASSEMBLY

Senate Budget and Taxation Committee

Written Testimony of Timothy G. Nelson on behalf of the Maryland-DC-Delaware Broadcasters Association in support of Senate Bill 787

(Digital Advertising Gross Revenues Tax – Exemption and Restriction)

February 17, 2021

Thank you for the opportunity to testify today regarding Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction." My name is Tim Nelson, and I serve as counsel to the Maryland-DC-Delaware Broadcasters Association.[1] On behalf of the Association and its Members, which include approximately 35 television stations and 175 radio stations, I am here today to support Senate Bill 787 and to urge the Committee to report it favorably.

Broadcasters and newspapers were never the intended targets of the Digital Advertising Tax legislation that is a part of House Bill 732, which both Chambers approved last week in votes overriding Governor Hogan's veto. As written, however, that legislation directly subjects many broadcasters and news media entities to the Digital Advertising Tax. Senate Bill 787, in exempting from the Digital Advertising Tax on certain digital advertising services in Maryland those advertising services on digital interfaces (such as websites and apps) owned and operated by broadcast stations and other news media entities, helps to remedy some of House Bill 732's unintended consequences.

In sponsoring Senate Bill 787, Senate President Bill Ferguson (as well as House Majority Leader Eric Luedtke, sponsor of companion legislation, House Bill 1200) demonstrates his support for and recognizes the importance and value of objective, accurate, trusted local journalism here in Maryland. Indeed, the critical need for local journalism has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

Not only do MDCD's Member Stations provide critical news, weather, traffic, and health and emergency information both on-air and online; they also participate in and sponsor events in the very communities in which their employees live and work. From food drives to telethons, our broadcasters raise money and awareness to help those Marylanders in need. And, our Stations run countless hours of free, public service announcements on topics of critical importance to their viewers and listeners. As you may know, each broadcast Station licensed by

[1] The Maryland-DC-Delaware Broadcasters Association is a voluntary, non-profit trade association that advocates for the interests of its member radio and television stations and, more generally, the interests of broadcasting in Maryland, Delaware, and Washington, D.C.

the Federal Communications Commission is required to operate in and serve the public interest. MDCD's Member Stations embrace that mandate.

Yet local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Producing high-quality local news is a costly endeavor; for example, news costs typically account for about one-quarter of TV stations' total annual operational expenses. Stations also undertake significant capital expenditures to support their news operations.

Local television and radio stations provide their over-the-air services free to the public. They fund their on-air and digital operations through advertising, much of it coming from small, locally owned businesses. Advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. The COVID-19 pandemic has led to a decrease in broadcasters' advertising revenues. But that is only part of the story. Radio and television station ad revenues have been declining sharply for years. The revolution in digital technology and the explosive growth of the Internet have led to a handful of giant digital platforms dominating the advertising marketplace. This, in turn, has negatively impacted local broadcasters from a competitive standpoint; advertisers and critical revenues have been diverted away from the broadcasters and news media entities that produce accurate, trusted, objective, local journalism.

Subjecting local media, including broadcasters, to the Digital Advertising Tax on certain gross revenues derived from their digital advertising services in Maryland would only make matters worse. Ultimately, subjecting local media to the Digital Advertising Tax would lead to less local news, weather, emergency, public health and safety, traffic, and sports information – less of the local journalism on which the public depends. Senate Bill 787 aims to prevent that; instead, the legislation recognizes the unique and vital role that local media plays in Maryland's communities, large and small. The Maryland-DC-Delaware Broadcasters Association thanks you for your consideration of Senate Bill 787 and urges the Committee to report it favorably.

* * * * *

RADIO ONE
AN URBAN ONE COMPANY

To: Senate Budget and Taxation Committee
From: Jeffrey Wilson, Senior Regional Vice President, Radio One
Date: February 15, 2021
Re: Senate Bill 787

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax - Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland - and across the country - has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As Senior Regional Vice President, WMMJ FM, WKYS FM, WPRS FM, WOL AM, and WYCB AM, I am proud to be part of a local team that strives to serve the citizens of the Maryland communities that border the Washington D.C. metro area by providing critical news, weather, traffic, health, and emergency information both on-air and online. In addition we host and sponsor numerous events like back to school festivals, drives for school supplies, career fairs, food drives, campaigns to end lupus, heart disease, breast cancer, homelessness, and diabetes, along with campaigns in support of COVID testing, voter registration, and community policing. Indeed, our Stations, as licensees of the Federal Communications Commission, embrace their mandates to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information - less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

RADIO ONE
AN URBAN ONE COMPANY

I'm grateful for your partnership with us in serving the great people of Maryland!

Sincerely,

Jeffrey Wilson
Senior Regional Vice President
Radio One

Entercom
Baltimore

To: Senate Budget and Taxation Committee
From: Tracy Brandys SVP/Market Manager, Entercom Baltimore
Date: February 15, 2021
Re: Senate Bill 787

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As SVP/Market Manager of Entercom Baltimore, I am proud to be part of a local team that strives to serve the citizens of the Baltimore Metro area by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring events like local food drives, raising over $20 Million dollars for Johns Hopkins Children's Center over the years and supporting organizatiosn such as Breast Cancer Awareness aimed to help the very communities in which we live and work. Indeed, our Station, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Sincerely,

SVP/Market Manager

WJZ-FM | WJZ-AM | WLIF-FM | WWMX-FM | HFS @ 104.9
1423 Clarkview Road | Suite 100 | Baltimore, Maryland 21209

To: Senate Budget and Taxation Committee
From: Dan Joerres – WBAL-TV
Date: February 15, 2021
Re: Senate Bill 787

WBALTV 11
wbaltv.com

Dan Joerres
President & General Manager
djoerres@hearst.com
410.338.6403
410.338.6238 FAX

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As President and General Manager of WBAL-TV, I am proud to lead a local team that strives to serve the citizens of Baltimore by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring events like The annual Polar Bear Plunge which supports over 8,700 Maryland Special Olympians to our partnership with the Maryland Foodbank, where last year alone, we raised over $1.9M aimed to help feed the hungry in the very communities in which we live and work. Indeed, our Station, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Sincerely,

Dan Joerres
WBAL-TV
President & General Manager

wtop 103.5 FM WTOP.COM

5425 WISCONSIN AVE, 5TH FLOOR
CHEVY CHASE MD 20815

2 / 12 / 2021

To Senate Budget and Taxation Committee

To: Senate Budget and Taxation Committee
From: Joel Oxley, SVP/General Manager WTOP News
Re: Senate Bill 787

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As the General Manager of WTOP News, I am proud to be part of a local team that strives to serve citizens from Hagerstown to the Chesapeake Bay and from Baltimore to the Maryland suburbs of DC, by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring events like the Washington Area Fuel Fund's Ice House and Chance for Life, both aimed at helping the very communities in which we live and work. Indeed, our Station, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

5425 WISCONSIN AVE, 5TH FLOOR
CHEVY CHASE MD 20815

Sincerely,

Joel Oxley

Joel Oxley
SVP/GM WTOP News
5425 Wisconsin Avenue
Chevy Chase, MD 20815

To: Senate Budget and Taxation Committee
From: Cary L. Pahigian, President/General Manager, WBAL NewsRadio & 98 Rock/WIYY
Date: February 15, 2021
Re: Senate Bill 787

If I may, I write to you with my strong support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As President/General Manager of WBAL News Radio & 98 Rock, I am proud to be part of a large local team that strives to serve the citizens of Greater Baltimore and Maryland by providing essential news, weather, traffic, live news conferences, and health and emergency information on-air, via mobile apps and online, as well by participating in and sponsoring events in support of the Maryland Food Bank, Special Olympics of MD, WBAL's Kids Campaign and others aimed to help the communities in which we live and work. Indeed, WBAL/WIYY, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest 24/7.

Local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Thank you for your time and consideration.

Respectfully,

Cary L. Pahigian
President/General Manager
Hearst Radio/Baltimore

WMAR WORKING FOR YOU abc

To: Senate Budget and Taxation Committee
From: Bill Hooper, VP/GM, WMAR TV
Date: February 15, 2021
Re: Senate Bill 787

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction. "

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As VP/GM of WMAR-TV, I am proud to be part of a local team that strives to serve the citizens of the Baltimore Metro Area by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring events like Fill the House/House of Ruth Md., Food Drive/ Maryland Food Bank, and If You Give a Child a Book Drive aimed to help the very communities in which we live and work. Indeed, WMAR-TV, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the dominant source of revenue for television broadcasters. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Sincerely,

Bill Hooper

Bill Hooper
VP/GM

To: Senate Budget and Taxation Committee
From: Teri Monahan, General Manager/Marquee Broadcasting, Inc.
Date: February 15, 2021
Re: Senate Bill 787

I write to express my strong support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution to school operations, to government actions, and more), all during an economic downturn.

As General Manager for television stations WMDT and WGDV located on Maryland's Eastern Shore, I am proud to be part of a local team that strives to serve the citizens of Talbot, Dorchester, Somerset, Wicomico and Worcester counties in Maryland by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring events. For example, we recently partnered with our local Food Banks and were able to provide over 296,000 meals to families in need in our viewing area. We also partnered with The Community Foundation of the Eastern Shore on Giving Tuesday; that one-day campaign raising over $269,000 for 99 local non-profit organizations to help the very communities in which we live and work. Indeed, our Station, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Respectfully,

Teri Monahan

Teri Monahan, General Manager
Marquee Broadcasting, Inc.

Marquee Broadcasting, Inc.
47abc.com • cwdelmarva.com • metvdelmarva.com
202 Downtown Plaza P. O. Box 4009 Salisbury, MD 21803-4009
Phone: 410.742.4747 • **Fax:** 410.742.5767

To: Senate Budget and Taxation Committee

From: David Bangura, VP/ General Manager, WDCW Ch50/ WDVM Ch25

Date: February 15, 2021

Re: Senate Bill 787

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As VP/ General Manager for WDCW/ WDVM, I am proud to be part of a local team that strives to serve the citizens of metro Washington DC/ Hagerstown, by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring events like political Townhalls, coat drives and county fairs to name a few, aimed to help the very communities in which we live and work. Indeed, our Station, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Sincerely,

David Bangura

Vice President\General Manager

WDCW TV and WDVM TV

WDCW TV	WDVM TV
2121 Wisconsin Ave NW	13 E. Washington Street
Washington, DC 20007	Hagerstown, MD 21740

WDCW: 202-965-5050

WDVM: 301-797-4400

Mobile: 248-670-7002

DBangura@nexstar.tv

February 15, 2021

Maryland Senate Budget and Taxation Committee
Re: Senate Bill 787

Honorable Senators,

As President of a Broadcasting Group with television and radio stations here in Maryland I am writing to express support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

I'm proud to lead a local team the serves our family, friends and neighbors here on Maryland's Eastern Shore with critical news, weather, traffic, and health and emergency information both on-air and online. Further we serve our community with events such as our own 501 (c) 3 charity called Bless Our Children. This year we raised $352,000.00 to help needy local families during the holidays.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund our on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Sincerely,

Craig Jahelka

Craig Jahelka
President, Draper Media

1729 North Salisbury Blvd., Salisbury, MD 21801
443-880-9090
cjahelka@wboc.com

WBFF | WNUV | EBFF
2000 West 41st Street, Baltimore, MD 21211-1420

To: Senate Budget and Taxation Committee

From: Billy Robbins, Vice President and General Manager WBFF-TV/EBFF-TV
Sinclair Broadcast Group

Date: February 15, 2021

Re: Senate Bill 787

I write to express my enthusiastic support for Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction."

The importance and value of objective, accurate, trusted local journalism here in Maryland – and across the country – has perhaps never been more apparent than right now, as people turn to their local broadcasters and newspapers in unprecedented numbers for current, reliable information about the COVID-19 pandemic and local responses to it (from vaccine availability and distribution, to school operations, to government actions, and more), all during an economic downturn.

As Vice President and General Manager of WBFF-TV and EBFF-TV I am proud to be part of a local team that strives to serve the citizens of the Baltimore DMA by providing critical news, weather, traffic, and health and emergency information both on-air and online, as well by participating in and sponsoring local events like Toys for Tots, The BMORE Healthy Expo, Champions of Courage, College Bound Scholar of the Week, Scouting for Food, A Salute to Those who Serve and the Dr. King Parade to name a few. All of these events are aimed to help the very communities in which we live and work. Indeed, our Station, as a licensee of the Federal Communications Commission, embraces its mandate to operate in and serve the public interest.

But local broadcasters face significant challenges as they aim to fulfill their unique role, many of them financial. Local television and radio stations fund their on-air and digital operations through advertising, much of it from small, locally owned businesses; advertising is essentially the only source of revenue for radio broadcasters, and it is the dominant source of revenue for local television news stations. Subjecting local media, including broadcasters, to the tax on certain gross revenues derived from their digital advertising services in Maryland would ultimately lead to less local news, traffic, weather, public health and safety information – less of the trusted, local journalism on which the public depends. Senate Bill 787 seeks to prevent that, and instead recognizes the unique and vital role that local media plays in Maryland's communities, large and small. I wholeheartedly support Senate Bill 787 and urge its passage.

Sincerely,

SB 787 -MDDC FAV Substitute Written Test.
Uploaded by: Snyder, Rebecca
Position: FAV

Maryland | Delaware | DC Press Association
P.O. Box 26214 | Baltimore, MD 21210
443-768-3281 | rsnyder@mddcpress.com
www.mddcpress.com

To: Budget & Taxation Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: February 17, 2021

Re: SB 787 - SUPPORT

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies like the Washington Post and the Baltimore Sun, to online-only publications such as MarylandReporter.com and Baltimore Brew to hometown newspapers such as The Star Democrat and the Dorchester Banner.

The Press Association supports Senate Bill 787, which provides a narrowly tailored exemption from the digital advertising tax to news media and broadcast entities. As written, the digital advertising tax that is a part of HB 732, which the Maryland General Assembly approved last week with votes to override Governor Hogan's veto, would severely affect our member news organizations. Digital advertising is offered by many of our membership as part of a holistic package of advertising services to meet the needs of local advertisers. As passed, HB 732 will almost certainly increase the cost of digital advertising and will therefore reduce overall advertising revenue. HB 732 will tax many of our local newspapers who are owned by larger corporate entities, but who are still required to be individually viable.

SB 787 fixes those problems by exempting news media, including newspapers, news websites and broadcasters from paying the digital advertising tax. The exemption acknowledges the vital importance of Maryland's local news outlets in providing news and commentary to our local communities. And the exemption recognizes that many of those news outlets, which were already under substantial strain as they transition from print to on-line publications, have been under significant additional pressures as they face attacks on role of the press, as well as the pandemic and the resulting economic downturn. We appreciate that Senator Ferguson recognizes the importance of local newsgathering and understands the role of revenue from digital advertising in supporting news reporting in local communities.

We encourage the committee to stand with news media and issue a favorable report.

SB 787 -MDDC Press SUPPORT.pdf

Uploaded by: Snyder, Rebecca

Position: FAV

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To: Budget & Taxation Committee

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The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies like the Washington Post and the Baltimore Sun, to online-only publications such as MarylandReporter.com and Baltimore Brew to hometown newspapers such as The Star Democrat and the Dorchester Banner.

The Press Association supports Senate Bill 787, which provides a narrowly tailored exemption from the digital advertising tax to news media and broadcast entities and prohibits companies from passing the digital advertising tax on to customers. As written, the digital advertising tax that is a part of HB 732, which the Maryland General Assembly approved last week with votes to override Governor Hogan's veto, would severely affect our member news organizations. Digital advertising is offered by many of our membership as part of a holistic package of advertising services to meet the needs of local advertisers. As written, HB 732 will almost certainly increase the cost of digital advertising and would tax many of our local newspapers who are owned by larger corporate entities.

SB 787 fixes those problems by exempting news media, including newspapers, news websites and broadcasting from paying the digital advertising tax. It insulates local advertisers by prohibiting companies from passing on the tax. We appreciate that Senator Ferguson recognizes the importance of local newsgathering and understands the revenue role of digital advertising in supporting news reporting in local communities.

We encourage the committee to stand with news media and issue a favorable report.

021721 COST Testimony in Opposition to SB 787 (Ad

Uploaded by: Do, Stephanie

Position: UNF

Stephanie T. Do
Senior Tax Counsel
(202) 484-5228
sdo@cost.org

February 17, 2021

Maryland General Assembly
Senate Budget and Taxation Committee

Re: In Opposition to Senate Bill 787, Digital Advertising Tax – Exemption and Restriction

Dear Chair Guzzone, Vice Chair Rosapepe, and Members of the Committee,

Thank you for the opportunity to provide testimony today on behalf of the Council On State Taxation (COST) in opposition to Senate Bill 787 (S.B. 787), Digital Advertising Gross Revenues Tax – Exemption and Restriction, which would amend the definition of "digital advertising services" under the new gross revenues tax enacted by House Bill 732 (2020) (the Digital Advertising Tax) to exclude digital interfaces owned, or operated by, or operated on behalf of, a broadcast entity or news media entity. S.B. 787 would also prohibit a person from passing the cost of the Digital Advertising Tax to a customer by means of a separate fee, surcharge, or line item.

About COST

COST is a nonprofit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business. COST's objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many COST members have operations in Maryland that would be negatively impacted by this legislation.

S.B. 787 Does Not Mitigate the Deficits of the Digital Advertising Tax

While COST appreciates the attempt to limit the scope of the Digital Advertising Tax, the bill does not alleviate the Digital Advertising Tax's underlying violations of several core tenets of sound tax policy—transparency, fairness, economic neutrality, and effective tax administration.[1]

The bill also raises additional constitutional violations, further questioning the legality of the Digital Advertising Tax. The enacted Digital Advertising Tax is already expected to be embroiled in lengthy litigation, including the tax's potential violations of: (1) the

[1] *See* Letter Patrick J. Reynolds, Senior Tax Counsel, COST, to Senate Budget and Taxation Committee, Maryland General Assembly (Jan. 29, 2020), https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-comments-and-testimony/012920-cost-testimony-in-opposition-to-s-2-digital-advertising-tax-final.pdf (regarding COST's opposition to Senate Bill 2 (2020)).

federal Permanent Internet Tax Freedom Act, which prohibits states from imposing discriminatory taxes against electronic commerce; and (2) the Commerce, First Amendment, and Equal Protection Clauses of the U.S. Constitution. Prohibiting the pass through of the cost of the Digital Advertising Tax to a customer as a separate fee, surcharge, or line item raises additional constitutional infractions against the First Amendment and the Dormant Commerce Clause.[2]

Conclusion

For these reasons, COST urges members of the committee to please vote "no" on S.B. 787.

Respectfully,

Stephanie T. Do

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director

[2] *E.g.*, *BellSouth Telecomm., Inc. v. Farris*, 542 F.3d 499 (6th Cir. 2008); *Healthcare Distrib. All. v. Zucker*, 353 F.Supp.3d 235 (S.D.N.Y. 2018).

SB 787_Digital Advertising Gross Revenues Tax - Ex
Uploaded by: Griffin, Andrew
Position: UNF

MARYLAND
Chamber of Commerce

LEGISLATIVE POSITION:
UNFAVORABLE
Senate Bill 787
Digital Advertising Gross Revenues Tax -
Exemption and Restriction
Senate Budget & Taxation Committee

Wednesday, February 17, 2021

Dear Chairman Guzzone and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

As introduced, SB 787 attempts to prevent the passing on of costs from a new digital advertising tax to customers in the form of a "separate fee, surcharge, or line-item". While SB 787 attempts to prevent the passing on of this new tax incidence through direct methods, the bill fails to address any indirect avenues of passing on increased costs therefore, not addressing the concerns of increased costs for customers of digital advertising services. In fact, by preventing the passing on of costs as a separate charge, increased costs will likely be folded into product prices, leading to tax pyramiding. As product price increases so will the taxes paid for that product by consumers.

In addition to promising a false solution to increased costs for digital advertising customers, SB 787 contains a litany of legal concerns.

- **Discriminates Against Interstate Commerce in Violation of the Commerce Clause:** The Commerce Clause of the U.S. Constitution prohibits state laws that discriminate against interstate commerce. A state law discriminates against interstate commerce if it favors in-state interests at the expense of out of state interests. The proposed antipass-through provision of SB 737 would prevent an increase in the price of digital advertising to Maryland advertisers attributable to an increase in costs which the State itself created. Maryland therefore seeks to exact tax revenues from out-of-state sales of plaintiffs' products, but to shield its citizens from the economic impact of the tax. The practical effect of the prohibition would be the shifting the direct burden of the digital advertising tax from the taxpayer's Maryland customers to their out-of-State customers. It thus favors in-state customers and discriminates against of out-of-state customers in violation of the Commerce Clause of the U.S. Constitution.

- **Violates the First Amendment:**
  The First Amendment to the U.S. Constitution generally prohibits laws "abridging the freedom of speech." The cost-pass-through prohibition provisions of the bills would prohibit taxpayers from including on invoices given to their customers either a statement that the price of digital advertising services includes the new Maryland tax or from including a line-item on the invoice detailing the tax. These provisions thus would statutorily prohibit those subject to the tax from speaking to their customers about the tax in printed invoices. Such a prohibition on speaking cannot withstand scrutiny under the First Amendment to the U.S. Constitution.

- **Scope of Carve-outs Vague and Uncertain:**
  The proposed amendments exclude "broadcast" and "news media" entities from the definition of "digital advertising services" subject to the gross receipts tax. The proposed amendments use a "primarily engaged in the business of" test in determining whether an entity is subject to the carve out and thus exempt from the tax. Since the carve-outs constitute an exemption from the tax, they would be narrowly construed. As many key terms are undefined, application of the carve-outs to a given business could be uncertain and lead to unintended consequences.

- **Exacerbates Previously Identified Legal and Constitutional Concerns with the Underlying Tax:**
  The federal prohibition of the Internet Tax Freedom Act on state taxes that discriminate against electronic commerce is a chief legal obstacle to enforcement of the underlying tax. A tax discriminates against electronic commerce when it targets the internet and does not apply to similar offline commerce. The proposed amendments would exacerbate the targeting of the internet by specifically exempting radio and TV broadcasting advertising from the tax. Additionally, there is no rational basis for imposing the tax on internet advertising and exempting similarly situated radio and TV advertising, in further violation of the Equal Protection Clause of the U.S. Constitution. The same Equal Protection issue arises when treating aggregators and republishers of news content more harshly than "news media entities".

- **Prohibited by the Bill of Attainer Clause:**
  A constitutionally proscribed bill of attainder is a law that legislatively determines guilt and inflicts punishment upon an identifiable individual without provision of the protections of a judicial trial. A state law is a bill of attainder if it serves no nonpunitive legislative purposes.

> Where no legitimate legislative purpose appears, the statute will be considered punitive. Here, the purpose of the proposed prohibition on passing the burden of tax onto Maryland customers, conduct that otherwise would be lawful, clearly is to make the taxpayer and its shareholders suffer the burden of the tax. There is no discernable non-punitive purpose that would justify such a cost-pass-through prohibition making it a legislative punishment prohibited by Bill of Attainder Clause.

As SB 787 clearly favors certain industries over others through its carve-out provisions, fails to address the bigger issue of increased costs on customers of digital advertising when they can least afford it, and further complicates the legal issues presenting with the digital advertising tax, the Chamber respectfully requests an **unfavorable report** on Senate Bill 787.

SB0787-Digital Tax_20210217.docx.pdf
Uploaded by: Griffiths, Brian
Position: UNF

BRIAN GRIFFITHS

February 17, 2021

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
House Office Building, 6 Bladen St.
Annapolis, MD 21041

Dear Mr. Chair and members of the Committee,

I write to you today in **opposition** to **Senate Bill 787**, Digital Advertising Gross Revenues Tax – Exemption and Restriction.

The synopsis of the bill reads that bill would prohibit "a person who derives gross revenues from digital advertising services in the State from passing on the cost of the tax to a certain customer in a certain manner." Furthermore, the text of the bill states that "a person who derives gross revenues from digital advertising services in the state may not directly pass on the cost of the tax imposed under this section to a customer who purchases the digital advertising services by means of a separate fee, surcharge, or line–item."

So what exactly is the point of this section of the bill? The sponsors intend that digital service providers will be unable to directly pass on the cost of this tax in a manner that clearly identifies the origin of the fee. The sponsor does not want the origin of this new tax, in this case this General Assembly, to be known by the customer.

The majority of the members of both houses of this General Assembly voted for the Digital Advertising Gross Revenues Tax in 2020 and again this year in overriding Governor Larry Hogan's vetoes. Seeing as the sponsor and other members gleefully voted to impose this tax on Maryland's working families, how can this body deny them the opportunity to be recognized for the courage of their convictions?

This bill is being portrayed as a mechanism to avoid the cost of the tax from being passed onto consumers. I'm not entirely sure who the sponsors are fooling here: digital service providers will merely increase the cost of their services at a proportional level to cover the cost of their tax. As always, this body will have raised taxes on businesses only for Maryland's working families to be stuck with the check.

This bill is ultimately exists only so members of the General Assembly who voted for yet another tax on Maryland's working family to avoid being blamed for yet another tax on Maryland's working families. I urge you all to **vote no** on **Senate Bill 787**.

Respectfully

Brian Griffiths

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Sandra Benson Brantley SB 787_ 02 16 21

Uploaded by: Brantley, Sandra Benson

Position: INFO

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Elizabeth F. Harris
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THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

Sandra Benson Brantley
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Kathryn M. Rowe
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Jeremy M. McCoy
Assistant Attorney General

David W. Stamper
Assistant Attorney General

February 16, 2021

The Honorable Bill Ferguson
Senate President
Maryland General Assembly
H-107 State House
Annapolis, Maryland 21401
Via email

Re: Senate Bill 787, "Digital Advertising Gross Revenues Tax – Exemption and Restriction"

Dear President Ferguson:

You asked for advice about SB 787. The bill, among other things, prohibits "[a] person who derives gross revenues from digital advertising services in the State" from "directly pass[ing] on the cost of the tax imposed …to a customer who purchases the digital advertising services by means of a separate fee, surcharge, or line-item." You asked whether the prohibition is legal. As discussed below, I believe the bill is legally sufficient and constitutional.

The prohibition in SB 787 is essentially a ban on the direct charging of a specific fee by the provider of digital advertising services to purchasers of those services. In another context, the Supreme Court has upheld a prohibition on the passing along of a specified tax. *See Exxon Corp. v. Eagleton*, 462 U.S. 176, 194-95 (1983). The state law at issue in that case prohibited a severance tax on oil producers from being passed on to their purchasers. The Court found that despite that the pass through prohibition impacted existing contractual obligations, the provision did not violate the Contract Clause because the statute "did not prescribe a rule limited in effect to contractual obligations or remedies, but instead imposed a generally applicable rule of conduct designed to advance 'a broad societal interest'" of "protecting consumers from excessive prices…" *Id.* at 191. Accordingly, the effect on existing contracts was "incidental to its main effect of shielding consumers from the burden of the tax increase." *Id.*

The Court in *Eagleton* also rejected an equal protection challenge to the pass-through prohibition. The Court explained that when analyzed "under the lenient standard of rationality that this Court has traditionally applied in considering equal protection challenges to regulation of economic and commercial matters[,]" the "pass-through prohibition plainly bore a rational relationship to the State's legitimate purpose of protecting consumers from excessive prices." *Id*. at 196.

I also considered whether the prohibition is a taking under the State or federal constitution. A pass through prohibition would amount to an unconstitutional taking only if the prohibition makes it impossible for the entity to profitably engage in its business or maintain commercial viability. The Fifth Amendment of the U.S. Constitution and Article III, § 40 of the Maryland Constitution "prohibit the taking of private property for public use without the payment of just compensation to the property owner." *King v. State Roads Commission*, 298 Md. 80, 84 (1983). *See also Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470 (1987)(clarifying that the two factors that are 'integral parts" of a takings analysis are the nature of the government interest in question and the extent of the diminution of value of investment backed expectations). In *Keystone*, the Court confirmed that a taking does not occur unless the government regulation makes the business being regulated "commercially impracticable." *Id*. at 495 - 96. Accordingly, unless the prohibition prevents the digital ad services provider from recouping its business costs in a commercially viable manner, the prohibition does not amount to an unconstitutional taking.

Further, I considered whether the prohibition on passing on the digital ad tax violates the First Amendment. The Supreme Court has previously opined that a state law that prohibited a merchant imposing a surcharge on a customer using a credit card rather than paying by cash, check, or similar means was a restriction on the speech of the merchant because in application it regulated how the merchant communicated its prices. *See Expressions Hair Design v. Schneiderman*, 137 S. Ct. 1144 (2017). The issue in that case was that the law did not actually prohibit a merchant from charging more to credit card users; rather, as applied, it prevented a "single-sticker" method of pricing. A single-sticker method posts one price but indicates a credit card user may pay more. After reasoning that the law imposed a restriction on speech, the Court remanded the case to the lower court to determine the applicable First Amendment standard.[1]

After remand, in answering a certified question from the federal circuit court, the state's highest court explained that a merchant is in compliance with the state law at issue

> if and only if the merchant posts the total dollars-and-cents price charged to credit card users. In that circumstance, consumers see the highest possible price they must pay for credit card use and the legislative

[1] Applicable First Amendment tests for commercial speech are either the one outlined in *Central Hudson Gas & Elec. Corp v. Public Serv. Comm'n*, 447 U.S. 557 (1980), which applies intermediate scrutiny, or the lesser standard articulated in *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985), which concerns disclosure requirements.

> concerns about luring or misleading customers by use of a low price available only for cash purchases are alleviated. To be clear, plaintiffs' proposed single-sticker pricing scheme – which does not express the total dollars-and-cents credit card price and instead requires consumers to engage in an arithmetical calculation, in order to figure it out – is prohibited by the statute.

Expressions Hair Design, 32 N.Y.3d 382, 393-94 (2018). Thus, the state law in question would fall within the consumer disclosure type laws.

In contrast, the prohibition in SB 787 is not a restriction on speech, in my view. It does not matter what the digital ad services provider calls it, the digital ad tax simply cannot be directly passed on to the purchaser of those services. As a result, SB 787 is prohibiting conduct. Therefore, it is akin to other prohibited fees. *See*, *e.g*., Real Property Article, § 8A-402 (mobile home park fees); Commercial Law Article, § 12-405(a)(3), § 12-808 (finder fees); Financial Institutions Article, § 12-918 (debt management services).

In conclusion, I believe the prohibition in SB 787 is legally sufficient and constitutional.

Sincerely,

Sandra Benson Brantley
Counsel to the General Assembly