



To: House Economic Matters Committee

From: Tim Nelson, Counsel to the Maryland-DC-Delaware Broadcasters Association

Date: Submitted – March 27, 2026; Hearing – March 31, 2026

Re: Senate Bill 528

The Maryland-DC-Delaware Broadcasters Association (“MDCD” or the “Association”) appreciates the opportunity to submit this written testimony regarding Senate Bill 528, “Consumer Protection - Video Streaming Services - Loudness of Commercial Advertisements.”¹ On behalf of the Association and its Members, which include approximately 20 television stations and 110 radio stations, MDCD respectfully cautions the Committee that the issues addressed in SB 528 may be more complicated than the current legislation appears to contemplate. As such, MDCD would urge the Committee not to vote favorably on SB 528 as currently drafted. If the Committee nevertheless insists on moving the legislation forward, MDCD urges consideration of certain amendments.

The Association understands and appreciates the intent of this legislation, which addresses the issue of commercial advertisements streamed at a volume louder than the accompanying programming. As the Committee is likely aware, on the free, over-the-air side of their operations (i.e., television signals received via antenna), MDCD’s Member Stations already comply with the federal Commercial Advertisement Loudness Mitigation (“CALM”) Act.² As such, regulating commercial loudness is nothing new to MDCD’s Member Stations, and, frankly, MDCD’s Members want commercial loudness to match the volume of accompanying long-form content as much as anyone, as broadcasters strive to provide viewers with the best possible content-consuming experience—and excessively loud commercials do not make for such an experience.

MDCD understands that streaming platforms owned and operated by local broadcast entities are not the intended target of the Maryland legislation, but it’s possible that certain digital offerings such as local news apps, free ad-supported television (“FAST”) channels, and other platforms might unintentionally be swept within the legislation’s ambit. It is our understanding that, when it comes to streaming platforms, the entity providing long-form video content that may be accompanied by ads is not necessarily the party responsible for the ads’ volume; indeed third-party ad managers may be the entities (not a video service) responsible for commercial loudness. The foregoing underscores the fact that, again, this is a complicated matter from a technical perspective that requires further study and understanding before becoming the law in Maryland.

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.

² MDCD is happy to provide additional information regarding the CALM Act should the Committee deem it helpful.

However, to the extent the Committee believes this must be addressed now without further study, the Association recommends consideration of amendments that would likely accomplish the legislation’s intended aims while avoiding unintended, problematic consequences. These proposals are not novel; indeed, two come from recently enrolled legislation in Virginia, House Bill 518 (“VA HB 518”).³

Specifically, the Association recommends:

Rebuttable Presumption of Reasonable Care. VA HB 518 requires that a video streaming service exercise “reasonable care” to normalize the audio of short-form content (i.e., commercials), but the streaming service is presumed to have exercised such “reasonable care” if the streaming service “maintains processes to require that short-form content not be louder than the long-form content it accompanies that are similar to those processes employed to comply with the CALM Act.” Because a video streaming service may not always be in control of the audio of advertisements, the Association respectfully suggests that a similar reasonable care/rebuttable presumption concept be included in Senate Bill 528.

Safe Harbor for Agreements with Third-Party Ad Managers. VA HB 518 also provides a safe harbor for those streaming services that enter into a written agreement with third-party ad managers requiring that the audio of advertising be no louder than the accompanying long-form video content. Like the rebuttable presumption item discussed above, this safe harbor would guard against unnecessary and misplaced liability for a streaming service attempting to comply with the law. MDCD respectfully requests a similar concept be added to Senate Bill 528.

Notice and Opportunity to Cure. Finally, a reasonable notice-and-cure period would provide for a swift remedy without the need for adjudication, while also protecting entities that may in good faith be unaware that they are violation of any law/regulation. Specifically, prior to initiating any enforcement action, the appropriate governing body should provide a video streaming service notice of an alleged violation. If within a certain period the video streaming service cures the noticed violation, no action should be initiated against the video streaming service.

Delayed Effective Date. If the legislation does pass during this Legislative Session, given the complexity and potential confusion described herein, MDCD would request a delayed effective date until mid-2027 (which mirrors the effective date in VA HB 518).

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In conclusion, while MDCD would urge the Committee not to advance Senate Bill 528 at this time, should the Committee nonetheless move the legislation, we would recommend the modifications discussed above in order to, we hope, help avoid problematic behavior while limiting unnecessary enforcement/litigation and reducing the chance that good actors would be punished for good-faith efforts to comply with the law. The Association is grateful to the Committee for considering these proposals should it move forward with SB 528.

³ Virginia House Bill 518 is attached hereto. It is also available at the following link: <https://lis.blob.core.windows.net/files/1199330.PDF>.

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 60, consisting of sections*
 3 *numbered 59.1-614, 59.1-615, and 59.1-616, relating to streaming advertisement volume control; civil*
 4 *penalty.*

5 [H 518]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 60, consisting of**
 9 **sections numbered 59.1-614, 59.1-615, and 59.1-616, as follows:**

10 *CHAPTER 60.*11 *STREAMING ADVERTISEMENT VOLUME CONTROL.*12 **§ 59.1-614. Definitions.**13 *As used in this chapter, unless the context requires a different meaning:*

14 *"Long-form content" means a film, show, or other video programming or video content that is the primary*
 15 *material a user of a video streaming service or social media video service consumes while using such service.*

16 *"Normalization" means adjusting the audio of short-form content by measuring and scaling the average*
 17 *loudness to match the target loudness of the accompanying long-form content distributed by a video*
 18 *streaming service, social media video service, or third-party advertising manager consistent with established*
 19 *industry standards such as Advanced Television Systems Committee Recommended Practice A/85,*
 20 *Techniques for Establishing and Maintaining Audio Loudness for Digital Television.*

21 *"Short-form content" means commercial advertising, promotional, and public service-related video*
 22 *programming or video content that is interspersed in long-form content on a video streaming service or*
 23 *social media video service.*

24 *"Social media video service" means an online platform that (i) is open to the public; (ii) allows a user to*
 25 *create an account; (iii) consists primarily of content that is user-generated and not preselected by the*
 26 *provider; and (iv) provides a landing page, main feed, or search function that presents the user with video*
 27 *content generated by other users.*

28 *"Third-party advertising manager" means an entity that manages the distribution of short-form content on*
 29 *a video streaming service or social media video service and can adjust the loudness of such content.*

30 *"Video programming" means programming by, or generally considered comparable to programming*
 31 *provided by, a television broadcast station. "Video programming" does not include user-generated media.*

32 *"Video streaming service" means an online platform the primary purpose of which is to make video*
 33 *programming available directly to consumers. "Video streaming service" does not include a television*
 34 *broadcast station, cable operator, or other multichannel video programming distributor, an internet service*
 35 *provider, a service that makes available video programming or video content without commercial*
 36 *advertisements, or a website or application that does not make video programming available to consumers as*
 37 *its primary purpose.*

38 **§ 59.1-615. Video streaming services; volume of commercial advertisements.**

39 *A. A video streaming service, social media video service, or third-party advertising manager that serves*
 40 *consumers residing in the Commonwealth shall exercise reasonable care to normalize the audio of short-*
 41 *form content so that such audio is not transmitted at a louder volume than the long-form content it*
 42 *accompanies, consistent with the regulations adopted by the Federal Communications Commission pursuant*
 43 *to the federal Commercial Advertisement Loudness Mitigation (CALM) Act (47 U.S.C. § 621) for television*
 44 *broadcast stations, cable operators, and other multichannel video programming distributors. There shall be*
 45 *a rebuttable presumption that a video streaming service, social media video service, or third-party*
 46 *advertising manager that maintains processes to require that short-form content not be louder than the long-*
 47 *form content it accompanies that are similar to those processes employed to comply with the CALM Act is*
 48 *exercising reasonable care.*

49 *B. A video streaming service, social media video service, or third-party advertising manager that engages*
 50 *in normalization shall be deemed in compliance with this chapter.*

51 *C. A video streaming service or social media video service that engages a third-party advertising*
 52 *manager that solely controls the loudness of short-form content on such service shall not be liable under*
 53 *subsection A for short-form content distributed by the third-party advertising manager on such service,*
 54 *provided that such service enters into a written agreement with the third-party advertising manager that*
 55 *requires the audio of short-form content distributed by the third-party advertising manager to be no louder*
 56 *than the target loudness of the accompanying long-form content distributed by the video streaming service or*

57 *social media video service, consistent with established industry standards.*

58 **§ 59.1-616. Enforcement; civil penalties.**

59 *A. For purposes of this chapter, the distribution of a single identifiable segment of short-form content*
60 *within a 30-day period constitutes a violation of this chapter, regardless of how many individual consumers*
61 *receive a transmission of such content.*

62 *B. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.*

63 *C. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is*
64 *engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to*
65 *issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil*
66 *investigative demands issued pursuant to this section.*

67 *D. The Attorney General may initiate an action in the name of the Commonwealth and may seek an*
68 *injunction to restrain any violations of this chapter and civil penalties of up to \$2,500 for each violation*
69 *under this chapter.*

70 *E. The Attorney General may recover reasonable expenses incurred in investigating and preparing the*
71 *case, including attorney fees, in any action initiated under this section.*

72 *F. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of*
73 *action for violations of this chapter or under any other law.*

74 **2. That the provisions of this act shall become effective on July 1, 2027.**