



March 9, 2026

Senator Pamela Beidle  
Chair, Senate Finance Committee  
3 East Miller Senate Office Building  
11 Bladen Street  
Annapolis, Maryland 21401

Senator Antonio Hayes  
Vice Chair, Senate Finance Committee  
223 James Senate Office Building  
11 Bladen Street  
Annapolis, Maryland 21401

Senator Katie Fry Hester  
304 James Senate Office Building  
11 Bladen Street  
Annapolis, MD 21401

**RE: Letter in Opposition to Maryland SB 827**

Dear Chair Beidle, Vice Chair Hayes, and Senator Fry Hester:

On behalf of the advertising industry, we write to oppose Maryland SB 827.<sup>1</sup> We provide this letter to offer our non-exhaustive list of concerns about this bill. SB 827 would limit Maryland consumers' access to targeted advertising and information on goods and services and establish a new private right of action. Accordingly, we ask you to decline to advance the bill as drafted out of the Senate Finance Committee ("Committee").

As the nation's leading advertising and marketing trade associations, we collectively represent thousands of companies across the country. These companies range from small businesses to household brands, advertising agencies, and technology providers. Our combined membership includes more than 2,000 companies that power the commercial Internet, which accounted for nearly 20 percent of total U.S. gross domestic product ("GDP") in 2024.<sup>2</sup> By one estimate, approximately 17.0% of Maryland jobs in 2024 were related to the ad-subsidized Internet, a share projected to increase to 18.5% by 2029.<sup>3</sup> Our group has more than a decade's worth of hands-on experience it can bring to bear on matters related to consumer privacy and controls. We would welcome the opportunity to engage with the Committee further on the points we discuss in this letter.

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<sup>1</sup> Maryland SB 827 (2025-2026 Session), located [here](#) (hereinafter, "SB 827").

<sup>2</sup> S&P Global, THE ECONOMIC IMPACT OF ADVERTISING ON THE US ECONOMY, 2024-2029 at 4 (Aug. 2025), located at [https://theadcoalition.com/wp-content/uploads/2025/08/TAC\\_SP-Global-Final-Report\\_August-2025.pdf](https://theadcoalition.com/wp-content/uploads/2025/08/TAC_SP-Global-Final-Report_August-2025.pdf).

<sup>3</sup> *Id.* at 15-16.

**I. SB 827 would prohibit the responsible use of chat data in ways that reduce consumer access to relevant advertising and information on products and services.**

SB 827 would prohibit an operator from processing a user’s “chat log” to determine whether to display an advertisement for a good or service or to customize an advertisement shown to that user.<sup>4</sup> This approach is both overbroad and in tension with Maryland’s existing privacy framework under the Maryland Online Data Privacy Act (“MODPA”), which already gives consumers the right to opt out of targeted advertising, rather than eliminating it outright.<sup>5</sup> MODPA’s opt-out model reflects a balanced approach by the Maryland Legislature to provide consumers with right to opt out by those that do not want targeted advertising while preserving consumer choice for those who *do* want timely, relevant and convenient recommendations, discounts, and personalized offers. Many Marylanders intentionally use chatbots to discover and learn about new products and services aligned with their preferences (e.g., price, accessibility needs, and product discovery). A blanket prohibition would reduce the ability of chatbots to respond to consumer demand for offers tailored to these needs and could lead to more generic, less useful experiences, limiting Marylanders’ options rather than expanding them. In practice, SB 1250 risks substituting a one-size-fits-all prohibition for the consumer-directed controls Maryland already enacted under MODPA, undermining both consumer decision-making, the usefulness of chat-based tools and MODPA.

**II. SB 827 would establish a private right of action which is an inappropriate form of enforcement for the legislation.**

As presently drafted, SB 827 would create a private right of action under the Maryland Consumer Protection Act.<sup>6</sup> SB 827 should be updated to clarify that it does not create a private right of action under any law. We strongly believe a private right of action would be an inappropriate enforcement mechanism for this bill. Instead, enforcement should be vested with the Attorney General (“AG”) alone, because such an enforcement structure would lead to stronger outcomes for Maryland residents while better enabling businesses to allocate resources to developing processes, procedures, and plans to facilitate compliance with the bill’s new requirements. AG enforcement, instead of a private right of action, is in the best interests of consumers and businesses alike.

The possibility of a private right of action in SB 827 would create a complex and flawed compliance system without tangible benefits for consumers. Allowing private actions will flood Maryland’s courts with frivolous lawsuits driven by opportunistic trial lawyers searching for

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<sup>4</sup> SB 827 § 14-5104(A)(2).

<sup>5</sup> MODPA § 14-4605(B)(7).

<sup>6</sup> SB 827 § 14-5109(A). *See* Md. Comm. Law Code § 13-408 for the private right of action provision.



technical violations, rather than focusing on actual consumer harm.<sup>7</sup> Private right of action provisions are completely divorced from any connection to actual consumer harm and provide consumers little by way of protection from detrimental data practices.

Additionally, a private right of action would have a chilling effect on the Commonwealth's economy by creating the threat of steep and unforeseeable costs for companies that are good actors but inadvertently fail to conform to technical provisions of law. Private litigant enforcement provisions do not effectively address consumer protection concerns or deter undesired business conduct. They expose businesses to extraordinary and potentially enterprise-threatening costs for technical violations of law rather than drive systemic and helpful changes to business practices. A private right of action would also encumber businesses' attempts to innovate by threatening companies with expensive litigation costs, especially if those companies are visionaries striving to develop transformative new technologies. The threat of an expensive lawsuit may force smaller companies to agree to settle claims against them, even if they are convinced they are without merit.<sup>8</sup>

Beyond the staggering cost to Maryland businesses, the resulting snarl of litigation could create a chaotic and inconsistent enforcement framework with conflicting requirements based on differing court outcomes. Overall, the possibility of a private right of action would serve as a windfall to the plaintiff's bar without focusing on the business practices that actually harm consumers. We therefore encourage the Committee to clarify that SB 827 does not create a private right of action under any law and vests enforcement authority with the AG alone.

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<sup>7</sup> A select few attorneys benefit disproportionately from private right of action enforcement mechanisms in a way that dwarfs the benefits that accrue to the consumers who are the basis for the claims. For example, a study of 3,121 private actions under the Telephone Consumer Protection Act ("TCPA") showed that approximately 60 percent of TCPA lawsuits were brought by just forty-four law firms. Amounts paid out to consumers under such lawsuits proved to be insignificant, as only 4 to 8 percent of eligible claim members made themselves available for compensation from the settlement funds. U.S. Chamber Institute for Legal Reform, *TCPA Litigation Sprawl* at 2, 4, 11-15 (Aug. 2017), located [here](#).

<sup>8</sup> For instance, in the early 2000s, private actions under California's Unfair Competition Law ("UCL") "launched an unending attack on businesses all over the state." American Tort Reform Foundation, *State Consumer Protection Laws Unhinged: It's Time to Restore Sanity to the Litigation* at 8 (2003), located [here](#). Consumers brought suits against homebuilders for abbreviating "APR" instead of spelling out "Annual Percentage Rate" in advertisements and sued travel agents for not posting their phone numbers on websites, in addition to initiating myriad other frivolous lawsuits. These lawsuits disproportionately impacted small businesses, ultimately resulting in citizens voting to pass Proposition 64 in 2004 to stem the abuse of the state's broad private right of action under the UCL. *Id.*



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We respectfully ask the Committee not to advance SB 827, as its provisions would negatively affect both businesses and consumers alike. Rather than strengthening consumer protections, the bill risks higher prices, reduced choice, and fewer opportunities for consumers to benefit from discounts and incentives, while also limiting businesses' ability to use third party data to offer competitive pricing and promotions.

Thank you in advance for your consideration of this letter.

Sincerely,

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