



February 10, 2026

Delegate Jheanelle K. Wilkins
 Chair, Ways & Means Committee
 Maryland House of Delegates
 131 Taylor House Office Building
 6 Bladen Street
 Annapolis, MD 21401

Delegate Jessica Feldmark
 Vice Chair, Ways & Means Committee
 Maryland House of Delegates
 131 Taylor House Office Building
 6 Bladen Street
 Annapolis, MD 21401

Re: HB0484 – OPPOSE

Dear Chair Wilkins and Vice Chair Feldmark,

The undersigned write today to oppose HB0484, which would eliminate the deduction of expenses for direct-to-consumer (DTC) pharmaceutical advertising in Maryland. As described below, HB0484 would institute an unconstitutional tax on advertising and would negatively impact the health and well-being of both Maryland citizens and its economy.

HB0484 raises serious First Amendment concerns. It would impose a content-based tax on one specific form of advertising by one segment of the health care industry. The U.S. Supreme Court

has made it clear that truthful, nondeceptive commercial speech cannot be restricted or banned unless the restriction “directly advances” an important governmental interest and is “not more extensive than necessary to serve that interest.”¹ It has repeatedly reaffirmed the strong protection for advertising under the First Amendment, including invalidating laws prohibiting advertising of compounded drugs² and the use of physician prescriber histories for commercial purposes.³

In addition, the U.S. Supreme Court has long recognized that “speech can be effectively limited by the exercise of taxing power”⁴ – just as it can be limited by more direct types of regulation. It has stressed that the First Amendment forbids government from using tax liability to benefit speech that it likes and to penalize speech that it dislikes.⁵ In the case of HB0484, it would single out DTC prescription drug advertising for differential tax treatment than all other advertising in Maryland.

Since the U.S. first instituted a federal income tax in 1913, advertising expenses for all businesses have been fully deductible in the year in which they are incurred. If the Maryland legislature targets one business sector, then all business sectors – particularly small businesses – become targets for removing this critical business deduction.

The advertising industry plays an important role in terms of both employment and economic activity in Maryland. In 2024, the industry supported nearly 470,000 Maryland jobs, or 17% of total state employment. By 2029, this number is projected to increase by 50,000 to over 520,000 jobs.⁶ In addition, the advertising industry helped generate \$93.8 billion in sales activity and is projected to generate \$114.2 billion by 2029.⁷ Advertising expenses have always been seen as an ordinary and necessary business expense under both federal and Maryland law, as important to the sales process as the manufacture of goods or facilitation of services. Imposing a tax on any type of advertising will increase prices, while jeopardizing economic activity and the jobs dependent on it.

Moreover, pharmaceutical companies in the last year have pledged \$841.4 billion in reshoring pharmaceutical manufacturing investments to the United States as the result of negotiations with the White House and as an alternative to proposed national security tariffs. By enacting HB0484, Maryland would be sending a strong signal that it is not interested in these new drug company investments and will likely raise questions about continuing such manufacturing in the state.

Direct-to-consumer prescription drug advertising provides important benefits to millions of Americans. DTC advertising provides valuable educational information to consumers, reduces the stigma surrounding sensitive medical conditions, and increases awareness of undiagnosed conditions or new treatment options that individuals might otherwise overlook.”

¹ *Central Hudson Gas and Electric Corporation v. Public Service Commission of New York*, 447 U.S. 557, 566 (1980)

² *Thompson v. Western States Medical Center*, 535 U.S. 357 (2000)

³ *Sorrell v. IMS Health, Inc.*, 131 S. Ct. 2653 (2011)

⁴ *Speiser v. Randall*, 357 U.S. 513, 518 (1958)

⁵ *Arkansas Writers Project, Inc. v. Ragland*, 481 U.S. 221 (1987)

⁶ S&P Global, THE ECONOMIC IMPACT OF ADVERTISING ON THE US ECONOMY, 2024-2029 at 15-16 (Aug. 2025), located at https://theadcoalition.com/wp-content/uploads/2025/08/TAC_SP-Global-Final-Report_August-2025.pdf.

⁷ *Id.* at 17-18.

Recent research reports that 92% of doctors believe DTC advertising empowers patients to take a more active role in managing their health.⁸ Armed with information, consumers are better educated to seek out additional information from their physicians, increasing joint decision making and consumer welfare.⁹ Additionally, seeing DTC ads also reminds consumers to take their medication and thereby improves health outcomes.¹⁰ Impeding the free flow of information by burdening DTC advertising with additional taxes would be counterproductive to the health of Marylanders.

We therefore respectfully urge the committee to oppose HB0484. Thank you for your consideration of our views.

Sincerely,

Association of National Advertisers (ANA)
American Association of Advertising Agencies (4As)
American Advertising Federation (AAF)
A&K Marketing
American Advertising Federation (AAF) Nebraska
Coalition for Healthcare Communication (CHC)
Council on State Taxation (COST)
Maryland Chamber of Commerce
MDCD Broadcasters Association
National Association of Broadcasters (NAB)
NCTA – The Internet & Television Association
News/Media Alliance
NY State Broadcasters Association (NYSBA)
Out of Home Advertising Association of America (OAAA)
Rhode Island Broadcasters Association (RIBA)
Taxpayers Protection Alliance
TechNet

CC: Members of the Maryland House of Delegates Ways & Means Committee

⁸Magna Media Trials & DeepIntent. BEYOND THE PRESCRIPTION: EXPLORE THE FULL IMPACT OF PHARMA ADS. Oct. 2024
<https://www.deepintent.com/beyond-the-prescription/>

⁹ Mukherji, P., et al, HOW DIRECT-TO-CONSUMER ADVERTISING FOR PRESCRIPTION DRUGS AFFECTS CONSUMERS' WELFARE: A NATURAL EXPERIMENT TESTS THE IMPACT OF FDA LEGISLATION, *Journal of Advertising Research* 57(1) (2017).

¹⁰ Bhutada, N., et al, DISEASE-SPECIFIC DIRECT-TO-CONSUMER ADVERTISING FOR REMINDING CONSUMERS TO TAKE MEDICATIONS, *Journal of the American Pharmacists Association* 55(4) (2015).