

January 29, 2020

Testimony of the American Advertising Federation re Senate Bill 2  
before the Maryland Senate Budget and Taxation Committee

On behalf of the Board of Directors and members of the American Advertising Federation, we urge you to oppose Senate Bill 2, the proposed tax on digital advertising.

The American Advertising Federation is the unifying voice for advertising, representing all facets of the industry. Membership includes major global advertisers, advertising agencies and the media, including print, broadcasting, outdoor and online. AAF membership also includes advertising professionals in nearly 200 local advertising associations across the country, including AAF-Baltimore and AAF-Greater Frederick.

Senate Bill 2 the proposed tax on digital advertising is a tax on speech. While the bill may target large global businesses, it's negative impact will fall hardest on local Maryland businesses and consumers.

It is important that the committee understands the importance of advertising – including digital advertising – to the economy of Maryland. Advertising is an important driver of economic growth and jobs in the state.

According to a study designed by a Dr. Lawrence Klein, winner of the 1980 Nobel Prize in Economics:

- Advertising helps generate \$101.5 billion or 14.6% of economic activity in Maryland,
- Advertising helps produce over 393,000 or almost 15% of Maryland jobs,
- Every \$1 million spent on advertising supports 82 Maryland jobs

Increasing the cost of advertising, as Senate Bill 2 would, would inevitably cause those numbers to fall. Since most advertising budgets are fixed, increasing the cost of advertising would mean less advertising leading to a number of negative consequences.

Advertising is the main and often only source of revenue for the media – including online media. Countless Maryland based websites are dependent on advertising revenue to survive. Less advertising could threaten the viability of many of those websites, or force them to consider other sources of revenue, such as a paywall which would hurt Maryland consumers.

The negative affect would also be felt by other Maryland businesses such as the advertising agencies, web designers and other service providers used by the online publishers.

Advertising services are very portable. Clients can easily contract with out-of-state services providers to avoid the tax, or the potential of a tax.

Consumers would suffer also as less advertising means less information about available goods and services. Advertising fosters competition which spurs innovation and often leads to lower prices.

Senate Bill 2 would create a legal and administrative nightmare. If enacted, the new law would likely be subject to numerous legal and expensive based on its violations of the Permanent Internet Tax Freedom Act, and discrimination against interstate and foreign commerce among other legal concerns.

If enacted, the tax will be virtually impossible to tax accurately and fairly. Digital advertising is extremely complex involving millions of ads and transactions. One ad could conceivably be for a company in state A, created by an agency in state B, served by a third-party provider in state C, on a website based in state D and viewed by a consumer in Maryland. To add a further layer of complexity, how would the tax be applied if viewed on the laptop of a consumer who lived in Maryland but worked in an adjacent jurisdiction such as the District of Columbia?

Finally, fairly or unfairly, Maryland has a reputation of a state that is unfriendly to business. Passage of Senate Bill 2 would only serve to further that reputation.

The American Advertising Federation respectfully urges you to reject Senate Bill 2.