



April 18, 2024

The Honorable Rebecca Bauer-Kahan
Chair, California State Assembly Committee on Privacy & Consumer Protection
1021 O Street, Suite 5210
Sacramento, CA 95814

Dear Assemblymember Bauer-Kahan:

On behalf of our member organizations, we are writing to you to express our strong opposition to AB 2829, which seeks to implement a tax on digital advertising.

This proposal and others like it are extremely misguided. Proponents of these taxes argue that they would only affect a handful of “big tech” companies but the truth is much different and hits much closer to home. If enacted, they would affect nearly every single small business and “mom and pop” shop that operates in California.

Over the last decade, the American economy has been transformed by digital advertising. Small businesses are now able to compete and grow into worldwide brands as a direct result of the reach it affords them. Digital advertising levels the playing field for entrepreneurs, local brick-and-mortar shops, and family-owned businesses to expand their customer base.

There is hardly a business in existence today that does not use some kind of digital advertising. As reported in the [Washington Post](#), by the end of this year, digital accounts for more than two thirds of all advertising spending in the United States.

Taxing digital advertising is not a new idea and the consequences are well known. Exhaustive research and common business experience proves that, if enacted, companies will simply pass this tax on to their consumers in the form of higher prices for services. A [study](#) commissioned by Deloitte analyzing a French Digital Services Tax proposal, that included a tax on digital advertising, found that only five percent of the total tax burden would be borne by targeted companies, with consumers and smaller businesses using digital platforms bearing the vast majority.

In America, these taxes are facing [legal challenges](#) and are very likely unconstitutional. Maryland, the first state to pass a law taxing digital advertising, was immediately sued and the tax’s legality remains in serious

question. In 2022, a court did [rule](#) on the merits of the tax and found that it “violated the U.S. Constitution’s prohibition on state interference with interstate commerce and violated the federal Internet Tax Freedom Act, which prohibits discrimination against electronic commerce.”

This very bill being proposed, AB 2829, closely mimics the bill that was passed in Maryland and will undoubtedly raise similar legal scrutiny.

The legal uncertainty of a digital advertising tax adds additional confusion. Relying on a digital advertising tax as a revenue source to address California’s \$73 billion budget deficit is unwise. If passed and then struck down, the state would be forced to pay back every single penny that was illegally collected - making the state’s already difficult financial situation more dire.

Making matters worse, small businesses and entrepreneurs are still recovering from the global pandemic and the lagging effects of runaway inflation. The last thing that they need right now is to be burdened with new taxes.

For these reasons, Americans for Digital Opportunity strongly opposes digital advertising taxes. We encourage members of the California Assembly Committee on Revenue and Taxation to reject this proposal for further consideration.

California’s economy is the largest by GDP for any state in the country, and the fifth largest in the world. The state offers a variety of attractive options for ambitious students, entrepreneurs, and aspiring small business owners. Discussions should center around ways to build a more competitive business environment which would encourage innovation and grow the overall tax base.

Respectfully submitted,

Americans for Digital Opportunity (ADO), Deb Peters
Association of National Advertisers (ANA), Christopher Oswald
American Advertising Federation (AAF) & Its Local Clubs, Clark Rector
Computer & Communications Industry Association (CCIA), Khara Boender
Council on State Taxation (COST), Stephanie Do
Exhibitions & Conferences Alliance, Tommy Goodwin
Interactive Advertising Bureau (IAB), Lartease Tiffith
Internet Coalition, Tammy Cota
NCTA - The Internet and Television Association, Alexander Minard
Motion Picture Association (MPA), Melissa Patack
NetChoice, Carl Szabo