



February 8, 2023

The Honorable Senator John Fonfara  
Co-Chair, Joint Committee on Finance Revenue and Bonding  
Legislative Office Building, Room 3700  
Hartford, CT 06106

The Honorable Representative Maria Horn  
Co-Chair, Joint Committee on Finance, Revenue and Bonding  
Legislative Office Building, Room 3603  
Hartford, CT 06106-1591

**Re: OPPOSE HB 5673 (Farrar) - An Act Concerning the Reformation of Certain Taxes and Tax Equity.**

Dear Co-Chair Fonfara, Co-Chair Horn, and members of the Committee:

Chamber of Progress, a tech industry coalition promoting technology's progressive future, writes to oppose HB 5673, which establishes a 10 percent tax on the annual gross revenues of any business with annual gross revenues exceeding \$10 billion from digital advertising services.

Chamber of Progress supports public policies at the federal and state level that seek to build a fairer, more inclusive country in which all Americans benefit from technological leaps. Our corporate partners include companies like Google and Amazon, but our partners do not have a vote on or veto over our positions.

While HB 5673 targets large online advertising providers, **the costs will likely be borne by advertisers themselves**. As former Maryland Governor Larry Hogan noted when vetoing a similar bill in his state, small businesses that use digital



advertising services would see operating costs increase because the large platforms would pass the tax down to them.<sup>1</sup>

Many businesses, like small newspapers, rely on digital advertising for revenue, and others like small businesses without large advertising budgets, depend on targeted advertising to attract customers. Imposing a tax on large providers of online advertising would end up harming every group trying to take advantage of modern advertising tools.

The current digital ad ecosystem contains a multitude of benefits.

First, personalized advertising benefits consumers. More importantly, they help provide access to low-cost or free services. Ads also reduce consumer search costs. By providing advertising based on a consumer's search terms, the consumer is likely to find the product they are looking for more quickly.<sup>2</sup>

In addition, surveys show that many consumers like targeted ads. According to one survey, 91% of consumers are more likely to shop with brands who “recognize, remember, and provide relevant offers and recommendations.”<sup>3</sup>

Second, in addition to being good for consumers, personalized advertising supports individual content creators, such as artists, musicians, local journalists, and social activists. As one commentator has noted, “one of the most difficult

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<https://www.npr.org/local/305/2021/02/15/968079442/maryland-to-become-first-state-to-tax-online-ads-sold-by-facebook-and-google>

<sup>2</sup> See, e.g., Niklas Fourberg et al., *Online advertising: the impact of targeted advertising on advertisers, market access and consumer choice*, Policy Department for Econ., Sci. & Quality of Life Pol. (Jun. 2021), [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662913/IPOL\\_STU\(2021\)662913\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662913/IPOL_STU(2021)662913_EN.pdf) (“For example, the average conversion rate of a sponsored search result via Google Ads across all industries is 4.40%, whereas it is only .57% for display advertising. The reason for this is that search advertising reaches consumers while they are already willing to make an active purchasing decision, since they have already expressed interest when searching for specific (product related) keywords.”).

<sup>3</sup> *Making it Personal*, Pulse Check 3 (2018),

[https://www.accenture.com/\\_acnmedia/PDF-77/Accenture-Pulse-Survey.pdf](https://www.accenture.com/_acnmedia/PDF-77/Accenture-Pulse-Survey.pdf).

[progresschamber.org](http://progresschamber.org) | 1390 Chain Bridge Rd. #A108 | McLean, VA 22101 | [info@chamberofprogress.org](mailto:info@chamberofprogress.org)



tasks as an artist or producer is getting new eyeballs and ears on your work.”<sup>4</sup> The ability to target ads to people based on their preferences is vital to these groups. Activists also use targeted advertising to further social goals. Targeted ads allow for voices outside of the mainstream to reach a broader audience. This is especially critical to the values of creating a more inclusive and informed society.

Finally, small businesses rely on digital advertising to grow their business. One study found that independent companies would lose between \$32 and \$39 billion in annual revenue by 2025 if personalized advertising were banned.<sup>5</sup> In another study, 73% of small business online advertisers said that a lack of online advertising would impact their ability to market their product and grow their business.<sup>6</sup>

A digital ad tax raises the cost of digital advertising not only for Connecticut small businesses but also for progressive causes and candidates. Namely, the targeted platforms have the option to treat this tax like their other costs of doing business and offset it by increasing their pricing overall for ad tech services, as well as other products and services that consumers may utilize. Online advertising has been a critical tool for Connecticut businesses to reach customers more efficiently -- and it's been an essential organizing tool for Democrats in the state. This bill threatens access to a tool used by multiple stakeholders to spread their product or message to diverse audiences.

### **Similar legislation from Maryland is tied up in the courts**

Maryland passed a similar digital advertising tax last year, but the bill faced lawsuits in both state and federal courts.

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<sup>4</sup> Josh Viner, *How to Run Effective Facebook & Instagram Ads for Artists & Producers*, Medium (Mar. 2, 2020), <https://joshdviner.medium.com/how-to-run-effective-facebook-instagram-ads-for-artists-producers-4638261042>; Sayana, *Facebook and Instagram Ads for Musicians: A Beginner's Guide*, DIY Musician (Jul. 7, 2021), <https://diymusician.cdbaby.com/music-promotion/facebook-instagram-ads-musicians/>.

<sup>5</sup> The Socioeconomic Impact of Internet Tracking, IAB (Feb. 10, 2020), <https://www.iab.com/insights/the-socioeconomic-impact-of-internet-tracking/>.

<sup>6</sup> Small Business & Entrepreneurship Council, 2019 SBEC/TechnoMetrica Small business Survey on Online Advertising 7 (Aug. 2019), <https://sbecouncil.org/wp-content/uploads/2019/09/SBEC-Technometrica-Online-Advertising-Report-Sept-2019.pdf>.



In October of last year, a state Circuit Court judge ruled that Maryland's law was unconstitutional. The bench ruling declared that the tax violates the dormant Commerce Clause, the First Amendment, and the Supremacy Clause of the Constitution, and is preempted by the federal Internet Tax Freedom Act because it does not treat similar, non-digital advertising equally.<sup>7</sup>

Subsequently, a federal judge found the lawsuit mooted by the state court ruling. In response, last December, Maryland's Comptroller appealed to the state's Supreme Court to take up the case. The state's highest court decided last month to hear the appeal for the state's digital tax.

Any similar legislation in Connecticut will face similar litigation threats. Because of the constitutional flaws in the bill, the expected revenue will not materialize anytime soon, if ever. For these reasons we urge you to **oppose HB 5673**.

Thank you,

Alain Xiong-Calmes  
Director of State & Local Public Policy, Northeast

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<https://thedailyrecord.com/2022/10/17/judge-strikes-down-md-s-digital-advertising-tax-as-unconstitutional/#:~:text=An%20Anne%20Arundel%20County%20Circuit,companies%20while%20not%20taxing%20others.>  
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