



February 24, 2025

House Finance Committee
Attn: Christopher O'Brien
82 Smith Street
Providence, RI 02903

Re: HB 5076 - “Digital Advertising Gross Revenue Tax” (Unfavorable)

Dear Chair Abney and Members of the House Finance Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose HB 5076. CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Therefore, proposed regulations on the interstate provision of digital services can have a significant impact on CCIA members.

Policies that focus on taxing digital services misunderstand the value of their functions and tools for internet users. Economies, especially at the state level, are being transformed by digital advertising and governments must consider these benefits as they aim to support the innovation economy and businesses that are just starting. Many of these taxes also create a financial strain on the small businesses that rely on free services and affordable advertising to reach audiences the most. Past CCIA research has found that 85% of startups utilize marketing and digital advertising software and access to these tools is invaluable as businesses seek to reach new audiences and communicate with potential customers.²

Under HB 5076, “digital advertising services” would be subject to a tax on their annual gross revenues that is 10% of the assessable base of revenues exceeding \$1 billion. This raises a variety of legal and policy concerns that could lead to market fragmentation and discourage further investment in innovation and infrastructure, as further detailed below.

HB 5076 conflicts with current law and is likely to lead to costly litigation.

Similarly to other gross receipts taxes that have been enacted or considered, HB 5076 conflicts with the federal Internet Tax Freedom Act (ITFA), which prohibits states from imposing “discriminatory taxes on electronic commerce”. Given that the proposed bill only targets a tax to specific companies in one specific industry with certain revenues, it is clear these provisions are likely to only target online business activities in a way that cannot be applied to offline activities, and therefore fall under the scope of a “discriminatory tax”.

Previous efforts in various states have seen multiple challenges at both the state and federal levels. For example, Maryland’s 2021 enactment of the “Digital Advertising Gross Revenues

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² *Tools To Compete: Lower Costs, More Resources, and the Symbiosis of the Tech Ecosystem*, CCIA Research Center (Jan. 25, 2023), <https://ccianet.org/research/reports/tools-to-compete/>.

Tax” (DAGRT) was ruled “unconstitutional and illegal” by a state court.³ As the first state to pass this kind of legislation, it is telling that Maryland’s governor is now looking to vast budget cuts to potentially make up for this shortfall in the 2025 legislative session.⁴ Many of these arguments also appear similarly applicable to the proposed tax under HB 5076, given the revenue threshold as well as identical definitions in both bills. In times of increasing concern with budget shortfalls, it would be imprudent to advance legislation that is likely to face a similar fate of costly litigation.

HB 5076 will harm overall innovation and business growth.

HB 5076 violates many economic principles that should guide tax policy design. The guiding star of tax policy is that revenue should be raised efficiently. Imposing taxes tends to create incentives that distort behavior and produce deadweight losses for the economy, so taxes should be designed to minimize the size of both of those. To this end, well-designed taxes are usually neutral and broad-based, generally avoid marginal tax rate “cliffs,” and usually focus on income or profits rather than intermediate flows like revenue. This bill fails on these counts, especially given its exclusion of media outlets that also rely on the revenues of digital advertising.

These kinds of bills are a targeted effort that aims to collect taxes from a relatively small number of taxpayers in a specific industry. This bill is designed with a non-neutral, narrow tax base that creates inefficiencies and incentivizes costly efforts to avoid the tax. This is a significant general failure of HB 5076’s proposal.

Additionally, HB 5076 also violates the common-sense tax design prescription against “cliffs” in marginal tax rates. “Cliffs” that result in sudden surges in the effective marginal tax rate for tiny increases in revenue are a policy design disaster. They incentivize different kinds of inefficient behavior to avoid sudden surges in tax burdens, and may even drive businesses out of the jurisdiction imposing the “cliff”. Specifically, the structure of these kinds of proposed taxes, while seemingly targeted to larger and higher-profit businesses, would result in penalizing other smaller and growing businesses for exceeding arbitrary revenue thresholds like the one in the proposed gross receipts tax.

These kinds of arbitrary requirements can create enormous tax burdens for crossing these growth thresholds — likely being ruinous and significantly threatening innovation for startups with limited capital “runway.” Such “cliffs” in effective marginal tax rates create enormous incentives for companies to avoid crossing relevant thresholds, which may lead to behavior that is extremely inefficient for companies operating in Rhode Island and may even drive startups and other innovative efforts out of the state due to how incremental revenue and the following incremental tax obligations could operate in both Rhode Island and other states (see footnote for example).⁵

³ *Comcast of Calif., LLC v. Comptroller of the Treasury of Maryland*, No. C-02-CV-21-000509, 2022 WL 20359237 (Md. Cir. Ct. Nov. 17, 2022).

⁴ *Maryland governor proposes \$2B in budget cuts amid shortfall as 2025 legislative session opens*, WBAL TV (Jan. 8, 2025), <https://www.wbal.com/article/maryland-budget-cuts-proposed-2025-legislative-session/63373302>.

⁵ Suppose a company operating an advertising-supported digital service has \$999,990,001 in revenues, with \$20,000,000 in covered advertising revenues in Rhode Island. The company owes \$0 with respect to this particular tax. If a new customer wants to purchase \$10,000 in any service, whether covered advertising services or not and the company allows this transaction to go



For an illustrative example, taxes on revenues hit firms with thin profit margins much harder than highly profitable firms with wide margins. In particular, taxes on revenues tend to be particularly harmful for startups that are still growing, as many such startups are not yet profitable (and may even be pre-monetization) and are operating on a fixed capital runway. By focusing on revenues rather than profits, HB 5076 stands to drain the resources of these businesses, which often means the difference between successful scaling or premature shutdowns.

In combination, the gross receipts tax design failures of this bill would generate enormous inefficiencies for Rhode Island consumers and businesses, making the state much less appealing for startups and other businesses in the innovation space.

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We appreciate your consideration of our comments and stand ready to provide additional information as the General Assembly considers proposals related to technology policy.

Sincerely,

Megan Stokes
State Policy Director
Computer & Communications Industry Association

through, it will owe 10% * \$20 million in assessable base = \$2 million in incremental tax obligations for \$10,000 in additional revenue. The incremental obligations would be 200 times larger than the incremental revenue in this example. If this policy is copied by every state in the United States, that same incremental \$10,000 in revenue would result in a 10% tax obligation applicable to all of an advertising-supported digital service's revenue nationwide—\$100 million in incremental tax obligation for accepting a \$10,000 purchase from a customer, a 10,000 to 1 ratio of incremental tax obligations to incremental revenue.