



**OHIO SENATE WAYS AND MEANS COMMITTEE
HOUSE BILL 466—MAY 18TH, 2016
TESTIMONY OF DENNIS R. HETZEL
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Chairman Peterson, Vice Chair Beagle, Ranking Member Tavares, and members of the Senate Ways and Means Committee, thank you for the opportunity to offer testimony today on behalf of the Ohio Newspaper Association, which represents roughly 300 local news websites in Ohio as well the great majority of Ohio's daily and weekly newspapers. I am here to join with the broadcasters, auto dealers and other groups to express our support for House bill 466, sponsored by Representative Ryan Smith. This legislation makes an important clarification regarding the application of the state sales tax to digital advertising services.

As you know, the Ohio Department of Taxation (ODT) issued an informational release in December regarding the taxability of digital advertising services. Basically, ODT is arguing that some of the ancillary services associated with digital advertising could be construed as an electronic information service and therefore would be subject to the state sales tax. Ohio's outmoded definition of electronic information service was first enacted in 1999 and, not surprisingly, does not come anywhere close to reflecting the depth, breadth and complexity of modern digital and internet-based advertising. As we understand it, the law only remains in existence through grandfathering.

For historically sound reasons, advertising has not been subject to the state sales tax, and the General Assembly has rejected efforts to expand the sales tax to advertising in recent budgets. The research on this subject by economists is extensive and clear: Taxing advertising has a significant, negative impact on the economy, jobs and consumer demand. It is easy to understand why. When a business has less money available for advertising, economic activity is diminished. A 2010 study by IHS Global Insight estimated that a sales tax on all Ohio advertising would have a negative impact of more than \$12 billion and 50,000 jobs. Digital advertising is a growing, important subset of all advertising spending.

HB 466 is consistent with past practice and the important goal of having a business-friendly tax climate in Ohio. The bill clarifies that digital advertising services, including any electronic information services that are provided as part of a digital advertising transaction, are not subject to the sales tax.

If this legislation is not enacted, then ODT's application of this outdated law to digital advertising could have a significant impact on Ohio's newspapers, digital products and the many services provided to advertising customers in today's world. Indirectly, many newspapers will see a drop in advertising revenue as our customers, particularly advertising-dependent businesses such as auto dealerships that making heavy use of databases, are forced to dedicate a portion of their advertising budget to cover a new sales tax liability. Newspapers will incur direct administrative costs to collect and remit this new tax to the state.



Frankly, it is difficult to even imagine how to “unbundle” what is taxable and what is not under interpretation of current law, given the bundling of advertising and marketing services provided to many clients. As tax experts note, if consideration is given to the actual purpose of the activity, then the clear purpose of these services in most cases will be “advertising and marketing.” Hence, it should not be subject to sales tax. For example, an auto dealer is not uploading his inventory into a digital advertising medium in order to “utilize” a database. He’s doing it to sell cars. This is advertising and marketing. When an advertiser works with a local newspaper to promote new products and services using digital platforms, the end purpose is not the technological tools being used but advertising and marketing to grow a business.

We believe HB 466 is a common-sense measure to clarify an important area of law and avoid an interpretation that could have significant, negative consequences on Ohio businesses and consumer access to information. Thank you for your time and I would be happy to answer any questions the committee might have.

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