



THE OHIO AUTOMOBILE DEALERS ASSOCIATION

## **Testimony on House Bill 466 Before**

### **The Ohio Senate Ways & Means Committee**

**Joe Cannon, Vice President, Government Relations**

**May 18, 2016**

Good morning Chairman Peterson, Vice Chairman Beagle, Ranking Member Tavares and members of the committee. On behalf of our over 830 franchised motor vehicle dealers, I am here today to express our support for House Bill 466, sponsored by Representative Ryan Smith. This legislation would clarify that digital advertising services are exempted from sales and use tax. As you are aware, House Bill 466 recently received unanimous approval from the Ohio House of Representatives.

First, I wanted to again express our appreciation to this committee and to your colleagues in the Ohio Senate and the Ohio House for choosing not to pursue an expansion of the sales tax base on services during the recent state budget debates. You may recall that for our industry, such an expansion would have had a significant negative impact on dealership operations. Auto dealers use a large number of services that were targeted, including advertising. As an example, the average sized OADA member spent in excess of \$500,000 in 2013 advertising. So we were pleased that the tax status of advertising remained unchanged. Or so we thought.

The reason we are here today supporting House Bill 466 is in response to recent Ohio Department of Taxation (ODT) audits relating to dealers' *digital* advertising. Examples of digital advertising would include ads dealers post on cars.com or autotrader.com. These are just a couple of examples – our dealers work with numerous other digital advertising options. Since dealers have the ability to upload information, control and manipulate the data in the ads, ODT has determined they fall under the definition of an “Electronic Information Service,” making them taxable services. We disagree, as the true object of these advertising dollars is advertising them to prospective purchasers, not “manipulating data online.” In addition to the audits, dealers and other businesses were enlightened regarding the taxability of their digital advertising through an information release issued by ODT in December.

It's no secret advertising is a large part of dealership expenses, and digital advertising's piece of that pie is only growing. Under ODT's release, dealers are facing significant tax liability including penalties and interest going back four years! Keep in mind the advertising vendors dealers work with invoice them for 'professional services' or 'advertising'. Why? Prior to ODT's December interpretation, digital advertising was recognized as simply another form of advertising, albeit one that is becoming far more common in the marketplace.

Besides being concerned about our liability, we are also concerned about the impact this interpretation will have on our sales. Dealers are not going to increase their ad budgets 7% in response to this interpretation. They will instead decrease their budgets, which we believe will have a negative impact on sales.

In closing, we urge your support of House Bill 466, which will put all forms of advertising on equal tax footing.

Thank for your consideration.