



Leading the Marketing Community

April 28, 2011

The Honorable Noreen Evans
Chair, Senate Judiciary Committee
California State Senate
California State Legislature
State Capitol
Sacramento, CA 95814

RE: Oppose SB761

Dear Chairperson Evans:

I am writing on behalf of the Association of National Advertisers (ANA) to express our strong opposition to SB761.

While well-intended, we believe that bill could have serious negative implications for the Internet and the vast array of products and services that are available to consumers in the online world. We share your commitment and the goal of Senator Lowenthal to protecting the privacy rights of consumers in the online environment. However, we believe that can best be accomplished through strong industry self-regulation, buttressed by law enforcement on a nation-wide basis by the Federal Trade Commission (FTC). A comprehensive new industry self-regulatory program for online behavioral advertising (OBA) was launched last October and is fully operational to provide choice for consumers in this area. In addition, we believe that SB761 could have a very negative impact on the advertising industry, which provides significant economic activity and jobs in the State of California. For all of these reasons, we urge you to oppose SB761.

ANA is the advertising industry's premier trade association dedicated exclusively to marketing and brand building. Representing more than 400 companies with 9,500 brands that collectively spend over \$250 billion in marketing communications and advertising, our members market products and services to consumers and businesses in the online world and all other media. Founded in 1910, the ANA is headquartered in New York City and has offices in Washington, D.C. and California. Many of our members have corporate headquarters or conduct substantial business operations in California. More information is available at www.ana.net.

Advertising plays a critical role as a funding source and economic foundation for the various services that consumers enjoy in the online world – from free e-mail to chat rooms to the rich content of thousands of newspapers and magazines. The Internet economy is strong and online advertising is a major contributor to fueling its growth. According to the Interactive Advertising Bureau (IAB), total Web advertising revenue in the United States last year rose to \$26 billion, surpassing total newspaper ad revenue for the first time.

Behavioral advertising is just one component of all online marketing but it provides tremendous benefits for both consumers and businesses. Behavioral advertising makes it possible for consumers to see the right ad at the right time about the right product, rather than simply a series of ads that may be irrelevant to them. It also provides marketers with a more efficient and effective means of reaching consumers who are most likely interested in their offerings. This efficiency supports competition and innovation and substantially strengthens the U.S. economy.

We agree that consumers are entitled to protection in the collection and use of information across multiple websites to be used for the delivery of online behavioral advertising. Last October, ANA and a broad coalition of industry groups (called the Digital Advertising Alliance or DAA) launched a comprehensive new self-regulatory program which gives all consumers notice and enhanced control over information collected for these purposes.

The DAA program covers the entire ecosystem of the Internet and represents the industry's response to the call of the FTC for robust and effective self-regulation. The program features an "Advertising Option Icon" which alerts consumers when an ad on their computer screen is based on OBA data. By clicking on the icon, consumers are directed to a website which describes interest-based advertising and gives them the ability to opt out of all or some data collection for those purposes. The Council of Better Business Bureaus (CBBB) is responsible for the monitoring and enforcement of the program. More information about this program is available at www.aboutads.info.

Everyone agrees that consumers should have the ability to control the transfer of personally identifiable information (PII) to third parties. Under long-standing privacy self-regulation principles, consumers are provided notice and choices when PII will be transferred to third parties for marketing purposes. Such choices exist in the guidelines of every major privacy self-regulatory program and are included in the privacy policies of most major commercial websites. Providing the same choice or control over non-PII as industry currently does for PII could have serious implications for the architecture of the web and undermine many business models.

It is also important to note that there are several federal laws already in place to regulate the collection, use and transfer of the most sensitive forms of PII. The collection of PII from or about children under 13 is prohibited without parental consent under the Children's Online Privacy Protection Act (COPPA). The Gramm-Leach-Bliley Act

regulates the information practices for the financial services industry and health information is subject to the Health Insurance Portability and Accountability Act. In addition, the FTC has been a very active cop on the beat in bringing law enforcement cases against companies which do not live up to the privacy or information security policies posted on their websites.

Given the global nature of the Internet, we believe that consumer privacy concerns are best addressed at the national level with enforcement by the FTC. SB761 would impose state-specific rules on all Internet advertising, wherever it originates, and thereby raise serious constitutional issues by burdening interstate commerce. Passage of this legislation would encourage other states to act, leading to a patchwork of inconsistent standards.

Finally, we are concerned that this bill could have a very negative impact on the advertising industry, which is a key sector in the California economy. Attached is a description of how important the advertising industry is to the state, prepared by the consulting firm IHS Global Insight. Their study found that advertising helps generate \$820 billion in economic activity and more than 2.3 million jobs in California.

For all of these reasons, we urge you to oppose SB761.

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Scarborough". The signature is fluid and cursive, with a large initial "K" and "S".

Keith A. Scarborough
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ADvertising

Generates Sales and Jobs in California

Advertising expenditures account for \$820 billion in economic output in California – that is 21.9% of the \$3.7 trillion in total economic output in the state. Advertising driven sales of products and services help support 2.3 million jobs, or 15.7%, of the 14.5 million jobs in California. Every dollar of ad spending generates just under \$20 of economic output, and every million dollars of ad spending supports 69 American jobs.

A landmark study by the world-recognized economic consulting firm IHS Global Insight highlights the sales activity and the jobs created in the U. S. economy that are stimulated by advertising. Each form of advertising, ranging from direct mail to print to broadcast to Internet, helps businesses build brand awareness and communicate the benefits of their products and services to target audiences. In turn, this triggers a cascade of economic activity and stimulates job creation and retention throughout the U.S. economy.

The economic model developed by IHS Global Insight and Dr. Lawrence R. Klein (recipient of the 1980 Nobel Prize in Economics) estimates and predicts the impact of advertising on sales and jobs as distinguished from the impacts of other market factors such as consumer buying power, life stage buying behaviors, technological advances, and simply the need to replace obsolete or depleted items. The sales and jobs that are stimulated by advertising occur at three levels in the economy:

Retail and Manufacturing – This tier includes sales of products and services by manufacturers, retailers and their sales people and employees. It includes the preparation of advertising that businesses use to communicate with consumers. It includes the work of advertising agencies as well as the purchase of advertising time and space on radio and television stations, cable operators and networks, in newspapers, magazines, and other outlets.

Suppliers to Retail and Manufacturing – Advertising generated sales set off chain reactions throughout the economy. They create additional jobs and sales as a second tier of vendors and wholesalers supply and support the first tier manufacturers, retailers, and service businesses. When

advertising encourages consumers to purchase automobiles or trucks, for example, those retail and manufacturing level sales generate demand from suppliers of steel, electrical wiring, semiconductors, fabric and leather for upholstery, plastic, rubber for tires and parts, radio and GPS receivers and other products and services that are used to produce the vehicle.

Interindustry Activity – Advertising helps drive sales and create a substantial number of jobs at the third interindustry level. In the automobile industry example, the manufacturing, retail and supplier level sales help generate economic activity and create jobs in a host of related industries such as rail and truck transportation, gasoline and oil, insurance, and after market sales of automobile products. Without the initial consumer purchases of the cars and trucks, there would be no demand for these third tier products and services and no added sales and jobs at the interindustry tier. The sales and jobs at all three levels of impact illustrate the powerful energy that advertising injects into California's economy.

