

Federal Court Strikes Down Maryland Digital Ad Tax Provision

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A federal appeals court has struck down a provision of Maryland's digital advertising tax law that prevented companies from informing customers about price increases linked to the tax. The 4th U.S. Circuit Court of Appeals unanimously sided with industry groups, ruling that the restriction infringed on First Amendment rights by effectively censoring businesses from explaining the source of cost increases.

The Maryland law, passed in 2021, targeted major technology companies including Amazon, Meta, and Google. It imposed taxes on firms generating at least \$1 million in digital advertising revenue in the state. The provision specifically barred companies from passing on the tax costs through separate fees or line items, limiting their ability to communicate with customers and preventing disclosure about the tax.

The case was brought forward by the U.S. Chamber of Commerce, NetChoice, and the Computer & Communications Industry Association. These organizations argued that the law's restrictions prevented companies from engaging in business communication, depriving consumers of information regarding the true costs of digital advertising. The appeals court agreed, emphasizing that preventing businesses from sharing factual information constitutes a restriction on speech.

During the proceedings, the court highlighted that the provision did not merely regulate economic activity but censored speech, which is protected under the First Amendment. By forbidding companies from explaining price changes, the law restricted commercial communication in a manner the court described as overly broad and unconstitutional.

Industry representatives described the decision as supporting free expression and transparency in commercial communication. Several trade groups noted that allowing businesses to communicate openly about pricing ensures consumers are informed and that elected officials remain accountable for policy decisions.

The ruling does not invalidate the entire Maryland digital advertising tax law, only the specific provision that restricts disclosure to customers. The case now returns to a lower federal court to determine remedies and

how the law can be enforced without violating constitutional protections. Legal experts predict the decision will set a precedent for future cases involving the intersection of commerce, speech, and government regulation.

Critics of the Maryland law had argued that the disclosure ban limited public debate and restricted information available to consumers. The appeals court decision clarifies that restrictions on commercial speech may violate the First Amendment.

As the case moves forward, companies affected by the tax may now have greater flexibility in communicating the costs to their clients. The ruling also indicates that other states with similar disclosure restrictions may face constitutional challenges if those restrictions impede commercial speech.

Overall, the court's decision reinforces the principle that even regulatory measures impacting economic activity cannot override First Amendment protections. By striking down the provision, the federal appeals court has affirmed that businesses have the right to share information about how laws and taxes affect pricing, preserving transparency, accountability, and consumer awareness.