

April 7, 2008

Assemblyman Richard L. Brodsky  
New York State Assembly  
Legislative Office Building, Room 422  
Albany, NY 12248

Re: IAB's Comments on Assembly Bill 9275, Third Party Internet Advertising Consumers' Bill of Rights Act

Dear Assemblyman Brodsky:

The Interactive Advertising Bureau, Inc. ("IAB") appreciates this opportunity to provide comment on Assembly Bill 9275, the Third Party Internet Advertising Consumers' Bill of Rights Act. We oppose Assembly Bill 9275 and similar attempts to regulate Internet advertising at the state level. Furthermore, we believe the current self-regulatory system provides strong consumer protections and respects the privacy of individuals online.

Founded in 1996 and headquartered in New York City, the IAB ([www.iab.net](http://www.iab.net)) represents over 375 leading companies that actively engage in and support the sale of interactive advertising. IAB members include AOL, CNET Networks, Forbes.com, Google, MSN, New York Times Digital, Yahoo!, and others. Collectively, our members are responsible for selling over 86% of online advertising in the United States. IAB is actively engaged in regulatory matters, legislative affairs, and public policy initiatives that affect the interactive advertising industry.

### **I. IAB Supports Self-Regulation Over Rigid Standards.**

Research shows that the high-tech sector contributes approximately 6 million jobs to the national economy and approximately 300,000 jobs in the state of New York. On top of that, traditional and digital media production and corporate headquarters contribute 170,000 jobs to New York City alone. Before the state of New York rushes to regulate the Internet for the first time, the legislature should first clearly define the harm that it is attempting to address. In this instance, neither the legislative text nor the bill's sponsors have articulated an identifiable consumer harm. This should be the first step before any regulatory proposal is offered which could severely limit the continued growth of the Internet and interactive advertising industry.

This proposed legislation could undermine the benefits created by interactive advertising for consumers and businesses. Specifically, legislation would create rigid, inflexible standards that would restrain innovation and stifle a vibrant marketplace. We believe the appropriate approach is through self-regulation, which is sensitive to a dynamic industry and evolving consumer preferences. Furthermore, creating definitions, scope, and standards, while effective

when implemented through self-regulation, could create unexpected complexities when codified through law. For instance, standards for ad networks, the self-regulations that this bill is based upon, do not translate to all interactive advertising. Through self-regulation, standards may be tailored to a business's size and complexity, the nature of its activities, and the sensitivity of the information it collects. In this instance, the bill would also have the effect of codifying self-regulatory standards that are currently being updated.

Finally, we believe this issue is best addressed on a national level rather than on a state-by-state basis. Because this is an online industry, interactive advertisers reach citizens of every state. If other states were to follow New York's attempt to codify self-regulatory principles, businesses throughout the United States could be subject to 50 contradictory laws. We note that national consideration is already underway. The Federal Trade Commission, which has recognized self-regulation is the best approach, has contributed to this dialogue through a recently-held public Town Hall meeting, as well as its solicitation of comments on its proposed privacy principles. We would welcome your participation in that national dialogue to ensure continued benefits to New York consumers.

## **II. The Proposed Legislation Could Undermine the Significant Benefits Created By Interactive Advertising.**

Internet advertising creates tremendous benefits for both consumers and businesses. However, legislation that restrains a business's ability to collect and use data could diminish the relevancy and value of Internet advertising, which would reduce the subsidies for the vast majority of content and services that are currently freely available to consumers, including customized homepages, a multitude of search engines, free news and entertainment sites, or enhanced services such as video, social networking, and online video gaming.

Internet advertising provides the primary funding for the content and services available for free online. It delivers the most useful, relevant ads to the consumer, which benefits consumers by serving advertisements that help connect them to the information, products, and services in which they are likely to be interested. Internet advertising also has opened national and global markets to all businesses, both small and large, helping to level the competitive playing field, lowering barriers to market entry, and allowing new businesses to flourish by connecting them to interested customers. Internet advertising provides the primary financial support for hundreds of thousands of small web publishers and bloggers. It is the interaction among consumers, publishers, and advertisers that create today's Internet experience that permits the introduction of new products and services for free. The proposed legislation would severely limit this relationship, creating a disincentive to innovate, restrain economic growth - particularly in New York where much of the interactive, advertising and media industries are based - and reduce the availability of free content and services online, all to the detriment of consumers.

## **III. Self-Regulation Effectively Protects Consumer Privacy**

Given the rapid evolution of technology, we believe that industry guidelines are the most effective means for setting business standards for legitimate targeted marketing. Guidelines foster legitimate Internet advertising and marketing, helping build trust in the medium and ensuring that online commerce can continue to thrive and grow. Self-regulation is an extremely effective and efficient means to promote legitimate practices while protecting consumer privacy.

In early 2008, we continued our self-regulatory efforts with the introduction of interactive advertising privacy guidelines. These guidelines are designed to ensure users' control over the use of personal information by interactive media and advertisers while at the same time guaranteeing continued improvement in the delivery of relevant marketing communications to consumers. The privacy principles provide guidance on consumer notice, choice and data security, which serve as a roadmap for all industry actors who collect and/or use data to deliver relevant ads online.

Working closely with our members, we developed these principles because our members recognize that with increased use of information, comes an added responsibility to protect and use that information to benefit consumers. Our privacy principles and guidelines (attached below) require member companies to adopt and implement a privacy policy and to develop and incorporate awareness programs to educate business partners and site visitors about privacy and these guidelines. In extending awareness efforts to business partners, IAB has expanded the protections of the guidelines beyond our relationships with consumers, applying them to every segment of the Internet advertising ecosystem. IAB's guidelines are based upon the fair information principles of consumer notice, choice, access, and security.

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Thank you for considering our views on these issues. The success of the Internet has helped fuel the New York economy, and it is important to ensure that this medium can continue to grow and thrive. If I can provide you with any additional information, please do not hesitate to call me at 202/253-1466.

Sincerely,

Michael Zaneis  
Vice President, Public Policy