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April 6, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Commissioner Deborah Tate
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Commissioner Jonathan S. Adelstein
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Mr. Chairman and Commissioners:

The purpose of this letter is to file a formal complaint requesting an investigation of the ongoing crisis and scandal in our broadcast news media provoked by the widespread and undisclosed use of “video news releases” (VNRs). Free Press and Center for Media and Democracy (CMD) are filing on behalf of our 250,000 members, many of whom have mobilized in the past to express concerns about “fake news” – undisclosed corporate-and government-sponsored news segments – that has infiltrated broadcast news programming across the country.

Yesterday, we delivered to the Federal Communications Commission a report, “Fake TV News: Widespread and Undisclosed,” which documents use of 36 VNRs by 77 television stations, including broadcasters in the nation's 10 largest markets. The investigation – conducted by CMD – lists 98 separate instances where stations aired VNRs without disclosing the sources of the materials to viewers.¹

Collectively, the stations implicated in the report reach more than half of the U.S. population. Still, the findings represent only a small sample – less than one percent – of the thousands of VNRs the public relations industry produces each year for broadcast on television news programs.

Free Press and CMD believe that undisclosed VNRs have compromised local news programming in every market. This situation must be remedied immediately. The Commission should clarify and enforce its sponsorship identification rules,² and strongly penalize stations that air fake news.

Over the past 15 months, we have seen repeated reports of broadcasters airing counterfeit news and information:

1. On January 13, 2005 – after Armstrong Williams was exposed for not disclosing payments he received to promote Department of Education programs on local newscasts³ – thousands of Free

¹ Diane Farsetta and Daniel Price. “Fake TV News: Widespread and Undisclosed,” 6 April 2006, Center for Media and Democracy, <http://www.prwatch.org/fakenews/execsummary>

² See, e.g., Applicability of Sponsorship Identification Rules, Public Notice, 40 FCC 141 (1963); Sponsorship Identification Rules, Applicability, 40 FR 41936 (1975); 47 U.S.C. §§ 317, 508 and 47 C.F.R. §§ 73.1212, 76.1615.

³ Greg Toppo, “Education Dept. paid commentator to promote law,” 7 January 2005, *USA Today*, http://www.usatoday.com/news/washington/2005-01-06-williams-whitehouse_x.htm

Press members sent letters to the Commission demanding an investigation.⁴ In response, then-Chairman Michael Powell launched an investigation of Williams' apparent violation of the FCC's payola rules.⁵

2. In March, 2005 -- after a *New York Times* report found that hundreds of government-produced video news releases aired on local stations across the country⁶ -- more than 40,000 Free Press activists sent letters to the Commission asking the agency to investigate broadcasters who distribute government-sponsored news reports without properly identifying their source.⁷ In response, the Commission issued a "Public Notice" calling on all television newscasters to clearly disclose the origin of video news releases used on their programs.⁸
3. On June 15, 2005 -- after commentators on NBC's "Today" show were revealed to be promoting products on the program without disclosing financial ties to the manufacturer⁹ -- Free Press filed a formal complaint asking that the Commission "get to the bottom of this practice, identify violators, and improve the effectiveness of the rules and the thoroughness of their enforcement."¹⁰
4. On December 23, 2005 -- after a report in the *Washington Post* revealed that Washington-area broadcasters, WUSA (Channel 9) and WRC (Channel 4) regularly solicit paying sponsors for promotional segments that are featured in the stations' news coverage¹¹ -- Free Press filed a formal complaint asking that the Commission make this issue a priority and proceeded swiftly to investigate abuses.¹²

Public anger grows as these cases continue to pile up. With each new revelation, the integrity of broadcast journalism is further undermined. It is apparent that the Commission needs to expand its investigation into these abuses and to clarify to broadcasters their responsibilities under FCC rules and the terms of their licenses.

The evidence suggests there are direct ties between consolidation of local stations and the apparent pandemic of television VNRs. More than 80 percent of the stations captured in the CMD report are owned by large conglomerates. A list of the worst possible offenders includes stations owned by Sinclair Broadcast Group, News Corp./Fox Television Stations, Clear Channel Communications, Tribune Company and Viacom/CBS Corp. Before the Commission reconsiders broadcast ownership rules, it should determine whether station consolidation contributes directly to these types of violations.

A broadcaster's failure to fully disclose to the public that a news story contains material that was paid for, prepared by and/or provided to them by or on behalf of commercial, governmental and other entities is a clear violation of the Commission's sponsorship identification rules. These rules are grounded in the principle that

⁴ "Free Press calls for an investigation into Bush administration's 'Payola Pundits,'" 13 January 2005, Free Press , <http://www.freepress.net/press/release.php?id=40>

⁵ Genaro C. Armas, "FCC's Powell Orders Probe Into Payment to Commentator," 15 January 2005, *Washington Post*, <http://www.freepress.net/news/6237> [archived copy]

⁶ David Barstow and Robin Stein, "Under Bush, a New Age of Prepackaged TV News," 13 March 2005, *New York Times*, <http://www.freepress.net/news/7202> [archived copy]

⁷ "Stop News Fraud," Free Press petition and complaint. March 21, 2005, http://www.freepress.net/docs/final_vnr_letter_5.pdf

⁸ FCC Public Notice, 13 April 2005, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-84A1.pdf

⁹ James Bandler, "How companies pay TV experts for on-air product mentions," 19 April 2005, *Wall Street Journal*

¹⁰ Free Press Complaint to the FCC. June 15, 2005, http://www.freepress.net/docs/final_payola_complaint_pdf.pdf

¹¹ Paul Farhi, "TV Charity Drives: Toys for Tots, Money for Stations," 21 December 2005, *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/20/AR2005122001804.html>

¹² Free Press Complaint to the FCC. December 23, 2005, http://www.freepress.net/docs/fcc_complaint_12-23-05.pdf

listeners and viewers are entitled to know who seeks to persuade them with the programming offered over the public airwaves. As cited in the Commission's April 2005 Public Notice, whenever stations air VNRs, licensees "must clearly disclose to members of their audiences the nature, source and sponsorship of the material that they are viewing."¹³

The airing of undisclosed VNRs constitutes plagiarism on the part of TV broadcasters and is inherently controversial.

Federal regulators should intervene, not only to stop all current violations but to tighten the rules and prevent future abuses. As part of this effort, Free Press and CMD recommend that:

1. All broadcast of provided and/or sponsored video footage be required to carry a continuous, frame-by-frame visual notification of its source.
2. All broadcast of provided and/or sponsored audio material be required to include a verbal notification at its beginning and/or end, disclosing its source.
3. Broadcasters be required to place in their public file a monthly report on their use of all provided and/or sponsored material.

It is time regulators got to the bottom of this practice, identified violators, clarified disclosure requirements and improved the effectiveness of the rules and the thoroughness of their enforcement. It's time the Commission made this issue a priority and swiftly investigated these and other VNR abuses to help restore the public trust in the integrity of local news.

Sincerely,

Timothy Karr
Campaign Director
Free Press

John Stauber
Executive Director
Center for Media and Democracy

¹³ FCC Public Notice, 13 April 2005.