

October 11, 2007

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

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

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

Commissioner Robert McDowell
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Commissioner Jonathan S. Adelstein
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 into new, undisclosed broadcasts of entire, pre-packaged video news releases (VNRs). As the widespread and undisclosed use of VNRs continues, we respectfully urge the Commission to expedite its consideration of previous VNR complaints, which are pending against 110 broadcast and cable stations. Lastly, we encourage the Commission to clarify its standard for proper sponsorship identification of VNRs.

Recent investigations by the Center for Media and Democracy (CMD) identified the VNR broadcasts by WGTU-29 in Traverse City / Cadillac, Michigan. The mini-report and video evidence are available in their entirety online, at www.prwatch.org/fakenews3/summary.¹ CMD is also sending a written version of the report and DVD recordings of the video evidence to the Commission.

This is the third joint complaint regarding VNRs that our two organizations have filed with the Commission. We welcome the Commission's two Notices of Apparent Liability², recently delivered to Comcast for its cable channel CN8's repeated use of VNRs without disclosure.³ The Notices clearly signaled the Commission's commitment

¹ Diane Farsetta, "Know Fake News," 11 October 2007, Center for Media and Democracy, <http://www.prwatch.org/fakenews3/summary>.

² Notice of Apparent Liability for Forfeiture, in the matter of Comcast Corporation, File No. EB-06-IH-3723, NAL / Acct. No. 200732080035, 21 September 2007, and Notice of Apparent Liability for Forfeiture, in the matter of Comcast Corporation, File No. EB-06-IH-3723, NAL / Acct. No. 200732080039, 24 September 2007.

³ See Diane Farsetta and Daniel Price, "Still Not the News: Stations Overwhelmingly Fail to Disclose VNRs," 14 November 2006, Center for Media and Democracy, <http://www.prwatch.org/fakenews2/execsummary>, and Free Press and CMD Complaint to the FCC, 14 November 2006, http://www.freepress.net/docs/final_vnr_letter_nov06.pdf.

to the principle that “listeners and viewers are entitled to know who seeks to persuade them with the programming offered over broadcast stations and cable systems.”⁴

Unfortunately, the widespread and undisclosed use of VNRs has become entrenched in television newsrooms. Our research indicates that, despite the Commission’s laudable actions to date and broadcasters’ insistence that they can and will remedy the situation themselves, more must be done to ensure news viewers’ right to know.

On April 6, 2006, CMD reported on the use of 36 VNRs by 77 different television stations. Not once was the sponsor of the segment revealed to news viewers.⁵ That same day, Free Press and CMD filed a complaint calling on the Commission to “clarify and enforce its sponsorship identification rules,⁶ and strongly penalize stations that air fake news.”⁷

On August 11, 2006, the Commission sent letters of inquiry to the owners of the 77 stations identified in the first CMD report, calling on them to provide evidence regarding their undisclosed use of VNRs. The responses were due to the agency within 60 days.

On November 14, 2006, CMD issued a follow-up study that reported on the use of 33 VNRs by 46 different television stations. Only two stations clearly identified the VNR material to news viewers. Seven stations named in CMD’s first report subsequently aired VNRs without disclosure, despite being under investigation by the Commission for those earlier incidents. Thirty-seven VNR broadcasts documented in the second CMD report occurred after the FCC launched its own investigation on August 11, 2006.⁸

On April 26, 2007, the Commission sent letters of inquiry to the owner of at least one of the stations identified in the second CMD report. That resulted in the only sanction announced to date for undisclosed VNR broadcasts – the five fines proposed against Comcast Corporation. The status of the FCC investigations into VNR broadcasts by the other 110 broadcast and cable stations is unclear.

Yet, very limited additional research allowed CMD to identify three new broadcasts of entire, pre-packaged VNRs. These broadcasts occurred in August and September 2007. All three VNRs are highly promotional; two were aired without any disclosure

⁴ FCC Public Notice, MB Docket No. 05-171, “Commission Reminds Broadcast Licensees, Cable Operators and Others of Requirements Applicable to Video News Releases and Seeks Comment on the Use of Video News Releases by Broadcast Licensees and Cable Operators,” 13 April 2005.

⁵ 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>.

⁶ 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.

⁷ Free Press and CMD Complaint to the FCC, 6 April 2006, http://www.freepress.net/docs/fcc_complaint_4-06-06.pdf.

⁸ See Diane Farsetta and Daniel Price, “Still Not the News: Stations Overwhelmingly Fail to Disclose VNRs,” and Free Press and CMD Complaint to the FCC, 14 November 2006.

whatsoever. The third contained fleeting verbal and on-screen sponsor notifications that were included in the original VNR.⁹

Overall, our research has shown that:

- *VNR usage is widespread.* By tracking less than two percent of the total number of VNRs produced over 16 months, CMD identified more than 100 television stations that have aired VNRs. These include stations in major markets, such as New York City, Los Angeles, Boston, Chicago, and Miami. Collectively, the stations identified broadcast to more than half of the U.S. population.
- *VNRs are almost never disclosed.* Of the 143 VNR broadcasts documented by CMD to date, only twice (or 1.4% of the time) did television stations offer news audiences clear disclosure of the nature and source of the VNR footage. In two other cases, broadcasts of entire, pre-packaged VNRs that ended with sponsor notifications did passively provide disclosure to viewers. In four other instances, stations made fleeting, partial, and/or ambiguous attempts to disclose VNRs.
- *VNRs are often the sole source for news segments.* Nearly 85 percent of the VNR broadcasts documented by CMD were segments where all of the video and information presented had been derived from a VNR package.
- *Most VNRs are highly promotional.* The vast majority of VNRs are funded by companies to promote specific products. These VNRs omit facts and viewpoints critical of the sponsoring company and/or its products. This is especially worrying when VNRs promote prescription drugs or other health-related products. Both CMD reports documented the broadcast of VNRs that overstated or misrepresented the benefits of health-related products.

We urge the FCC to investigate the newly documented VNR broadcasts, and to expedite action on its investigations of the 110 other stations. Furthermore, we urge the agency to strengthen and clarify disclosure requirements for fake TV news.

Based on our research, Free Press and CMD believe that undisclosed VNRs have compromised local news programming in every market. The integrity of broadcast journalism remains at risk until TV stations stop airing fake news.

The issue is a vital one to the tens of millions of Americans who rely on television news on a daily basis. Since our investigations began, tens of thousands of Americans have written letters to the agency urging thorough investigations and actions to stop fake news.

It is apparent that the Commission needs to expand and expedite its investigation into these abuses, and clarify to broadcasters their responsibilities under FCC rules and the terms of their licenses.

⁹ Diane Farsetta, "Know Fake News," 11 October 2007.

A broadcaster's failure to fully disclose that a news story contains material that was sponsored by a commercial or governmental source is a violation of existing regulations, as the Commission has stated repeatedly.

As per our recommendations in our prior complaints, federal regulators should intervene to tighten the rules and prevent future abuses. As part of this effort, Free Press and CMD recommend that:

- All broadcast of provided and/or sponsored video footage be required to carry a continuous, frame-by-frame visual notification of its source.
- 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.
- Broadcasters be required to place in their public file a monthly report on their use of all provided and/or sponsored material.

Regulators must get to the bottom of this practice, by identifying violators, clarifying disclosure requirements and improving the effectiveness of the rules and the thoroughness of their enforcement.

We urge the Commission to make this issue a priority and swiftly investigate all VNR abuses to help restore the public trust in the integrity of local news.

Sincerely,

Timothy Karr
Campaign Director
Free Press

Diane Farsetta
Senior Researcher
Center for Media and Democracy