

**Before the FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of:

Use of Video News Releases by Broadcast
Licensees and Cable Operators

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MB Docket No. 05-171

To: The Commission

**COMMENTS OF
Center for Media and Democracy
Free Press**

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The Center for Media and Democracy, a public interest organization reporting on the public relations industry, and Free Press, a nonpartisan media reform organization, welcome the opportunity to respond to questions raised by the Federal Communication Commission in its April 13, 2005 Public Notice.¹

The public expects, rightly, that “news” is information that has been gathered by a journalist whom they can expect to act as an independent, fair observer. However, this is not the case when video news releases (VNRs) or audio news releases (ANRs) are aired without disclosure.

As the *New York Times* reported in a March 13, 2005 piece on government-funded VNRs, while these segments “generally avoid overt ideological appeals,” critics “are excluded, as are any hints of mismanagement, waste or controversy.” Statements from featured officials are excerpted from interviews “in which questions are scripted and answers rehearsed.”²

Analyses of ANRs and VNRs produced by the U.S. Department of Agriculture suggest that these segments are also one-sided.^{3, 4} On June 14, 2005, two U.S. Senators wrote Agriculture Secretary Johanns to express their concern that “many listeners in rural America may believe these releases are objective news reports, rather than political statements from the USDA.”⁵

¹ Federal Communications Commission Public Notice to Remind Broadcasters and Cable Operators of Video News Release (VNR) Requirements and Seeking Comment on VNR Use, April 13, 2005 <http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6517584503>.

² David Barstow and Robin Stein, “Under Bush, a New Age of Prepackaged TV News,” *New York Times*, March 13, 2005.

³ Diane Farsetta, “A Bumper Crop of Government-Produced ‘News,’” *PR Watch*, Vol 12, No 2, page 4, May 2005.

⁴ Andrew Martin and Jeff Zeleny, “USDA Plants Its Own News,” *Chicago Tribune*, June 16, 2005.

⁵ Ibid.

Privately funded segments raise similar concerns. A recent issue of *Digital Producer* magazine describes how a VNR producer for an oil company must “shoot around anything that, shown on its own, can be used against the company.” Such taboo images include “steam emitting from a refinery” and “dirty areas ... at filling stations.”⁶

As the Commission wrote in its Public Notice, “Listeners and viewers are entitled to know who seeks to persuade them with the programming offered over broadcast stations and cable systems.” To achieve this goal, the Center for Media and Democracy and Free Press urge the Commission to adopt new rules ensuring full disclosure to television viewers and radio listeners. Before detailing our recommendations, we will provide information on the topics identified in the Public Notice.

- **How VNRs are used in programming**

There is no question that VNRs have become a staple of broadcast and cable news programs. Nielsen studies of television newsrooms in 1992, 1996 and 2001 found that 100 percent of stations surveyed aired VNRs. A 1999 survey found that a majority of television stations reported VNR use at the same or at an increased level, compared to the previous year.

In 2004, a survey by the major VNR producer D S Simon Productions found that more than 80 percent of television stations were airing the same number or more VNRs on medical topics, compared to 2003. Company CEO Doug Simon remarked, “Our medical stories are consistently generating more than 100 placements per project per year.”⁷ In October 2003, the CEO of another major VNR producer, Medialink Worldwide’s Larry Moskowitz, said, “Every television station in America with a newscast has used and probably uses regularly this material from corporations and organizations that we provide as VNRs or B-roll.”⁸

More importantly, disclosure to viewers about the source of such provided material appears to be the exception, rather than the rule. “From what we see, there’s a very small percentage – perhaps less than 5 percent – that actually is identified what the source of the video is,” said Doug Simon.⁹ In a later discussion, Mr. Simon said, “Even though we put that material out there on our releases, on the tape, very few of them [the aired stories] say ‘Courtesy,’ whoever the client is that we happen to be working for.”¹⁰

Similarly, the March 2005 *New York Times* report found that many VNRs “were subsequently broadcast on local stations across the country without any acknowledgment of the government’s role in their production.”¹¹ Such practices violate the ethics code of the Radio-Television News Directors Association (RTNDA), which

⁶ Steven Klapow, “Making the News,” *Digital Producer*, May 26, 2005.

⁷ “D S Simon Productions Releases Survey of TV News Stations,” press release, December 2004 <<http://www.dssimon.com/releasehealthsurvey.html>>.

⁸ “The Nightly News Sell,” NPR’s “On the Media” program, October 24, 2003 <http://www.onthemedialink.org/transcripts/transcripts_102403_news.html>.

⁹ Ibid.

¹⁰ Jack O’Dwyer, “VNR Firms Will Meet New Standards,” *O’Dwyer’s PR Services Report*, Vol 19, No 4, page 24, April 2005.

¹¹ Barstow and Stein.

has called on news programmers to “clearly disclose the origin of information and label all material provided by outsiders” since 1989.¹²

Also relevant to the Commission’s deliberations is that the prepackaged news stories provided in VNRs are rarely aired as provided, in their entirety. One academic study of VNR use concluded, “The packaged story was used but heavily edited or used as simply one more resource along with B-roll and PSA [public service announcement] clips.”¹³

- **Payment or consideration to air VNRs**

Although most VNRs are provided to television newsrooms free of charge, so-called “secured placement” VNRs or “branded journalism” practices are increasingly being used and promoted by some VNR producers.

“Medialink Worldwide says ‘branded journalism’ is the best way to advertise in a splintered market,” read a March 2005 *Broadcasting & Cable* article. “Instead of sending out video news releases in hopes that stations and cable networks will air them, PR firms are actually creating the newscast, then buying spots on networks the way a Madison Avenue [advertising] firm would.”¹⁴ The article continued, “Other makers of VNRs have followed. Buying time on cable networks and broadcast stations, they gain some control over their content and guarantee that corporate messages are aired.”¹⁵ An average media purchase for a “secured” VNR was estimated to run \$10,000 to \$50,000.

It’s important to note, however, that television newsrooms receive something of value even when public relations firms provide them with free VNRs. George Washington University’s director of journalism, associate professor Mark Feldstein, has made the case that, “because of the high cost of compiling video for a newscast, stations that accept outside video are in effect accepting an in-kind contribution from that source.”¹⁶

Another indication of the value of free VNRs to resource-strapped newsrooms is that their use has increased as economic pressures have deepened. Political science professor Marion Just and the Project for Excellence in Journalism’s director Tom Rosenstiel wrote, “From 1998 to 2002, a study of 33,911 television reports found, the percentage of ‘feed’ material from third-party sources rose to 23 percent of all reports from 14 percent. Meanwhile, the percentage of stories that included a local correspondent fell to 43 percent from 62 percent. Local broadcasters are being asked to do more with less, and they have been forced to rely more on prepackaged news to take up the slack.”¹⁷

¹² “Code of Ethics and Professional Conduct,” Radio-Television News Directors Association <<http://www.rtnda.org/ethics/coe.shtml>>.

¹³ Glen T. Cameron and David Blount, “VNRs and Air Checks: A Content Analysis of the Use of Video News Releases in Television Newscasts,” *Journalism & Mass Communication Quarterly*, Vol 73, No 4, Winter 1996.

¹⁴ Joe Mandese, “The Art of Manufactured News,” *Broadcasting & Cable*, March 28, 2005.

¹⁵ Ibid.

¹⁶ Katie Sweeney, “Fuzzy Picture for VNRs, SMTs: Both Vehicles Come Under Scrutiny, and Congress Gets Into the Act,” *Public Relations Tactics*, Vol 12, No 6, page 18, June 2005.

¹⁷ Marion Just and Tom Rosenstiel, “All the News that’s Fed,” *New York Times*, March 26, 2005.

These economic pressures are felt most acutely in small, mostly rural, markets. “By incorporating VNRs into their newscasts, small stations can compete more effectively with stations that have larger staffs and budgets. ... A number of stations have even built video libraries by saving VNRs, and many report using VNRs as file footage,” wrote two media researchers.¹⁸

- **Notice regarding payment to air VNRs**

In our review of the public relations and television trade press, as well as general media reports and academic papers on VNRs, we did not see any mention of mechanisms to ensure that payments received to air VNRs are properly disclosed to broadcast licensees and cable operators.

- **Notice regarding the source of provided materials dealing with political or controversial issues**

The VNR industry standard is that the opening and/or closing “slates” of a VNR – frames not intended for airing – specify the source of the provided footage. Similar information, usually including contact information, is often provided in a written press release and other accompanying materials. ANR industry practices seem to be more heterogeneous. Websites such as <www.radiospace.com> that offer ANRs for download generally do indicate the ANR sponsor, but the audio itself provides little or no indication of its source.

Of course, these notices are aimed at newsroom “gatekeepers,” and not the viewing or listening public. However, there are well-documented problems with even achieving this level of notification, under the current system.

One of the most comprehensive academic studies of VNR usage noted, “Local TV news workers may not realize they are using a VNR because the material arrives 'second-hand' from a regional or network/national satellite feed. ... VNRs may end up in compilations of reporter packages, video, and sound bites, and there may be no labeling of the source of the material.”¹⁹

Confusion also complicates the notification process, according to the study. “Broadcast journalists may have varied ideas of what constitutes a VNR. ... Some may not see that an American Medical Association satellite feed with an on-screen and faxed suggested script is a VNR.”²⁰

Lynne Adrine, formerly a senior ABC News producer, flagged similar problems in a 2002 article. She wrote, “Multiple layers between the primary video source and the final broadcast make it harder to know where the tape originated. ... In many news operations, the responsibility for logging [the source of] tape falls to the more junior staff members - recent hires who may have little newsroom experience.”²¹

¹⁸ Anne R. Owen and James A. Karrh, “Video News Releases: Effects on Viewer Recall and Attitudes,” *Public Relations Review*, Vol 22, pages 369-78, Winter 1996.

¹⁹ Mark D. Harmon and Candace White, “How Television News Programs Use Video News Releases,” *Public Relations Review*, Vol 27, pages 213 – 22, 2001.

²⁰ Ibid.

²¹ Lynne Adrine, “Steal This Video,” *Poynter Online*, August 11, 2002 <http://www.poynter.org/content/content_view.asp?id=4271>.

While the above information concerns ANRs and VNRs regardless of their subject, we have found no evidence of special systems designed to ensure source notification for provided materials dealing with political or controversial issues. In fact, the March 2005 *New York Times* report documented several instances where local television stations aired VNRs on subjects that could reasonably be considered political or controversial, without the stations being aware of their source.

A Syracuse, New York station ran a segment on the 2003 Medicare prescription drug law, believing the VNR had been “produced and distributed by a major network.”²² The Government Accountability Office had ruled that the government’s Medicare VNRs were “not strictly factual news stories,” but “a favorable report” on a controversial program.²³

In a similar example, a Memphis, Tennessee station aired a VNR from the State Department, highlighting “how assistance from the United States was helping to liberate the women of Afghanistan.” The station was not aware of the source of the provided footage, perhaps due to “a sourcing error” by a major video feed distributor, Associated Press Television News. The State Department’s deputy assistant secretary for public affairs told the *New York Times* reporters, “Once these products leave our hands, we have no control.”²⁴

- **News services providing VNRs**

Television newsrooms access many, if not most, of the VNRs they use through satellite feed and video feed services. Television networks provide several such services. Fox News Edge distributes VNRs to 130 Fox affiliates, CNN Newsource distributes VNRs to 750 U.S. and Canadian stations, and Associated Press Television News’ Global Video Wire distributes VNRs to stations around the world.²⁵

But the largest provider of VNRs to television newsrooms may be Pathfire, a company that describes itself as “the leading provider of digital media distribution.” Two-thirds of all newsrooms in the United States are currently connected to Pathfire, with more being added each year. At least ten VNR companies, including nearly every major VNR producer, make their releases available on Pathfire. Television stations must purchase and install a Pathfire server to have access to the video footage, but most VNRs can be accessed without further charge, on free channels.

- **News services and sponsorship identification**

It is our understanding that, following the attention VNRs have received from major media, Congress and the Commission, some video feed services have taken steps to segregate VNRs from news feeds. However, we believe that the possibilities for VNR repackaging and newsroom confusion described above remain. In addition, we would like to stress that segregated VNR feeds, while a welcome development, do nothing to ensure disclosure to the viewing public.

²² Barstow and Stein.

²³ Government Accountability Office decision #B-302710, “Department of Health and Human Services, Centers for Medicare & Medicaid Services – Video News Releases,” May 19, 2004 <<http://www.gao.gov/decisions/appro/302710.htm>>.

²⁴ Barstow and Stein.

²⁵ Ibid.

- **Recommendations for proper disclosure of VNRs and ANRs**

Considering the above information, the Center for Media and Democracy and Free Press urge the Commission to adopt new rules to ensure full disclosure of ANRs and VNRs to radio and television audiences.

In particular, we recommend that all VNRs, whether funded by government or private sources, should carry a continuous, frame-by-frame visual notification of their source. This disclosure (for example, the words “Footage provided by X”) should be present throughout all B-roll footage, as well as the prepackaged stories.

Some VNR producers have decried such labeling (similar to that proposed by the Truth in Broadcasting Act, introduced in the U.S. Senate), fearing that it would cause VNR usage to decline. However, a recent survey of 1,000 people indicated that eight out of ten television viewers would not be negatively affected by such on-screen labeling. In fact, more than 40 percent of respondents said they would be more likely to watch programs that identify all video sources.²⁶ Other opponents of continuous, on-screen labeling claim that industry self-regulation is sufficient. We believe otherwise, given the poor track record of compliance with RTDNA’s ethics code.

Continuous, on-screen disclosure of VNR sources offers several beneficial effects. It places no additional burden on resource-strapped newsrooms. It ensures that GAO standards are met for disclosing the source of government-funded VNRs to viewing audiences. It ensures that viewer disclosure survives newsroom editing. It avoids newsroom confusion. It acknowledges that asking viewers to distinguish between locally produced news segments and VNRs is a near-impossible task. Lastly, it avoids the need for the Commission to decide which of the numerous topics covered in VNRs are “political” or “controversial” – surely a difficult task.

We also urge the Commission to enact similar disclosure standards for provided audio, whether as prepackaged ANRs or radio actualities. In this case, verbal disclosure of the public or private audio source should precede and/or follow the provided audio. Given contemporary radio practices, we recommend that the current requirement for disclosures preceding and following political or controversial material of more than five minutes’ duration be strengthened to require dual announcements surrounding any provided audio of more than three minutes’ duration.

Lastly, we urge the Commission to form an independent committee to assess compliance with any new rules regarding ANR and VNR disclosure, within one year following the enactment of the rules.

²⁶ John Eggerton, “Viewers Want VNR IDs, Poll Finds,” *Broadcasting & Cable*, June 13, 2005.