

**TESTIMONY OF JONATHAN S. ADELSTEIN**  
**Before the U.S. Senate Committee on Commerce, Science &**  
**Transportation**

**Full Committee Hearing: S.967, Pre-packaged News Stories**

**May 12, 2005**

[As prepared for delivery]

Mr. Chairman, Mr. Co-Chairman, members of the Committee, thank you for inviting me to testify on a matter of great concern to me and to the FCC. This hearing is especially timely, because it can help combat the surprising lack of awareness that the law and FCC rules require disclosure of who is behind certain paid, political or controversial programming.

Congress has maintained the principle -- from the outset of broadcasting -- that consumers have a right to know who is trying to influence them. Sponsorship ID laws date back to the Radio Act of 1927, meaning that they're older than the FCC itself. Congress has maintained an unwavering requirement that broadcasters must announce who gave them valuable consideration to air anything.

In the case of controversial issue or political programming, the FCC's interpretation of the law has always required that, whenever a third party provides material to induce its broadcast, the identity of the source must also be disclosed to viewers.

So the seriousness that you are treating this matter with is entirely consistent with historical concern of this Committee, and of Congress as a whole.

Because of the need to highlight our rules, I was especially pleased that last month, the FCC voted unanimously to remind the industry of their legal obligations. With the leadership of our new Chairman, Kevin Martin, we came together -- on a bipartisan basis -- to alert the industry that we take our responsibilities seriously -- and plan to enforce the law vigorously. We also sought comment to learn more about how VNRs are used, and whether we need to refine our rules further.

Many analysts believe the urgency of this issue arises in large measure because of the increasing commercialization of the media. Pressures on the bottom line are forcing reductions in resources for news operations.

This creates a void that PR firms are happy to fill with VNRs. They're cheaper to produce than ads, free to get on the air, and more effective because they're designed to mimic news stories. This can seriously mislead viewers, and has probably contributed to the well-documented loss of public confidence in today's media.

Another symptom of commercialization is seen in reports of a rising tide of undisclosed product placements in our media. I'm concerned that there seems to be a lack of awareness of the need for disclosure under our rules in this area as well. Everyone in the industry would be well-served to review our public notice on VNRs, since the same rules can apply to product placements.

The focus of today's hearing is on the use of VNRs by government agencies. As recently as 2002, the FCC reiterated that disclosure is particularly important when the government sponsors the broadcast matter.

You've heard about conflicting interpretations between the Justice Department and GAO about whether unidentified government VNRs violate laws against covert propaganda. The Commission has no jurisdiction over these laws, and has taken no position. But neither Justice nor GAO has noted that the failure by broadcasters and cable companies to identify the source of VNRs could violate the FCC's sponsorship ID rules. As we said in our Public Notice, these companies do have an obligation to disclose the source of political or controversial issue VNRs.

If Congress seeks to ensure the public is notified about the source of government-sponsored VNRs, legislation such as S. 967 is necessary to bolster our existing rules. It would apply whether or not consideration was exchanged -- and whether or not controversial or political issues were involved (it would also prohibit the removal of the announcement). The bill doesn't specify the precise nature of the announcement, but instead leaves it to the FCC to work with broadcasters to determine how to achieve the right balance between the public's right to know and editorial discretion.

The bill would not impose any new burden on broadcasters or cable companies. In fact, it would simplify compliance. It would ensure that those airing these VNRs are aware of the government's role. Most importantly, it addresses the public's right to know the source of the broadcasts so they can make up their own minds about the information being presented.

Again, Mr. Chairman, thank you for inviting me to testify. I am happy to answer any questions you may have.