

[FCC Fines Two TV Stations \\$4000 For Airing Video News Releases Without Sponsorship Identification, Even Though the Stations Were Not Paid for the Broadcast](#)

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The FCC has issued two Notices of Apparent Liability, each proposing fines of \$4000 to TV station licensees, both for airing **video news releases ("VNR")** in news or information programs without **sponsorship identifications**. In both cases, the station received the VNRs for free, but was paid nothing for including them in their programming. The station had no indication that any other party supplying the VNRs were paid for providing them to the station. Nevertheless, relying on some very old statements of policy contained in an FCC Public Notice from 1975, the FCC concluded that the provision of the VNRs in and of themselves, constituted valuable consideration to the station, and the fact that they highlighted the commercial products of the companies that produced them "to an extent disproportionate to the subject matter of the film", mandated a sponsorship identification.

Both cases rely on an FCC Public Notice, first issued in 1963 and updated in 1975 (which I have been unable to locate on the FCC's website), which sets out examples of how to comply with the sponsorship identification rules. These two old Public Notices were cited, but not reproduced, in a [2005 Public Notice](#), warning broadcasters to be careful with their use of VNRs. The specific example cited by the FCC was one set out in these notices dealing with a film on scenic roadtrips provided by a bus company. In the examples provided, the FCC stated that if the video did not show the bus company's name, or the bus company's name was shown only "fleetinglly" in pictured of the highway in a manner reasonably related to the program, there would be no sponsorship identification requirement. In cases where the bus company's name was clearly shown, "disproportionate to the subject matter of the film", then sponsorship identification would be required "as the broadcaster has impliedly agreed to broadcast an identification beyond that reasonably related to the subject matter of the film." Based on these examples, the FCC levied the fines in the cases just released. An examination of the facts of these cases is important to understand these fines and how far the FCC ruling in these cases extends.

[The first case involved a broadcast by a television station in Minneapolis](#), which aired in its news program a video news release on new car designs from General Motors, specifically the popularity of convertibles. The excerpt broadcast on the station mentioned only GM cars, and mentioned 3 different brands, talked about the company in almost every paragraph, and contained 12 different visuals of GM cars. Thus, it was found by the FCC to show the products

disproportionately to the topic of the broadcast, and to need a sponsorship identification. The FCC rejected the licensee's arguments that this ruling infringed on the station's editorial discretion and First Amendment rights, and that it was no different than airing parts of a press release from some company.

[The second case](#) was, to me, a much closer call. In a health program sponsored by a local hospital, a New Jersey TV station aired a report on how to fight a cold. The report talked about how taking products with zinc at the outset of a cold could reduce the length and severity of the cold. The report mentioned the "Zicam Travel Well Survey by Harris Interactive", and had a clip of one doctor saying that "an intranasal preparation, like Zicam" could reduce the severity of a cold. These were the only verbal mentions of Zicam, though the FCC states that there were 4 different visual shots of the Zicam product. As Zicam was the only product mentioned, and the references to Zicam were clearly identifiable, the FCC found that this VNR also violated the standards set out above.

These cases force broadcasters to be very aggressive in reviewing any film, video, or presumably audio programming that comes to them from any source, to see if it clearly identifies a product, and appears to push the product of a single company. It would appear that this case will require that the station make inquiries to see if such productions do in fact originate from a company trying to push its products and, if so, the station must make an on-air acknowledgment of that fact when the program segment is aired. It would seem that many broadcasters already acknowledge when they use film or video from received from some other source, but these new fines make clear that this practice must be integrated into every station's policies now.

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