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December 23, 2005

Chairman Kevin J. Martin
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 expanded investigation of the ongoing crisis in our broadcast news media provoked by so-called payola punditry. Free Press is filing on behalf of our 220,000 members who have mobilized in the past to express concerns about so-called “fake news,” undisclosed corporate- or government-sponsored news segments that have infiltrated broadcast news in local markets across the country.

Free Press, the national, nonpartisan media policy and advocacy group, believes this situation must be remedied immediately, or we as a nation risk considerable loss of confidence in the press.

This year has been replete with reports of broadcasters airing such pay-for-play news and information:

1. On January 13, 2005 – after Armstrong Williams was exposed for not disclosing payments he received to promote the Department of Education¹ -- thousands of Free Press members sent letters to the Federal Communications Commission (FCC) demanding an investigation.² In response, then-Chairman Michael Powell launched an investigation of Williams’ apparent violation of the FCC’s payola rules.³
2. In March -- after a *New York Times* report found that hundreds of government-produced "video news releases" aired on local stations across the country⁴ -- more than 40,000 Free Press activists sent letters to the FCC asking you to investigate broadcasters who distribute government-sponsored news reports without properly identifying their source.⁵ In response, the FCC issued a “Public Notice”

¹ 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

² “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>

³ 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]

⁴ 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]

⁵ “Stop News Fraud,” Free Press petition and complaint. March 21, 2005, http://www.freepress.net/docs/final_vnr_letter_5.pdf

calling on all television newscasters to clearly disclose the origin of video news releases used on their programs.⁶

3. On June 15 -- after commentators on NBC's "Today" show were revealed to be promoting products on the program without disclosing financial ties to the manufacturer⁷ -- Free Press filed a formal complaint asking that the FCC "got to the bottom of this practice, identified violators, and improved the effectiveness of the rules and the thoroughness of their enforcement."⁸
4. Most recently, 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 coverage. These stations typically don't disclose these arrangements to viewers, further blurring the distinction between advertising and news. Further, the story reveals that stations increasingly see these types of promotions as standard practice across the industry.⁹

Public anger grows as cases of payola in the news continued to pile up. With each new revelation, the integrity of local broadcast journalism is further undermined. The results of the Commission's investigation into Williams and of broadcasters' response to the FCC "Public Notice" have not yet been released. However, it is apparent that the agency's investigation needs to be expanded to include the abuses listed above.

As Commissioner Adelstein said, today, in a statement to press on this issue: "A broadcaster's failure to fully disclose to the public that it receives financial benefits from the employer of an on-air 'expert' guest is not just corrupt journalism, it's potentially illegal."¹⁰

Federal regulations clearly prohibit this brand of undisclosed propaganda in the news media. It's incumbent on the FCC to enforce the existing Payola Rules which state: "Any person involved in the production or preparation of a program who receives or agrees to receive payment for the airing of program material must disclose this information."¹¹

It's become evident that commercial enterprises and government agencies routinely contract with pundits and journalists to propagandize the public with advertisements disguised as news or independent opinion. This alarming trend is a byproduct of the ongoing consolidation and streamlining of local news operations by their corporate owners. When one company owns a conglomerate of local news outlets, the tendency is to place profits before public service, cut newsroom staff, centralize reporting and open newscasts to this and other types of questionable content.¹²

Federal regulators should intervene, not only to stop the current violations but to tighten the rules to prevent future abuses. It is imperative for the Commission to expand its investigation beyond the Armstrong Williams probe. Each new scandalous revelation of propaganda reduces the public trust in the media and highlights the weakness of the FCC's payola regulations.

⁶ FCC Public Notice, 13 April 2005, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-84A1.pdf

⁷ James Bandler, "How companies pay TV experts for on-air product mentions," 19 April 2005, *Wall Street Journal*

⁸ Free Press Complaint to the FCC. June 15, 2005, http://www.freepress.net/docs/final_payola_complaint_pdf.pdf

⁹ 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>

¹⁰ Paul Farhi, "FCC Commissioner: TV Charity Drives Could Mean Payola," 23 December 2005, *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/22/AR2005122202131.html>

¹¹ See Communications Act of 1934, 47 U.S.C. § 317; and "FCC Payola Rules,"

<http://ftp.fcc.gov/cgb/consumerfacts/PayolaRules.html>

¹² Wil S. Hyton, "Not necessarily the news," 19 November 2005, *GC*, <http://www.freepress.net/news/12453> [archived copy]

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. We applaud the recent statements of Commissioner Jonathan Adelstein on his intention to make this issue a priority and trust the Commission will proceed swiftly to expand its investigation and help to restore the public trust in the integrity of the news media.

We also believe there are direct ties between consolidation of local stations and the apparent pandemic of television payola abuses. Before the Commission reconsiders its rulings on broadcast ownership, it should determine whether station consolidation has contributed directly to these potential violations.

Sincerely,

Timothy Karr
Campaign Director, Free Press