

Media Group Co-Chair Kathleen Kirby Comments on FCC Video News Release Fine

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Kathleen Kirby, co-chair of Wiley Rein's Media Group, was quoted discussing the latest Federal Communications Commission (FCC) video news release (VNR) fine levied against Fox television station KMSP in Minneapolis. The FCC fined the station \$4,000 for violation of the sponsorship identification rules because the station did not disclose to viewers that video footage of General Motors cars featured in a news story about demand for convertibles was obtained from a VNR. Application of the FCC's sponsorship id rules historically has been limited to disclosure of material broadcast in return for consideration paid to the station. The FCC's investigation of VNR material broadcast by television stations has been the subject of some controversy because of the First Amendment concerns raised when the government dictates how broadcast journalists may utilize material the station has not been paid to broadcast. On the other hand, public interest groups have argued that the use of such material without disclosure amounts to "fake news." In the wake of a wide-ranging government investigation into VNR-use launched in 2006, "many stations made sure they were following the letter of the law in recent years," Ms. Kirby—who is counsel for the Radio Television Digital News Association (RTDNA)—explained. "The Fox fine troubles me because the government is having a look at how Fox took video from a source that is really the video equivalent of a paper press release. There would be no problem with a newspaper doing that. And the FCC is making a determination going to how the newsroom gathered their content," Ms. Kirby explained. It's a "slippery slope" of "government making a decision on editorial content," she said. "RTDNA advises members to identify all VNRs, and after the complaints were made five years ago many stations reiterated to

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employees that it's 'the right thing to do,'" Ms. Kirby concluded.