

HISTORY AND PUBLIC POLICY PROGRAM

OCCASIONAL PAPER

Optimizing Governance of
United States International
Media in Historical and
International Context

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FEBRUARY 2017



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Working Paper

Version: February 2017

EXECUTIVE SUMMARY

The National Defense Authorization Act for Fiscal Year 2017 (NDAA) recasts the structure of U.S. international broadcasting created by the United States International Broadcasting Act of 1994. It replaces the Broadcasting Board of Governors, which had overseen all U.S. government non-military multimedia international broadcasting, with a federal official, designated Chief Executive Officer, appointed by the President with the consent of the Senate. The CEO heads the federal agency (currently still called BBG) that includes the Voice of America (VOA) and Radio and Television Marti (Marti). Voice of America's mission is to tell America's story and present American policies to the world. The new legislation also empowers the federal CEO to control Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia (RFA), and Middle East Broadcasting Networks (MEBN) – all publicly-funded nongovernmental nonprofit corporations established by the Congress outside the Executive Branch to serve as substitute free domestic media, or surrogate media, for countries lacking free access to information.

The NDAA resubordinates VOA and Marti to a federal official appointed by the President with the consent of Congress, as was true prior to 1995 when VOA was part of the United States Information Agency. It reaffirms language of earlier legislation requiring broadcasts to “be conducted in accordance with the highest professional standards of broadcast journalism” and include “news which is consistently reliable and authoritative, accurate,

* I have benefited from comments on earlier drafts of this paper by Robert Gillette, John Lennon, John Lindburg (an authority on the legislative history), Gene Parta, Elizabeth Portale, S. Enders Wimbush, and Don Wolfensberger. The views expressed here are mine alone.

objective, and comprehensive.” With abolishment of the BBG, often viewed as a firewall between policy officials and journalists, the language of the law on journalistic standards and the professionalism of VOA journalists constitute a barrier to any effort by Administration officials to spin the content of broadcasts.

The NDAA fundamentally modifies the status of the surrogate nonprofit broadcasting corporations by empowering the federal CEO to determine their corporate boards, appoint their officers, manage their budgets, and direct their operations. The political, practical, and legal ramifications of empowering an Executive Branch official to control organizations that the NDAA stipulates are not a “Federal agency or instrumentality” call into question the viability of this approach.

Improvements on the NDAA might include tinkering with its language, recasting it to separate the nongovernmental surrogates from the VOA as an earlier House bill would have done, or creating a single non-federal organization such as the British Broadcasting Corporation, BBC.

Strengthening the NDAA legislation to ensure adherence to sound journalist standards in broadcasts and limit in practice Executive Branch control of the surrogate nonprofit corporations may ameliorate but will not resolve the inconsistencies of the NDAA and is likely to be at best a short term solution. Modification of the NDAA along the lines of an earlier bipartisan House bill providing separate governance for VOA and the nonprofit broadcasting corporations, each with a distinct mission – the former telling America’s story to the world, the latter serving as surrogate free media for authoritarian countries – would constitute a more viable approach. Yet VOA’s dual challenges of presenting American policies while practicing responsible journalism and attracting an audience without duplicating local news provided by the surrogate nonprofit corporations are likely to call into question the two-pillar approach. Radical changes in geopolitics, information flows, and technology since the end of the Cold War and the need for operational efficiencies argue for creation of a single U.S. international multimedia organization that is chartered by the Congress, funded from Congressional appropriations, organized as a nonprofit corporation outside the Executive Branch, and incorporating the best broadcast services and journalists of all the current U.S. international broadcasting networks.

NEW LEGISLATED ORGANIZATION

The National Defense Authorization Act (NDAA) for Fiscal Year 2017, signed into law by President Obama on December 23, 2016, includes as Section 1288 “Modification of United States International Broadcasting Act of 1994” (1994 Act). The NDAA abolishes the Broadcasting Board of Governors (BBG), which served since 1995 as collective head of all USG non-military international multimedia (still usually designated international broadcasting, USIB). In its place it creates an International Broadcasting Advisory Board (IBAB), comprised of the Secretary of State and four other members appointed by the President from bipartisan lists provided by the Senate Foreign Relations Committee and the House Foreign Affairs Committee. The NDAA establishes the position of Chief Executive Officer (CEO) to be appointed by the President and confirmed by the Senate as head of the federal agency (currently itself called the Broadcasting Board of Governors but to be renamed, perhaps as the U.S. International Communications Agency). The agency is comprised of the Voice of America (VOA), Radio and Television Marti (Marti), and a large management and support staff (283 FTE as of FY 2014).¹ The NDAA stipulates that officers and directors of Radio Free Europe/Radio Liberty, Radio Free Asia, and Middle East Broadcasting Networks – congressionally-authorized nonprofit corporations receiving appropriated funds as grants through the federal agency (BBG) – shall serve at the pleasure of the federal CEO. The CEO is authorized to direct their activities, appoint federal officials to their boards, manage their budgets, and merge the three current grantees into one.

Section 1288 of the NDAA is the fifth restructuring of USIB since the early 1970s and the result of the fifteenth USG review of USIB since 1953. Without usual hearings in the respective congressional committees on the specific provisions of Section 1288, the NDAA radically modifies the 1994 Act, which created the BBG. It differs markedly from restructuring envisaged in bipartisan legislation passed in the House in 2014 (H.R. 4490) and in slightly modified form reported by the House Foreign Affairs Committee (HFAC) in 2015 (H.R. 2323).

¹ BBG Watch, March 14, 2014, <http://bbgwatch.com/bbgwatch/bbg-fy2015-budget-request-ibb-bureaucracy-gets-34-of-721-million-programmers-will-absorb-most-of-12-million-cut/>.

Neither bill was taken up by the Senate and both were opposed by the Obama Administration. The NDAA centralizes federal agency control over the USIB grantees for the first time since the founding of Radio Free Europe in 1950. The new structure calls into question the long-standing rationale, repeatedly affirmed by several Presidential task forces and earlier laws, for their existence outside the Executive Branch and the federal government.

The NDAA also includes as Section 1287 provisions for the establishment within the Department of State of a “Global Engagement Center” to “lead, synchronize, and coordinate” all USG programs “to ...counter foreign state and non-state propaganda and disinformation efforts aimed at undermining United States national security interests.” The Center’s functions include “development and dissemination of fact-based narratives and analysis to counter propaganda and disinformation.” It is authorized to provide grants or contracts to a variety of nongovernmental organizations, including media organizations, to collect, analyze, and counter propaganda of foreign entities. The NDAA is silent on the relationship between these provisions and those of the following Section 1288 on U.S. International Broadcasting, including unmodified provision of the 1994 Act requiring VOA broadcasts to include presentation of USG policies and responsible discussion of those policies.

This restructuring mandated by the NDAA sparked public discussion about the merits and implications. HFAC Chairman Ed Royce (R- CA), co-sponsor of the legislation, argued:

The United States’ response to this onslaught of [Russian and ISIS] propaganda has been crippled, in part, by bureaucracy. Our agencies that helped take down the Iron Curtain with accurate and timely broadcasting have lost their edge. They must be revitalized to effectively carry out their mission in this age of viral terrorism and digital propaganda. ... My provision takes an important first step in this process by replacing the BBG’s part-time board with a permanent CEO to help better deliver real news to people in countries where free press does not exist.²

Other voices, focusing on the incoming Trump Presidency, cautioned that the restructuring could allow the Administration to dictate USIB content. The *Washington Post* editorially acknowledged deficiencies of the BBG but warned that the powers granted to the federal CEO paved the way for abuse should the President appoint a propagandist to the

²House Foreign Affairs Committee Press Release, December 12, 2016, <https://foreignaffairs.house.gov/press-release/chairman-royce-statement-intl-broadcasting-reforms-ndaa/>

position.³ *Politico* reported such fears among USIB journalists and managers.⁴ The public discussion has focused on structure, with little attention to changes in USIB content that might better counter foreign propaganda and disinformation, tell America's story, and provide uncensored information for foreign audiences about their own countries and the world.

This paper offers an analysis of the strengths and weaknesses of the latest restructuring of USIB, drawing on the record of seventy five years of U.S. international broadcasting, the approach to international broadcasting of other countries, and the author's personal experience as director of Radio Free Europe and senior executive of RFE/RL from 1988 to 2002. It outlines policy options to maximize the effectiveness of the USIB structure. It recognizes that an optimized USIB organization is not an end but only a means to disseminate information – content – to foreign audiences in the U.S. national interest. Optimizing content will require careful examination of purpose, intended audiences, strategy, editorial guidelines, and program mix in a world shaped by radically different geopolitics, information flows, and technology than those that prevailed during the second half of the 20th century.⁵ This paper also assumes that USIB can only contribute to efforts by many U.S. Government departments and agencies – including the State Department and its new Global Engagement Center, the Department of Defense, and the intelligence agencies – to counter Russian, ISIL, and other anti-American propaganda and disinformation.

³ Editorial, *Washington Post*, December 9, 2016, <http://wpo.st/XcLP2>

⁴ Tara Palmeri, "Trump to inherit state-run TV network with expanded reach," *Politico*, December 12, 2016. Additional reactions to the legislation included Randy J Stine, **Big Changes Coming to U.S. International Broadcasting?** *Radio World*, December 13, 2016; "Obama Signs New Law Restructuring U.S. International Media," RFE/RL, December 24, 2016, <http://www.rferl.org/a/obama-signs-law-restructuring-us-international-media-voa-rferl-board-governors/28194511.html>; Helle Dale, "Baseless Angst Over Reforming the Voice of America," *Washington Times*, December 19, 2016; Jeffrey Gedmin and Gary Schmitt, "How Trump Can Beat Putin at his Media Game," *Washington Post*, December 13, 2016, https://www.washingtonpost.com/opinions/how-trump-can-beat-putin-at-his-media-game/2016/12/13/3f31db2a-bf14-11e6-94ac-3d324840106c_story.html; "Why Voice of America matters outside US," BBC, December 15, 2016, <http://www.bbc.com/news/world-us-canada-38284655>; Jeffrey Gedmin, "Don't Gut America's Voice and turn it into Propaganda," *Foreign Policy*, December 15, 2016, <http://foreignpolicy.com/2016/12/15/dont-gut-americas-voice-and-turn-it-into-propaganda/>; John Eggleston, "Defense Bill Would Abolish BBG Governing Board," Multichannel News, December 2, 2016, <http://www.multichannel.com/news/people/defense-bill-would-abolish-bbg-governing-board/409361>;

⁵ A Ross Johnson and R. Eugene Parta, *A 21st Century Vision for U.S. Global Media*, History and Public Policy Occasional Paper, The Wilson Center, November 2012.

U.S. INTERNATIONAL BROADCASTING ARCHIPELEGO

The contentious issues of USIB governance addressed by the NDAA are unique to the United States and arise because the U.S., alone among advanced democracies, supports with public funds multiple international media/broadcasting networks, some of them part of the federal government bureaucracy and others publicly-funded non-governmental organizations. The Voice of America, Radio and Television Marti, and the BBG agency management and support staff⁶ are federal entities staffed by federal civil servants. Radio Free Europe/Radio Liberty, Radio Free Asia, and the Middle East Broadcasting Networks are non-governmental organizations funded through grants of funds appropriated by the Congress.⁷ USIB broadcasters produce programs in 60 languages targeted on countries lacking free media, and 21 of those are carried by both VOA and either RFE/RL or RFA.

The Voice of America began as the official radio of the U.S. Government during World War II and functioned first within the State Department and after 1953 within the United States Information Agency (USIA) for some fifty years. The VOA Director was appointed by the President for most of this period. VOA's mission is to tell America's story to the world – in the language of its founding Smith-Mundt Act “dissemination abroad of information about the United States, its people, and its policies.” Radio Marti was conceived as a surrogate Radio Free Cuba modeled on RFE/RL but launched for political and bureaucratic reasons as part of USIA.

RFE and RL (merged as RFE/RL in 1976) operated as private organizations under loose CIA oversight until 1971 and thereafter until 1995 under the Board for International Broadcasting, a bipartisan body appointed by the President and confirmed by Congress to oversee and grant appropriated funds to RFE/RL. RFE, RL, and RFE/RL were governed by self-replenishing private corporate boards from 1950 to 1982, when the so-called Pell Amendment to

⁶ The 1994 Act and 1998 legislation grouped all federal broadcasting and support staffs in the International Broadcasting Bureau, part of USIA until 1998 and thereafter part of the BBG agency. In practice, the IBB operated not as management but as a support structure for VOA, Marti, and the Board. Its only responsibility for the USIB grantees was to provide them with transmission/dissemination facilities.

⁷ A brief history is provided in Johnson and Parta, *A 21st Century Vision*, Appendix. The BBG Organizational Chart as of December 2016 is available at https://www.bbg.gov/wp-content/media/2011/11/BBG_OrgChart2016_Rev12-1-16_Final.pdf

authorization legislation⁸ required the RFE/RL Board to be comprised solely of BIB members. While the Pell Amendment put an end to bureaucratic conflict between the BIB and the RFE/RL Corporate Board, it diluted – legislative language to the contrary notwithstanding – private governance of RFE/RL. The conference report for the Pell Amendment nonetheless emphasized that the BIB and RFE “will and must remain very distinct and different institutions” – the first as a federal oversight agency and the second as a nonprofit broadcasting corporation.⁹ Radio Free Asia and the Middle East Broadcasting Networks, both established in the BBG era, also composed their corporate boards solely of BBG members. The mission of the USIB grantees is distinct from that of VOA. They function as surrogate radios, as substitute free media focused on local issues for countries whose regimes deny their citizens free domestic media that is a prerequisite for democracy. They serve as modern multimedia versions of RFE official William E. Griffith’s description of RFE in 1952: “Radio Prague and Radio Budapest as they would still be were Eastern Europe free and democratic.”

Other democracies, in contrast, have single international broadcasting entities, publicly funded but organized outside government structures, governed by multipartisan oversight boards, and not staffed by civil servants. That is the case with “public service” broadcasting corporations throughout the world, including the British Broadcasting Corporation (BBC), the Canadian Broadcasting Corporation, and the Australian Broadcasting Corporation.¹⁰

CONTENTIOUS RESTRUCTURING ISSUES

Discussion of the merits of the USIB restructuring mandated by the NDAA has focused on three issues – the demise of the BBG (Board) as a collective decisionmaker and firewall between policy makers and journalists, the authority of the federal CEO over both the federal and grantee USIB components, and the resulting extension of Executive Branch control over the governance and operation of USIB grantees.

⁸ Section 403(a), Public Law 97-242, August 24, 1982.

⁹ House Report 97-693, August 3, 1982.

¹⁰ Kim Andrew Elliott, “Farewell Firewall,” CPD Blog, December 21, 2016,

<http://uscpublicdiplomacy.org/blog/farewell-firewall>

For BBC governance see Alban Webb, *London Calling: Britain, the BBC World Service and the Cold War*. Bloomsbury Publishing, 2014.

BBG as Collective Executive and Firewall

The BBG (Board) became the collective head of the BBG agency by accident. It was established within USIA as a compromise alternative to federalizing (and later eliminating) RFE/RL and charged with overseeing all USIB, including VOA and Marti, RFE/RL, and the newly established RFA. It morphed into a separate federal agency with the demise of USIA in 1999. The Board's self-characterization as "collective CEO" was an oxymoron, an impractical approach to organizational governance under any circumstances. Jeff Shell, chairman of Universal Filmed Entertainment Group and penultimate BBG chairman, said "To have part-time board members to manage something like this is completely unrealistic."¹¹ The Board as collective head of agency has yet to find a defender on management or operational grounds in the current debate.

The Board has found defenders for its role of isolating broadcasters from political pressure by administration officials, for serving as a "firewall"¹² between broadcasters and administration officials who might seek to impose or censor media content and undermine journalistic independence of broadcasters. The Board's merits in this regard may be exaggerated. While it may have served as a deterrent, there is no evidence of attempts by Clinton, Bush II, or Obama administration officials to impose new broadcast content (apart from Congressionally-mandated VOA editorials on U.S. policy) and there are few examples of administration efforts to prevent broadcast of specific programs on foreign policy grounds. The latter include unsuccessful efforts of the Clinton NSC to prevent broadcast of a VOA interview with Chinese dissident Wei Jingsheng and of Bush II administration officials to ban airing of remarks by

¹¹ *Politico*, December 12, 2016.

¹² The term "firewall" is useful only if understood to mean a barrier against improper political pressure to shape USIB content. The term is counterproductive if it is meant as barring two-way communication between broadcasters, journalists as well as managers, and USG foreign policy officials. The BBC World Service, widely regarded as a model of balanced, objective journalism, was historically able to combine Foreign Office-journalist interaction with journalistic independence. (Webb, *London Calling*) A personal note: As RFE/RL executive responsible for coordinating USIB-wide programming to Serbia during the 1999 NATO air campaign I was in regular direct contact with an NSC official who offered helpful suggestions – not political pressure – about programming – mostly interviews with members of Congress.

Taliban leader Mullah Omar by VOA shortly after September 11, 2001.¹³ Administration efforts to shape broadcasts, to add content, would have violated the letter and spirit of the 1994 Act, which specified (in Section 303) that broadcasts “be conducted in accordance with the highest professional standards of broadcast journalism” and include “news which is consistently reliable and authoritative, accurate, objective, and comprehensive.” The 1994 Act (in Section 305(d) as updated by the NDAA) also stated that “The Secretary of State and the Chief Executive Officer ... shall respect the professional independence and integrity” of all USIB components. Such interference would have quickly come to the attention of the media and the Congress – as did the disputed interviews cited above.

The NDAA requires the new Advisory Board to report regularly to the Congress on the operations of the agency – albeit not specifically on its adherence to journalistic standards. Beyond media and Congressional exposure, the guarantee of the professionalism and objectivity of broadcast content is, as former VOA and USIA executive Joseph Bruns has argued, “the VOA Charter, signed into law in 1976,¹⁴ the editorial principles adopted by RFE/RL [and importantly – omitted by Bruns – its organizational separation from the Executive Branch], and, most importantly, the professional integrity of managers and editorial staff throughout the organization.”¹⁵

Nor is there anything to prevent boards themselves from imposing content on broadcasters – of acting not as firewall but as arsonist. In the early Reagan Administration the Board for International Broadcasting (the precursor to the BBG with oversight only over RFE/RL) under Chairman Frank Shakespeare attempted (without much success, given resistance by broadcasters and Congressional attention) to impose more bellicose content on RFE/RL broadcasts.¹⁶ This was a reprise of unsuccessful efforts in 1953 by the Free Europe Committee to impose more aggressive content on RFE broadcasters.”¹⁷ Shakespeare did require RFE/RL to

¹³ Alan L. Heil, Jr. *Voice of America: A History*. Columbia University Press, 2003. 363-385, 410-417.

¹⁴Point 1 of the VOA Charter states: “VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.”

¹⁵ Joseph B Bruns, “Appointees aren’t the problem,” Letters to the Editor, *Washington Post*, December 14, 2016. http://wpo.st/2_jM2

¹⁶ A Ross Johnson, *Radio Free Europe and Radio Liberty; the CIA Years and Beyond*. Stanford University Press, 2010, 225.

¹⁷ Asked, at a July 1953 FEC meeting, “Why don’t we advocate sabotage to Poland?” policy director William E. Griffith replied that the Americans and émigrés at RFE would not do it. His deputy Paul Henze agreed that “our exiles here will never carry out the kind of orders the [psychological warriors] want to give.” Ibid, 52.

broadcast one coded message at NSC direction to an East European country – a singular departure from normal RFE/RL journalism unprecedented since the early 1950s.¹⁸ Such overreach led the Congress to affirm in 1985 that the RFE/RL President “is responsible for the proper management and supervision of the daily operations of the radios” and caution the BIB that it “must avoid even the appearance of involvement in the daily operational decisions and management” of RFE/RL.¹⁹

Empowered Agency Director - Chief Executive Officer

Assessment of the new head-of-agency position of Chief Executive Officer created by the NDAA should distinguish between authority over the agency itself, of which VOA and Marti are components, and over the USIB grantees. As a Presidential appointee, confirmed by the Congress, the agency director/CEO (who in turn appoints the VOA and Marti directors) could seek to impose broadcasting content desired by the Administration. While this possibility cannot be excluded, it would contradict the unmodified language of the 1994 Act cited above mandating objective journalism – a principle highlighted by President Obama as he signed the NDAA into law.²⁰ Also reassuring is the history of professional journalism practiced by VOA within USIA prior to 1995,²¹ when both the USIA Director and VOA Director were appointed by the President. VOA was required to air editorials on U.S. policy prepared by USIA and vetted by the State Department, was subjected to political pressure from time to time resulting in staff changes, and occasionally had to pull its journalistic punches. But on balance it was guided by its Charter (incorporated into law in 1976) and provided high quality information based on sound journalistic standards credible to listeners around the world over a period of four decades. As Joseph Bruns has argued and Alan Heil and Nicholas Cull have documented, Presidentially-appointed VOA directors took seriously their mandate for accurate, objective, and

¹⁸ Ibid, 234. USIA Director Charles Wick evidently required VOA to broadcast similar messages. (Heil, *Voice of America*, 210.)

¹⁹ Public Law 99-93, August 16, 1985.

²⁰ “My Administration strongly supports the bill’s structural reform of the Broadcasting Board of Governors (BBG), which streamlines BBG operations and reduces inefficiencies, while retaining the longstanding statutory firewall, protecting against interference with and maintaining the professional independence of the agency’s journalists and broadcasters and thus their credibility as sources of independent news and information.”

²¹ Heil, *Voice of America*; Nicholas J. Cull, *The Cold War and the United States Information Agency; American Propaganda and Public Diplomacy, 1945-1989*. Cambridge University Press, 2008.

comprehensive broadcasts and successfully resisted political pressure to violate those principles.²² As one highly-regarded former VOA director replied, when asked about replacing the BBG with Presidential appointments, “Why would I object? I was appointed by the President. I oversaw a professional VOA. And I kept my hat by the door.”

Federalizing non-Federal Broadcasters; Squaring the Circle

Less explicable as legislative history and more problematic politically, practically, and legally is the authority provided by the NDAA to the CEO as head of the federal broadcasting agency to determine governance and manage operations of the nongovernmental USIB grantees.

Politically, the NDAA calls into question the distance between the USIB grantees and the executive branch that has been essential to perception and fact and staff morale of a mission focused not on telling America’s story and explaining U.S. foreign policy but on serving as surrogate radios, providing in the American interest a substitute, audience-centric free media for countries lacking that essential element of democracy. The Congress reaffirmed its commitment after the Cold War to surrogate radios separate from the VOA and lacking federal governance in authorizing Radio Free Asia and the Middle East Broadcasting Networks and funding new RFE/RL broadcast services for former Yugoslavia, Afghanistan, Iraq, Iran, and Western Pakistan. Control of USIB grantees by an Executive Branch official is incompatible with that commitment and mission. It contradicts the considered judgment of earlier legislators and experts, although the rationale for that judgment has not changed. In 1993, for example, then-Senator Joseph Biden (D- DL) viewed the non-federal status of RFE/RL as crucial to their journalistic independence: “If [RFE/RL] now become[s] direct agencies of the U.S. Government, they will maintain neither the appearance nor the reality of journalist independence.”²³

In 1998 Congress, reacting to excessive involvement of the BBG staff in RFE/RL and other broadcaster operations, reiterated that the BBG was an oversight and not a management body: “The daily operations of the broadcasters are conducted by the Director of the

²² Joseph B. Bruns, “U.S. International Broadcasting – A Way Forward,” Public Diplomacy Council, January 2, 2017.

²³ Senator Joseph Biden, Mark-up of the Foreign Relations Authorization Act for FY 94-95 Before the U.S. Senate Committee on Foreign Relations on July 15, 1993.

International Broadcasting Bureau *and the presidents of the respective grantees.*” (emphasis added) ²⁴ H.R. 4490 and H.R. 2323 directed that the federal agency, as grantor “avoid even the appearance of involvement in daily operations, decisions, and management” of the grantees. Opponents of separate leaderships for VOA and the USIB grantees argued that would be like having two head coaches for the same football team. While it may be one league, it is not one team but two, with different missions. To empower a federal agency director/CEO to control both is, as Kevin Klose testified to the Senate Foreign Relations Committee, like having a volleyball coach head both the volleyball team and the football team. ²⁵

Practically, the NDAA restructuring portends not just federalization of grantee governance but threatens micromanagement of grantee operations by the CEO and his or her federal staff. The prescribed powers of the agency director, taken literally, would make rubber stamps of the grantees’ corporate boards and preclude attracting talented Americans to serve on them. Under the old Board, the agency staff over time imposed an increasingly burdensome set of bureaucratic procedures and regulations not required by the Office of Management and Budget of other USG grantees and arguably counterproductive to ensuring effective accountability. ²⁶ CEO control of grantee governance threatens to increase federal agency staff encroachment in the operations of the USIB grantees to the detriment of their efficient operations.

Legally, the authority of the federal CEO over the USIB grantees stipulated in the NDAA makes their non-federal status ambiguous. The NDAA attempts to square this circle, stating in Section 310 (c) that “nothing in this or any other Act may be construed to make a [grantee] a Federal agency or instrumentality.” The third branch of government could draw a different conclusion. To date the issue has rarely been addressed by the courts. In 1985 a federal court reviewed the BIB – RFE/RL Board overlap and concluded that “Congress had made a determination to establish funding *without government control over its operations.*” (Emphasis added). The State Department and BBG Inspector General found the overlap between the BBG

²⁴Conference report, March 10, 1998. The International Broadcasting Bureau is described in footnote 6.

²⁵ Kevin Klose, Testimony to the Senate Foreign Relations Committee, November 17, 2015. Klose had served twice as President of RFE/RL and as Director of the International Broadcasting Bureau.

²⁶ For example, utilizing the grant agreement to impose additional reporting requirements, audits, limitations on contacts with Congress, and even procedures for grantee corporate board meetings.

(Board) and the grantee corporate boards as “creat[ing] the potential for – and in some cases, actual – conflict of interest.” The Federal Grant and Cooperative Agreement Act of 1977 and its regulations prohibit “substantial involvement’ by the federal grantor in the activities of the grantee. Yet the NDAA empowers the federal agency director (CEO) as grantor the power to hire and fire USIB grantee board member and officers, manage their budgets, and direct their activities. Given these powers, a federal court today might well rule that government control of the grantees makes them federal instrumentalities. A court might also question whether that control is compatible with existing law and regulations governing non-profit corporations.

LOOKING AHEAD

HFAC Chairman Royce characterized the NDAA as a “first step” in improving U.S. international media effectiveness. The deficiencies and liabilities of the NDAA outlined above argue for subsequent steps in the form of legislative corrections. Three alternative approaches to such adjustments may be suggested. (A fourth alternative, a single federal organization that would transfer USIB grantee operations and their staffs to the VOA or a new federal entity seems so unlikely that it will not be considered here).

Option One: Tinker

Several steps could ameliorate problematic features of the NDAA provisions. The responsibilities of the International Broadcasting Advisory Board could be expanded to require periodic reports to Congress on USIB adherence to the provisions of responsible and objective journalism stipulated in the law. Grantee corporate boards could be comprised of qualified prominent Americans, who would serve contingent on assurance from the federal CEO that they were responsible for appointing grantee corporate officers who would in turn be responsible for management of the grantees. Congress would obtain firm reassurances on these issues from the federal CEO in confirmation hearings. There is a partial precedent. A Kennedy Administration Executive Order granted USIA Director Edward R. Murrow authority to take charge of RFE/RL

broadcasts in a national emergency, but Murrow reassured all the stakeholders that he had no intention of using that authority and never did.²⁷

While such steps might work in the short run, they assume that over time federal CEOs would refrain from using their authority over the grantees and they fail to address the fundamental deficiencies and liabilities of the NDAA provisions outlined above.

Option Two: Two Pillars

The NDAA could be recast in the spirit of H.R. 2323, the bipartisan initiative by Royce and Engel approved in the House. That bill would have created a head of agency/Chief Executive Officer under a continuing BBG, reduced the superstructure of the federal agency, reaffirmed the role of VOA as a federal entity within the Executive Branch, and provided consolidated USIB grantees a status like that of the National Endowment for Democracy – a Congressionally-chartered non-governmental organization with its own private, self-replenishing board of directors funded by yearly grants from Congressional appropriations. H.R. 2323 emphasized separate missions of VOA, focusing primarily on America, and the USIB grantees as surrogate indigenous media. It thus reaffirmed the conclusion of the 1991 Presidential task force on international broadcasting as summarized by the task force chairman:

Voice of America and RFE and RL have distinct missions, and they should maintain separate identities. The Voice of America ... broadcast mainly international and American news, whereas Radio Free Europe and Radio Liberty had played the role of surrogate broadcasting, radios the countries would have had, had they had a free press and democratic government.²⁸

These different missions were endorsed in HFAC hearings on the Royce-Engel bill, in media commentaries, and by former officials and specialists interviewed about their appraisal of USIB. Many of those interviewed recommended that VOA have a closer connection with U.S. foreign and security policy.²⁹ Former BBG Chairman and Undersecretary of State for Public

²⁷ Johnson, *Radio Free Europe*, 128.

²⁸ Testimony of task force chairman John Hughes to the HFAC, February 4, 1992.

²⁹ Their conclusion: “U.S. international broadcasting is nowhere effectively linked to U.S. government foreign policy planning processes or structures.” S. Enders Wimbush and Elizabeth M. Portale, *Reassessing U.S. International Broadcasting*, March 2015, 4.

Diplomacy and Public Affairs James Glassman advocated a return of VOA to the State Department.³⁰

Correction of the NDAA in the spirit of the earlier House bill would reaffirm the replacement of the BBG Board by the International Broadcasting Advisory Board and reconfirm the authority of the federal CEO over VOA and Marti. It would eliminate the agency director's authority over the USIB grantees, reduce the agency superstructure – in military terminology, increase the “tooth to tail” ratio – and limit the scope of the grant agreement to the minimum required by OMB to ensure effective oversight and accountability. The agency's mandate to adhere to professional broadcasting standards would be strengthened by requiring specific Advisory Board compliance reports on this issue. A new umbrella nongovernmental organization with a self-replenishing private board of prestigious Americans modeled on the NED board would incorporate but preserve the strengths and brands of the current USIB grantees.³¹ Common services for all USIB would be shared; for example, the federal agency would be responsible for shared content delivery infrastructure, while the nongovernmental organization would be responsible for shared audience research. Budgets and operations of the two distinct USIB pillars, one focused on telling America's story and the other on audience-centric surrogate local information, would be deconflicted by the terms of Congressional appropriations, the language of the grant, and regular coordination between the heads of the two pillars.

Additional organizational changes in the spirit of H.R. 2323, could be envisaged. Marti could be included in the nongovernmental organization, where its mission would logically place it (with federal benefits of its employees “grandfathered”). Current de facto VOA surrogate services for Africa could continue for a specified period,³² but VOA “overlap” with the vernacular languages of the surrogate grantee would be limited to a few major world languages

<https://www.wilsoncenter.org/sites/default/files/WimbushPortaleFINAL%20REPORT%20international%20bdcsting.pdf>.

³⁰ James K. Glassman, “Beyond Tinkering; Reform of the Broadcasting Board of Governors Requires Full Integration Into the U.S. Foreign Policy Apparatus,” Testimony to HFAC, June 26, 2013. Earlier a veteran Senate staff member had called for returning VOA to the State Department. Remarks of Mark Helmke to the International Broadcasting Conference of the Public Diplomacy Council, November 16, 2006. In 1999 Senators Biden and Helms thwarted Senator Feingold's proposal to return USIB to the State Department with the abolishment of USIA, arguing that it “would be the equivalent of a death sentence, threatening both the budget and the journalistic integrity of all the services.”

³¹ When RFE/RL, Inc. was established in 1976, it was in many respects an umbrella organization for RFE and RL, which remained the major operating divisions with their own directors responsible for broadcasting and research.

³² The first House bill, H.R. 4090, included these provisions.

and VOA would refocus on distributing content in English – the universal world language. The grant for the surrogate nongovernmental organization could be administered not by the federal USIB agency but by the State Department, as are grants for NED and the U.S. Institute of Peace, eliminating the need for a duplicative grantor bureaucracy. Were these additional adjustments to be made, the federal broadcast agency would be the VOA and the VOA director would logically be the head of agency or CEO.

Creation of two organizations under separate governance with distinct missions is a defensible long-term rationale for USIB that could sustain Congressional and public support and funding. Critics of this approach argue that separate charters, appropriations, and regulations would not end political and bureaucratic infighting over resources. And a two-pillar approach is vulnerable to a more fundamental weakness: lack of clarity on the role of VOA. If the Voice of America is to cover local news in many countries, contrary to Congressional preference, it would be vulnerable to the charge of duplicating the surrogate operations of the grantees. A VOA focused on telling America's story will face the challenge of combining discussion of American policy with objective journalism while reaching an audience large enough to justify its continuation. A VOA so focused would need to satisfy Administration officials that it is responsive to their interests while satisfying the concerns of its journalists that they could continue balanced and objective reporting.³³

Whatever the preferences of Congress, the international information space of the 21st century calls into question the sustainability of the two-pillar approach. In practice, considerable overlap in the programming of VOA and the grantee(s) seems likely to continue. In an era of budget scarcity, “more is better,” simple redundancy, often translated as duplication and overlap, is not a sustainable rationale. The more missions are homogenized in practice as one USIB mission the weaker the rationale for multiple networks and the more salient the conclusion of a

³³ One VOA correspondent said: “I don't care if it's a Democrat or a Republican in the White House... We cannot be a part of the administration if we want to stay unbiased, if we want to stay credible, if we want to stay trustworthy.” BBC, December 15, 2016. A former long-time VOA correspondent countered that “USG paid journalists, of which I was one, can no longer pretend they are just like their friends working for commercial media.” Dan Robinson, “US government-funded media mismanaged for decades,” <http://bbgwatch.com/bbgwatch/robinson-us-government-funded-media-mismanaged-for-decades/>

New York Times editorial at the end of the Cold War that “it is hard to defend the indefinite existence of two broadcast bureaucracies with overlapping functions.”³⁴

Option Three: One Pillar - A Single Non-Federal USIB Organization.

A third alternative to the NDAA, arguably the most desirable eventual outcome, is combining the current multiple USIB organizations into a single non-federal international multimedia network with public funding, an Endowment for International Media or Corporation for American Global Media, on the organizational model of the BBC or the National Endowment for Democracy.³⁵ Veterans of U.S. international media have suggested such an approach, given changes since the Cold War in geopolitics, information flows, and technology.³⁶ The rationale and specifics of such a model were outlined in an earlier Wilson Center History and Public Policy Paper, “A New Vision for U.S. Global Media,” by Gene Parta and this author.³⁷ We argued that explanation of U.S. foreign policy is public diplomacy best left to the State Department (including the new Global Engagement Center or a future recreated USIA)³⁸ and that few if any countries today are so isolated from world information as to justify pure full-service surrogate media. We therefore advocated “a single, non-federal, congressionally-funded broadcasting organization ... with a revitalized mission employing the latest technologies in an ‘audiences-centric’ communications strategy ... to maintain an effective U.S. presence in an often hostile international media milieu to promote American and Western values in support of freedom and democracy.”³⁹ A single U.S. international media organization would better serve U.S. national security issues in providing uncensored information to foreign audiences by allowing coherent strategic planning and rapid shifting of resources devoted to particular countries or types of programming in response to changing international conditions.

³⁴ Editorial, *New York Times*, April 26, 1993.

³⁵ Other modes of governance can be envisaged, such as that at the United States Institute of Peace (a nongovernmental organization whose Board members are appointed by the President and confirmed by the Congress) so long as oversight is separated from management and a structure of non-federal journalism is maintained.

³⁶ E.g., S. Enders Wimbush, “The Fading Voice of Liberty,” *The Wall Street Journal*, July 18, 2013.

³⁷ Johnson and Parta, *A 21st Century Vision*.

³⁸ Nicholas Cull, “What the U.S. Can Learn from its Cold War fight against Kremlin Propaganda,” *Washington Post* Monkey Cage, January 13, 2017, http://wpo.st/HY_R2, cautions that appeals for creating a new USIA neglect the Agency’s history. See also Matthew Armstrong, “The Past, Present, and Future of the War for Public Opinion,” January 19, 2017, <https://warontherocks.com/2017/01/the-past-present-and-future-of-the-war-for-public-opinion/>

³⁹ Johnson and Parta, *A 21st Century Vision*, 1.