



# U.S. Public Diplomacy: Legislative Proposals to Amend Prohibitions on Disseminating Materials to Domestic Audiences

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## Summary

Public diplomacy involves U.S. government activities to conduct U.S. foreign policy and promote U.S. national interests through direct outreach and communication with the population of foreign countries. Public diplomacy and international broadcasting activities, conducted by the Department of State, U.S. diplomatic personnel abroad, and U.S. international broadcasters such as the Voice of America, include providing information to foreign publics through broadcast and Internet media and at libraries and other outreach facilities in foreign countries; conducting cultural diplomacy, such as art exhibits and music performances; and administering international educational and professional exchange programs.

For decades, Congress has enacted legislative provisions concerning U.S. government communications to U.S. domestic audiences that prohibit influencing public opinion through unauthorized publicity or propaganda. In the case of U.S. public diplomacy and international broadcasting, two additional legislative provisions prohibit the dissemination and general availability of communications and related materials intended for foreign publics to U.S. domestic audiences: Section 501 of the United States Information and Educational Exchange Act of 1948 (“Smith-Mundt Act”; P.L. 80-402, 22 U.S.C. §1461) as well as Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (“Zorinsky Amendment”; P.L. 99-93; 22 U.S.C. §1461-1a).

Proposed in the 112<sup>th</sup> Congress, the Smith-Mundt Modernization Act of 2012 (H.R. 5736), and identical provisions included at Section 1097 of the National Defense Authorization Act, Fiscal Year 2013 (NDAA; H.R. 4310), would amend and restate these two legislative provisions restricting domestic availability and dissemination of communications created by the State Department and the Broadcasting Board of Governors (BBG) to target and influence foreign publics. The proposed amendments to these provisions would remove the prohibition on domestic dissemination of public diplomacy information produced by the Department of State and the BBG intended for foreign audiences, while maintaining the prohibition on using public diplomacy funds to influence U.S. public opinion.

Proponents of amending these two sections argue that the ban on domestic dissemination of public diplomacy information is impractical given the global reach of modern communications, especially the Internet, and that it unnecessarily prevents valid U.S. government communications with foreign publics due to U.S. officials’ fear of violating the ban. They assert as well that lifting the ban will promote the transparency in the United States of U.S. public diplomacy and international broadcasting activities conducted abroad. Critics of lifting the ban state that it may open the door to more aggressive U.S. government activities to persuade U.S. citizens to support government policies, and might also divert the focus of State Department and the BBG communications from foreign publics, reducing their effectiveness.

For further discussion of the Smith-Mundt Act’s domestic dissemination ban as well as general information on U.S. public diplomacy and international broadcasting, see CRS Report R40989, *U.S. Public Diplomacy: Background and Current Issues*, by Kennon H. Nakamura and Matthew C. Weed. For explanation of legislative restrictions on U.S. government communications to domestic audiences, see CRS Report RL32750, *Public Relations and Propaganda: Restrictions on Executive Agency Activities*, by Kevin R. Kosar. For a discussion of the NDAA, see CRS Report R42607, *Defense: FY2013 Authorization and Appropriations*, by Pat Towell and Daniel H. Else.

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## Introduction

The United States has long sought to influence the peoples of foreign countries through public diplomacy. U.S. government public diplomacy is defined in different ways, but broadly it is a term used to describe efforts to conduct U.S. foreign policy and promote U.S. national interests through direct outreach and communication with the population of a foreign country.<sup>1</sup> Public diplomacy activities, conducted by the Department of State and U.S. diplomatic personnel abroad, include providing information to foreign publics through broadcast and Internet media and at libraries and other outreach facilities in foreign countries; conducting cultural diplomacy, such as art exhibits and music performances; and administering international educational and professional exchange programs.

Each U.S. embassy maintains a public affairs section to manage informational and cultural public diplomacy programs in a host country.<sup>2</sup> The section is tasked with explaining U.S. government policy and actions to that country's officials, media, and people. At large embassies, the section's overall responsibilities are shared by a cultural affairs officer (CAO) and an information officer (IO), while at other embassies, the duties are handled by the public affairs officer (PAO). The CAO or PAO manages cultural programs designed to educate foreign publics about the United States and to counter negative conceptions about Americans, American attitudes and beliefs, and life in the United States. These programs include sending foreign individuals to the United States for various periods of time for professional and educational exchange. The public affairs section also sponsors trips by American cultural ambassadors and brings American speakers to the host country to engage the people on important issues. The PAO will also often conduct informal outreach by attending receptions and concerts in the host country, and by hosting receptions for foreign individuals in his or her home.

In addition to State Department and U.S. foreign mission public diplomacy efforts, the U.S. government sponsors international broadcasting overseen by the Broadcasting Board of Governors (BBG), since 1999 an independent executive branch agency led a bipartisan board. BBG broadcasters include the Voice of America (VOA), Radio Free Europe/Radio Liberty (RFE/RL), TV and Radio Martí broadcasts overseen by the Office of Cuba Broadcasting (OCB), Radio Free Asia (RFA), and the Middle East Broadcasting Networks (MBN), which broadcast Alhurra television and Radio Sawa. Together these broadcasters provide news and information about the United States as well as global, regional, and country-specific news to foreign audiences in every part of the world.

In 1948, Congress passed authorizing legislation that placed public diplomacy responsibilities within the ambit of the Secretary of State, marking a shift from military to civilian control over efforts to influence foreign publics following World War II. This legislation, entitled the United States Information and Educational Exchange Act of 1948 ("Smith-Mundt Act"; P.L. 80-402), provided the Secretary of State with the authority to conduct international information activities

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<sup>1</sup> For more information on U.S. public diplomacy and international broadcasting activities, see CRS Report R40989, *U.S. Public Diplomacy: Background and Current Issues*, by Kennon H. Nakamura and Matthew C. Weed.

<sup>2</sup> The fact that U.S. embassies call their public diplomacy apparatus "public affairs" can be confusing when compared with the State Department's public diplomacy/public affairs structure. In the United States, the State Department's Bureau of Public Affairs, which reports to the Under Secretary of State for Public Diplomacy and Public Affairs, primarily communicates with domestic audiences and U.S. and foreign media operating in the United States. Public affairs at a U.S. embassy instead communicates primarily with foreign media and publics in the host country.

abroad, including broadcasting through the Voice of America, as well as certain types of information and cultural exchange. In 1953, some public diplomacy authority was transferred to the newly created U.S. Information Agency (USIA). Later, the Broadcasting Board of Governors (BBG) was created and tasked with overseeing U.S. international broadcasting. In 1999, USIA was dissolved and its public diplomacy authorities were transferred back to the Department of State. Today, the State Department leads U.S. public diplomacy efforts, while the independent BBG runs U.S. international broadcasting. The Smith-Mundt Act remains the primary authority for the State Department to conduct international information programs.

The Smith-Mundt Act, as amended in 1972, as well as a 1985 provision, popularly known as the Zorinsky Amendment, prohibits domestic dissemination of international information materials and products. These provisions have been interpreted as attempting to curtail the intentional or unintentional propagandizing of the American populace through exposing it to public diplomacy materials whose purpose is to influence foreign public opinion. Over time, observers have argued that these restrictions render U.S. public diplomacy less efficient and effective as modern global communications technology makes the domestic dissemination ban unenforceable and anachronistic, and overestimates the propagandistic effect of international information materials.

On several occasions, Members of Congress have proposed amending the Smith-Mundt Act and the Zorinsky Amendment to remove or otherwise alter the domestic dissemination ban in these provisions. In the 112<sup>th</sup> Congress, the Smith-Mundt Modernization Act of 2012 (“Modernization Act”; H.R. 5736) contains the latest set of amendments to Section 501 of the Smith-Mundt Act and the Zorinsky Amendment, restating the provisions to exclude any ban on domestic dissemination and making international information materials prepared for foreign publics available to a domestic audience. The provisions of the act were incorporated into the National Defense Authorization Act, Fiscal Year 2012 (H.R. 4310), which has passed the House of Representatives.<sup>3</sup> The Modernization Act’s inclusion in the NDAA has fostered debate and analysis over what effect, if any, a removal of the domestic dissemination ban in these provisions would have on State Department communications both domestic and foreign, and broadcasts from Voice of America and other BBG-supervised broadcasters.

## **Smith-Mundt Act and Related Provisions**

This section provides background on the Smith-Mundt Act, certain specific sections of that act, and the Zorinsky Amendment.

### **The U.S. Information and Educational Exchange Act of 1948**

The term “Smith-Mundt” often refers only to prohibitions on disseminating information created by the U.S. government intended to influence foreign audiences. The act to which the term refers, however, entitled the United States Information and Educational Exchange Act of 1948, popularly referred to as the “Smith-Mundt Act,”<sup>4</sup> fundamentally authorizes the Secretary of State to conduct

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<sup>3</sup> See H.Amdt. 1137 (112<sup>th</sup> Cong.; en bloc amendment comprising several proposed amendments to H.R. 4310). For more information on the FY2013 National Defense Authorization Act, see CRS Report R42607, *Defense: FY2013 Authorization and Appropriations*, by Pat Towell and Daniel H. Else.

<sup>4</sup> P.L. 80-402, approved January 27, 1948. The act’s primary sponsors were former Members Representative Karl Mundt and Senator H. Alexander Smith.

various types of U.S. government communications to foreign publics, or what is commonly called public diplomacy. Section 2 of the Smith-Mundt Act states “that the objectives of this Act are to enable the Government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries.”<sup>5</sup>

Titles II through V<sup>6</sup> of the Smith-Mundt Act authorize the Secretary of State to

- provide and exchange books, publications, and other educational materials to and with other countries;
- assist schools, libraries, and community centers established by U.S. citizens abroad to inform foreign publics about the United States;
- assign U.S. government employees with special scientific or other technical or professional qualifications to cooperate with or provide services to foreign governments on a reimbursable basis when it is in the national interest of the United States; and
- prepare and disseminate information abroad about the United States through the press, various broadcast and publication media, and information centers and instructors located in foreign countries.

Title VI establishes the Advisory Commission on Public Diplomacy, with a bipartisan composition of seven members, to formulate and recommend policies and programs to carry out the act.<sup>7</sup> Title VII addresses the use of appropriations pursuant to the act, including authorizing the Secretary of State to transfer funds to other government agencies to carry out the act.<sup>8</sup> Title VIII is entitled “Administrative Procedures,” and includes Section 804,<sup>9</sup> which permits the State Department and “any Government agency authorized to administer” the activities authorized by the act. Title IX authorizes the Secretary of State to accept funds from foreign governments, state and local governments in the United States, and foreign and domestic private sources to carry out the act. Title X contains “Miscellaneous” provisions, including Section 1005 concerning the use of private media in carrying out the act, discussed below.

## **Section 501 of the Smith-Mundt Act**

Section 501 of the Smith-Mundt Act has functioned since 1948 primarily as an authorization for the State Department (and subsequently the BBG) to conduct public diplomacy and international broadcasting. Title V of the Smith-Mundt Act is entitled “Disseminating Information About the United States Abroad,” and Section 501’s catchline is “General Authorization.” As originally enacted, Section 501 authorized the Secretary of State to provide information abroad about the United States through various methods and instruments:

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<sup>5</sup> 22 U.S.C. §1431.

<sup>6</sup> Sections 202-203, 301-303, 401-403, and 501-506 (22 U.S.C. §§1447-1464b).

<sup>7</sup> Section 604 of the Smith-Mundt Act (22 U.S.C. §1469). The Advisory Commission is not currently operational.

<sup>8</sup> Section 702 (22 U.S.C. §1477).

<sup>9</sup> 22 U.S.C. §1474.

SEC. 501. The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad.<sup>10</sup>

The section stated that the information provided would be available in English at the State Department to Members of Congress and the U.S. media, who might examine such information.

Congress substantially amended Section 501 twice, in 1972 and in 1990.<sup>11</sup> The 1972 amendment first added the current language specifically prohibiting domestic dissemination of information prepared for foreign publics under the act: “Any ... information ... shall not be disseminated within the United States, its territories, or possessions....”<sup>12</sup> The language of the 1990 amendment<sup>13</sup> makes information available only after 12 years have elapsed since information is first disseminated abroad, or is first prepared in the case of information not disseminated abroad. Under the 1990 amendment, the Archivist of the United States handles release of such information domestically, and may require anyone requesting such information to pay fees to cover the Archivist’s expenses and meet other requirements. There is no restriction on who may request such information from the Archivist.

### **Provisions Concerning the Role of Private Media**

It is argued that certain provisions of the Smith-Mundt Act reflect the concern by Congress and U.S. private media that the U.S. government intended to take on a permanent role in providing news and information globally, to the detriment of private, independent news organizations. The role of the U.S. government in providing information internationally, while significant in the wake of World War II alongside various other activities in former war zones, some analysts assert, was expected to decrease over time.<sup>14</sup>

Sections 502 and 1005 of the Smith-Mundt Act both concern the relationship between the authority of the Secretary of State in conducting international information activities pursuant to the act and similar activities undertaken by private media outlets. Section 502, with the catchline “Policies Governing Information Activities,” provides the sense of Congress that the Secretary of State will reduce information activities when corresponding private information dissemination is adequate and that the act does not intend to give the Department of State a monopoly over any information medium, or its production or sponsorship.<sup>15</sup> Section 1005 is entitled “Utilization of Private Agencies” and requires the Secretary of State to utilize “to the maximum extent possible” the services and facilities of private media through contract or otherwise to carry out the provisions of the act. The section states that Congress intends for the Secretary to encourage

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<sup>10</sup> Partial text. 62 Stat. 9-10.

<sup>11</sup> See **Appendix C** for full text of Section 501 as originally enacted and as amended.

<sup>12</sup> Section 501 as amended by Section 204 of the Foreign Relations Authorization Act of 1972 (P.L. 92-352; 86 Stat. 494).

<sup>13</sup> Section 202 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-146; 104 Stat. 49).

<sup>14</sup> Matt Armstrong, “Rethinking Smith-Mundt,” *Small Wars Journal*, July 28, 2008, <http://smallwarsjournal.com/jrnl/art/rethinking-smith-mundt>.

<sup>15</sup> 22 U.S.C. §1462.

private agencies' participation in carrying out the act "consistent with the present or potential market for their services in each country."<sup>16</sup>

## **Zorinsky Amendment**

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, popularly known as the Zorinsky Amendment,<sup>17</sup> prohibits the use of public diplomacy funds "to influence public opinion in the United States." It also includes its own version of the domestic dissemination ban, stating that "no program material prepared by the United States Information Agency [the former U.S. public diplomacy agency] shall be distributed within the United States." The prohibition does not apply to international exchange program activities carried out under the Mutual Educational and Cultural Exchange Act of 1961 ("Fulbright-Hays Act," or MECEA; P.L. 87-256; 22 U.S.C. §1465aa et seq.).

### **Section 501, Zorinsky, and Transfers of Public Diplomacy Authority**

As the public diplomacy apparatus of the United States has evolved, primary authority for public diplomacy activities has resided at different times with the Secretary of State, the Director of the United States Information Agency (USIA), and the Director of the International Communication Agency (ICA, or USICA). Although legislation concerning information dissemination addresses both the Secretary of State and the Director of USIA, in effect these provisions have been read to apply to whichever official currently possesses public diplomacy authority.

President Eisenhower delegated the public diplomacy authority of the Secretary of State to the Director of USIA when he created that Agency in 1953. In 1977, President Carter abolished USIA and created USICA, and transferred public diplomacy authority to the Director of USICA. (Legislation in 1982 changed the Agency's name back to the United States Information Agency.) Both of these delegations also transferred applicability of Section 501 of the Smith-Mundt Act to these Directors.

Section 1311 of the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA; Division G of P.L. 105-277; 112 Stat. 2681-761; 22 U.S.C. §6531) abolished USIA, and Section 1312 of that Act (22 U.S.C. §6532) transferred the functions of the Director of USIA back to the Secretary of State, except for the functions of the BBG, which remained with the BBG as an independent federal agency pursuant to that act. Section 1331 of the FARRA (22 U.S.C. §6551) provides that references to the "Director of United States Information Agency" shall be deemed references to the Secretary of State, and references to the "United States Information Agency" shall be deemed references to the Department of State. Thus the language of the Zorinsky Amendment targeting the Director of USIA is currently deemed to apply to the Secretary of State.

Both Section 501 and the Zorinsky Amendment have been interpreted to apply to the BBG as well. Section 1332(b) of the FARRA states that Section 501 and the Zorinsky Amendment apply to USIA public diplomacy programs that were undertaken at the time of USIA's dissolution, which include U.S. international broadcasting by the BBG, which was part of USIA.

Congress enacted legislation in 1998 to dissolve the United States Information Agency (USIA) and fold public diplomacy authorities back into the State Department.<sup>18</sup> That legislation included a provision that restates the Zorinsky Amendment prohibition on influencing public opinion with

<sup>16</sup> 22 U.S.C. §1437.

<sup>17</sup> P.L. 99-93; 99 Stat. 431; 22 U.S.C. §1461-1a. Senator Edward Zorinsky proposed S.Amdt. 296 to S. 1003 (99<sup>th</sup> Cong.), the Senate version of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987. The amendment, with the addition of the introductory clause of the first sentence, was included in the House version of the bill that became P.L. 99-93. For the full text of the Zorinsky Amendment, as amended, see **Appendix C**.

<sup>18</sup> Title XIII of the Foreign Affairs Agencies Consolidation Act of 1998 (Subdivision A of Division G of P.L. 105-277).

public diplomacy funding, and on domestic dissemination or distribution of public diplomacy materials.<sup>19</sup>

## **Perceived Problems with Section 501 and the Zorinsky Amendment**

Critics of the domestic dissemination prohibitions in Section 501 and the Zorinsky Amendment assert that the provisions hinder U.S. public diplomacy efforts in a number of ways:

- **Scope of Application**—Although current legislation seems to apply the restrictions of these provisions only to certain activities of the Department of State and broadcasting by the BBG, other agencies, including the Department of Defense, have considered themselves bound by the provisions, potentially limiting their communications activities unnecessarily.
- **Uneven Adherence**—Similarly, knowledge and understanding of the domestic dissemination restrictions vary within different State Department bureaus and offices, possibly limiting communications activities, as well as leading to unknowing violations of the restrictions.
- **Duplication of Effort**—Because of the numerous changes to the bureaucratic structure of U.S. public diplomacy, as well as the overlap of communications activities of State Department domestic public affairs activities with its foreign public diplomacy activities, the ban on domestic dissemination may require different offices within the State Department to replicate communications and information products for separate domestic and foreign consumption.
- **Enforcement and Accountability**—Due to the expansion in global digital communications technologies, adherence to and enforcement of the domestic dissemination prohibitions are either impossible or unnecessarily difficult.
- **Domestic Understanding of Information Activities**—The domestic dissemination prohibitions reduce Americans’ awareness and understanding of U.S. government communication activities abroad, and give credence to foreign critics who say such communications must be dangerous propaganda.

## **Proposed Restatement of Section 501 and the Zorinsky Amendment**

H.R. 5736 and Section 1097 of H.R. 4310 would make identical amendments to Section 501 of the Smith-Mundt Act and the Zorinsky Amendment via complete restatement, as well as make clarification amendments to the provisions concerning the utilization of private media discussed above. See **Appendix A** for a side-by-side analysis of the current and proposed provisions.

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<sup>19</sup> Section 1333(c) of Division G of P.L. 105-277 (22 U.S.C. §6552(c)).

## **Removing the Ban on Domestic Dissemination of Information**

The proposed restatements of Smith-Mundt Section 501 and the Zorinsky Amendment primarily would remove the prohibition on making public diplomacy materials available to domestic audiences while retaining the prohibition on influencing public opinion in the United States. Section 501 would no longer contain the language to ban domestic dissemination and would add an authorization to make international information programs material available on a reimbursable basis to anyone.<sup>20</sup> The restated provision directs the State Department and BBG to promulgate regulations on release of materials and reimbursement requirements. The Zorinsky Amendment would also be restated to remove its current domestic dissemination ban language, but would continue to prohibit the use of funds appropriated to the State Department or BBG “to influence public opinion in the United States.”

Although the influence prohibition would remain, the restated Zorinsky Amendment would authorize in two ways what might be considered active domestic dissemination of international information program material. First, it would expand the existing public affairs authorization to respond to inquiries about its operations, policies, or programs, by authorizing the State Department and the BBG to make program materials available domestically and removing the “response to inquiries” language. Second, the restated provision invokes the afore-discussed Sections 502 and 1005 of the Smith-Mundt Act calling for utilization of private media in disseminating international information program materials authorized by the act: “Such material may be made available within the United States and disseminated, when appropriate, pursuant to sections 502 and 1005 of the [Smith-Mundt Act]....”

## **Clarifying Scope of Application**

The Section 501 restatement would clarify international information program authority to include the BBG as well as the Secretary of State, reflecting the BBG’s status as an independent government agency following the 1999 restructuring of certain foreign policy entities. The current Section 501 has been read to include the BBG in its authorization and its domestic dissemination ban since 1999, when the BBG became an independent agency, despite the fact that the section mentions only the Secretary of State.<sup>21</sup> The restated Zorinsky Amendment would also apply its ban on influencing public opinion to the BBG, and replace the mention of the now defunct USIA with the State Department.

The restated Zorinsky Amendment would also remove the language exempting application from educational and cultural exchanges conducted under the Fulbright-Hays Act, replacing it with language that limits application of the Zorinsky restrictions to activities under the Smith-Mundt Act and relevant U.S. international broadcasting legislation.<sup>22</sup> The restated Zorinsky Amendment would make explicit that the “provisions of this section shall apply only to the Department of

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<sup>20</sup> Materials disseminated abroad prior to the effective date of the amendments would be subject to the previous availability restrictions; that is, they would be available from the Archivist 12 years after dissemination.

<sup>21</sup> See Section 305(a)(17) of the United States International Broadcasting Act of 1994 (P.L. 103-236; 22 U.S.C. §6204), as added by Section 1323(e)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (Subdivision A of Division G of P.L. 105-277).

<sup>22</sup> United States International Broadcasting Act of 1994, as amended (P.L. 103-236; 22 U.S.C. §6201 et seq.); the Radio Broadcasting to Cuba Act, as amended (P.L. 98-111; 22 U.S.C. §1465 et seq.), and the Television Broadcasting to Cuba Act, as amended (Part D of P.L. 101-246; 22 U.S.C. §1465aa et seq.).

State and the Broadcasting Board of Governors and to no other department or agency of the Federal Government.” Applying the bans on dissemination and influence across government agencies has been a continuing point of confusion (see “Issues for Congress,” below).

In addition, both restated provisions would limit their application to activities undertaken pursuant to a specific set of acts, including the Smith-Mundt Act itself, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act. This list parallels the explicit inclusion of the BBG in the scope of these provisions by listing the acts that authorize the BBG’s international broadcasting efforts. In the case of the restated Zorinsky Amendment, the specified list replaces the exclusion of application to activities undertaken pursuant to the Fulbright-Hays Act, which authorizes U.S. government-sponsored international exchange programs.

## **Updating to Account for Modern Communication Technologies**

Both Section 501 and the Zorinsky Amendment were enacted at times that pre-dated the Internet and most of the new technologies that have revolutionized global communications in recent years. The amendments would update the language of the current Section 501, giving the Secretary of State and the BBG the explicit authority to provide information through the Internet and all “information media, including social media,” as well as all “other direct or indirect means of communication.” This language thus “modernizes” the section to comprise the global information environment by including modern communications technologies and a broad definition to encompass future technologies. In addition, the restated Zorinsky Amendment would make clear that the State Department and the BBG should not be deterred from engaging in international information program activities simply because the communication medium exposes a domestic audience to program material, a reference to the instant global reach of Internet, satellite, and other related communications technologies.

## **Issues for Congress**

The proposed amendments to Section 501 and the Zorinsky Amendment implicate a number of issues and concerns. These include consideration of the legislative effect such amendments might have on related existing law and the interpretation of such provisions, as well as the policy considerations over allowing domestic availability of international information programs.

## **Scope of Application and the Role of Other Government Agencies**

The proposed restatement of Section 501 and the Zorinsky Amendment would specify that their authorities and restrictions apply only to the Department of State and the BBG. Although the restated scope of the provisions clearly means to constrain their application, they may come into conflict with other sections of the Smith-Mundt Act. Section 1002 of the act, for instance, authorizes the Secretary of State to delegate functions created in the act to other U.S. government agencies. Section 401 states that the Secretary of State can utilize the personnel, services, and resources of other agencies in carrying out the act’s authorities. Section 702 permits the Secretary of State to transfer to other agencies certain funds appropriated to the State Department for activities authorized under the act, in order to pay for these other agencies’ delegated activities. Under the act, therefore, agencies other than the State Department and BBG might be engaging in public diplomacy and international information activities. Reducing the scope of the existing

restrictions on influencing public opinion and the exception on the availability of information disseminated abroad may create uneven application of the provisions to international information materials if and when other agencies are involved in carrying out the act.

## **Domestic Dissemination and Private Media Utilization**

The proposed restated Zorinsky Amendment provides that the State Department and the BBG may disseminate international information materials domestically pursuant to Sections 502 and 1005 of the Smith-Mundt Act. Together these provisions require the State Department and the BBG to conduct international information activities only to the extent that private media do not perform such activities and without creating a U.S. government monopoly over any medium of communication. Two issues might arise with respect to this language. First, unlike the proposed restated Section 501, which allows domestic availability of public diplomacy materials “upon request,” the language of the restated Zorinsky Amendment authorizes active dissemination of such material, which some might consider detrimental to the idea that public diplomacy materials should not be used to influence domestic public opinion. When such dissemination takes place pursuant to Sections 502 and 1005, the emphasis is on the maximum use of private entities, but implied is the authority for the State Department and the BBG to actively disseminate information prepared for dissemination abroad to a domestic audience when private media services are not “adequate.” This could raise concerns that the restated provision is in fact expanding the role of government agencies to inform domestic audiences rather than merely to provide access to materials intended for foreign publics.

Second, Sections 502 and 1005 might be interpreted to apply only to the dissemination of information to foreign publics, and not to activities involving a domestic audience, complicating the meaning of the proposed restated Zorinsky Amendment. Section 502 calls for maximum use of private media, but this applies to carrying out “international information activities under this Act....” Although the proposed amendments to Section 501 and the Zorinsky Amendment create a new authorization to make public diplomacy materials available domestically, it might be difficult to define such authorization as falling under “international information activities.” Domestic dissemination of such materials might not, therefore, fall within the provisions of Section 502.

Section 1005 requires the use of private American media companies, including “existing American press,” in carrying out the act “consistent with the present or potential market for their services *in each country*.”<sup>23</sup> Although the term “each country” could technically include the United States, the reference to a “present or potential market” seems to indicate the need for U.S. private media to assess whether they wish to operate in various foreign countries where a market for their services may or may not exist. It can be argued that the scope of the section is limited to utilizing American private media in foreign countries where international information activities are required, rather than applying to the domestic U.S. market. Authorizing domestic dissemination under the restated Zorinsky Amendment via Section 1005 and 502 might be considered inconsistent with their language and intent.

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<sup>23</sup> Emphasis added.

## **Retention of Domestic Dissemination Ban Elsewhere in Law**

In 1998, Congress transferred public diplomacy authorities from USIA to the State Department. While the 1985 Zorinsky Amendment applied to USIA, Congress enacted a provision in the 1998 act that contained a similar restriction on domestic dissemination and influencing domestic public opinion by the State Department. Section 1333(c)(1) of the Foreign Affairs Reform and Restructuring Act of 1998, as amended (FARRA; Division G of P.L. 105-277; 112 Stat. 2681-761; 22 U.S.C. §6552(c)(1)), states:

(c) LIMITATION ON USE OF FUNDS.—(1) Except as provided in section 501 of Public Law 80-402 and section 208 of P.L. 99-93, funds specifically authorized to be appropriated for such public diplomacy programs, identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes, shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.

This section, reading similarly to the current Zorinsky Amendment, might be a source of confusion if the amendments are enacted, as they would cover the same authority but would contradict each other on the issue of domestic dissemination or availability of international information materials.

## **Public Opinion: Propaganda Versus Transparency**

As discussed, the proposed restated Section 501 and Zorinsky Amendment would remove the restrictions on domestic availability and dissemination in current law, while maintaining the prohibition on influencing U.S. public opinion. For critics of this proposal, this represents an unnecessary expansion of U.S. government authority to conduct domestic information activities, and a fundamental contradiction with regard to such information. This is due to the fact that while the provisions maintain the domestic influence prohibitions, public diplomacy activities and materials are by definition designed to influence foreign publics. To the extent they are made available or disseminated to domestic audiences, they can be expected to influence such audiences. To these critics, the domestic dissemination restrictions are one of the few tangible checks on U.S. government communications designed to influence the American people, checks that would no longer exist if these amendments are enacted.

Some assert that there are reasons, however, that maintaining the principle of restricting the influencing of domestic public opinion while allowing access to international information materials might not amount to subjecting the domestic audience to “propaganda” in a pejorative sense. First, a number of other provisions in law and adjudicative procedures restrain the executive branch from engaging in certain types of communication. Congress in annual appropriations acts continues to prohibit U.S. government agencies, including the State Department and BBG, from using appropriated funds for “publicity or propaganda” unless otherwise authorized by law.<sup>24</sup> In addition, the Comptroller General has ruled that executive branch agencies have violated the Anti-Deficiency Act when they have engaged in disseminating

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<sup>24</sup> For example, see provisions prohibiting the use of funds for “publicity or propaganda” in the Consolidated Appropriations Act, 2012 (P.L. 112-84). In addition to State and Defense, the act contains prohibitions for the Departments of Commerce, Justice, Labor, Health and Human Services, and Education. These provisions have been included in appropriations since the 1960s.

propaganda or improper publicity materials, defined as communications that are (1) covert as to their source, (2) purely partisan in nature, and (3) self-aggrandizing or characterized by puffery.<sup>25</sup>

Second, some observers argue that Americans are already privy to the types of materials and approaches to communication that are utilized in U.S. public diplomacy and U.S. international broadcasting. Proponents of the amendments assert that these international information materials are primarily explanations of U.S. government policies, as well as information that describes American cultures, the U.S. political system, and U.S. history. State Department public diplomacy activities are rooted, they argue, in truth, and U.S. international broadcasters are bound by authorizing legislation to provide objective, balanced reporting of events both in the United States and abroad. In addition, U.S. audiences have had access to and have consumed international information materials for a number of years, at least since the advent of widespread Internet use and the online presence of U.S. diplomatic posts, State Department bureaus, and U.S. international broadcasters. Congress has also carved out an exception to the domestic dissemination ban for “inadvertent” dissemination by the Voice of America in Section 243(a) of the Television Broadcasting to Cuba Act (P.L. 101-246; 22 U.S.C. §1465bb(a)), to no apparent detrimental effect.

Finally, proponents of the amendments state that far from propagandizing Americans or affecting them in an undesirable way, removing the bans on domestic dissemination will better inform Americans about the communications the U.S. government is undertaking in foreign countries on their behalf. This, they argue, will increase transparency of State Department and BBG international information activities, and provide a better foundation for congressional oversight over these activities.

## **Modernization and the Public Diplomacy Mission**

As noted, the proposed restatements of Section 501 and the Zorinsky Amendment update the authorization of international information activities to include modern global communications technologies. But the proposed restatements also modernize the authority to conduct international information activities by acknowledging the global nature of these new communications technologies, unrestricted by geography. Thus, the proposed restatement of Section 501 and the Zorinsky Amendment remove the domestic dissemination ban, something unlikely to be enforceable due to global communications, while continuing to prohibit influencing of U.S. public opinion. Some have argued that such modernization is not necessary, interpreting the domestic dissemination ban on international information materials to apply to intentional domestic dissemination and not inadvertent domestic availability. But it is argued that the State Department and the BBG build the domestic dissemination restrictions into communications planning and decision making, potentially limiting or impeding State’s dissemination of information. This especially applies to communications on third-party social network platforms such as Facebook and Twitter that are becoming ever more important in reaching targeted foreign publics, but are also available to the domestic audience. Removing the domestic dissemination ban, proponents argue, modernizes State Department and BBG authorities to conduct international information activities effectively in the modern global communications environment.

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<sup>25</sup> See CRS Report RL32750, *Public Relations and Propaganda: Restrictions on Executive Agency Activities*, by Kevin R. Kosar, p. 6.

Critics of rescinding the domestic dissemination ban state that this approach will lead to a merging of the now separate domestic public affairs and foreign public diplomacy missions of the State Department and expand the BBG's foreign news reporting role to include a domestic audience. While this merging of foreign and domestic audiences may merely reflect a reality about the current global reach of almost every type of information and communication technology, it can be argued that it might pose a problem for the established historical mission of U.S. public diplomacy and U.S. international broadcasting in informing foreign publics about the United States to advance U.S. foreign policy and national interests. A merged mission to inform domestic and foreign audiences may at first seem an efficient use of resources, some argue, but in time information programs will focus ever increasingly on the informing, if not outright influencing, of the domestic audience, as domestic opinion is much more important from the perspective of political power and support for the government of a given administration. Targeting foreign publics with effective communications will take a back seat in this scenario, they assert, to building political support in domestic constituencies.

## **Maintaining Public Diplomacy Resources**

Some in the public diplomacy community, including those at the State Department, view the domestic dissemination restriction as a bulwark against the State Department transferring public diplomacy resources to other functions within the department. If there has to be a strict division between information materials and communications to foreign publics due to Smith-Mundt, the argument goes, there will have to be segregated funding for such segregated communications activities. This perceived need to protect public diplomacy resources was engendered by the 1999 dissolution of USIA, which formerly handled most public diplomacy activities, and the subsequent folding of public diplomacy into the State Department and creation of the Under Secretary of State for Public Diplomacy and Public Affairs position. After USIA's dissolution, many public diplomacy officers feared that dedicated resources for public diplomacy would gradually disappear into other State Department functions.

As a guard against this eventuality, however, Congress included in the legislation dissolving USIA a provision that protects public diplomacy budgets and resources into the future. Section 1333(e) of the Foreign Affairs Agencies Consolidation Act of 1998 (Division G of P.L. 105-277; 22 U.S.C. 6552(e)) requires the State Department in its budget presentations to Congress to provide separate, dedicated budget information on public diplomacy programs, personnel, funding, purposes, and goals. Section 1333(c) allows administrative sharing of public diplomacy personnel for cross-functional purposes, but prohibits diminution or improper reprogramming of the public diplomacy resources identified in the Department's budget justification. While the Smith-Mundt domestic dissemination restriction in Section 501 might be perceived to bolster the protection of public diplomacy resources, therefore, other legislation more precisely preserves the separation of public diplomacy resources from other resources within the State Department.

## **Considerations for Congressional Action**

Whether or not the proposed restatements of Section 501 and the Zorinsky Amendment become law, Congress may decide that further action should be taken to better understand and regulate the dissemination of international information materials created by the State Department and the BBG, as well as the international communications, intended or inadvertent, of other executive

branch agencies, including the Department of Defense. Topics for congressional attention could include the following:

- How will the proposed amendments affect current international information activities, and are there strategies for adapting such activities after these amendments become effective? What are the concerns that the State Department and the BBG have regarding possible abuse of authority in the domestic sphere, if any?
- What benefits are foreseen from these proposed changes? What constraints might be lifted, or efficiencies realized?
- What effect would lifting the domestic dissemination ban on certain State Department and BBG communications have on interagency coordination of communications both to foreign and domestic audiences?
- Is there a need for additional legislation to better define what types of communications are designed to
  - influence U.S. public opinion and are therefore prohibited,
  - require effective identification of all communications as to their U.S. government source, and/or
  - require publication or public availability of internal data to confirm statements in such communications materials?

## Appendix A. Side-by-Side Amendment Analysis

**Table A-1. Section 501 of the Smith-Mundt Act (22 U.S.C. §1461)**

Current Section 501	Proposed Amendment	Comments
<p>Sec. 501. (a) The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad.</p>	<p>Sec. 501. (a) The Secretary and the Broadcasting Board of Governors are authorized to use funds appropriated or otherwise made available for public diplomacy information programs to provide for the preparation, dissemination, and use of information intended for foreign audiences abroad about the United States, its people, and its policies, through press, publications, radio, motion pictures, the Internet, and other information media, including social media, and through information centers, instructors, and other direct or indirect means of communication.</p>	<p>The restated Sec. 501 includes largely the same authorization as the current Sec. 501, with a number of clarifications: (1) It adds the BBG to the authorization language; (2) it grounds the authorization in uses of public diplomacy funds, linking it to the language of the Zorinsky Amendment and the 1998 provision requiring a separate public diplomacy budget (Sec. 1333(e) of P.L. 105-277; 22 U.S.C. §1333(e)); and (3) it adds the Internet, social media, and a catch-all communications provision.</p>
<p>[subsec. (a) cont.] Subject to subsection (b), any information (other than “Problems of Communism” and the “English Teaching Forum” which may continue to be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.</p>	<p>(b)(1) Except as provided in paragraph (2), the Secretary and the Broadcasting Board of Governors may, upon request and reimbursement of the reasonable costs incurred in fulfilling such a request, make available, in the United States, motion pictures, films, video, audio, and other materials prepared for dissemination abroad or disseminated abroad pursuant to this Act, the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.), or the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.).</p> <p>....</p>	<p>The restated Sec. 501 in para. (b)(1) removes the ban on domestic dissemination of information prepared for dissemination abroad. It does not limit the groups who are permitted to access the information. It specifically allows information produced by the BBG and the U.S. international broadcasters under relevant broadcasting acts as well as the Smith-Mundt Act.</p>
<p>[No corresponding provision.]</p>	<p>(c) Nothing in this section may be construed to require the Secretary or the Broadcasting Board of Governors to make material disseminated abroad available in any format other than in the format disseminated abroad.</p>	<p>Subsec. (c) of the proposed amendment to Sec. 501 states that neither the Secretary or the BBG is required to change the “format” of materials to be made available. This may serve, among other things, to negate the requirement in the current Sec. 501 that requires materials to be made available “in the English language.”</p>

Current Section 501	Proposed Amendment	Comments
[No corresponding provision.]	<p>[(b)(1) cont.] The Secretary and the Broadcasting Board of Governors shall issue necessary regulations—</p> <p style="padding-left: 40px;">(A) to establish procedures to maintain such material;</p> <p style="padding-left: 40px;">(B) for reimbursement of the reasonable costs incurred in fulfilling requests for such material; and</p> <p style="padding-left: 40px;">(C) to ensure that the persons seeking release of such material have secured and paid for necessary United States rights and licenses.</p>	The restated section also authorizes the Secretary and the BBG to receive reimbursement for making materials available, and to ensure that all intellectual property rights are properly protected for such material, much as subsec. (b) of the current Sec. 501 does for the Archivist of the United States.
<p>(b)(1) The Director of the United States Information Agency shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.</p>	<p>[(b)](2) With respect to material prepared for dissemination abroad or disseminated abroad before the effective date of the Smith-Mundt Modernization Act of 2012—</p> <p style="padding-left: 40px;">(A) the Secretary and the Broadcasting Board of Governors shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material 12 years after the initial dissemination of the material abroad; and</p> <p style="text-align: center;">....</p>	Para. (b)(2) of the restated Sec. 501 limits the repeal of the domestic dissemination ban to information produced after the effective date of the restatement of Sec. 501. For information produced before the restatement is effective, the Secretary and the BBG are to provide materials to the Archivist for domestic distribution 12 years after the initial dissemination of the material abroad. Under the restatement, there is no requirement to provide materials that were prepared but not disseminated abroad.
<p>(2) The Director of the United States Information Agency shall be reimbursed for any attendant expenses. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.</p>	[No corresponding provision.]	There is no provision requiring any reimbursement to the State Department or BBG for making this information available to the Archivist.
<p>(3) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release.</p>	<p>(B) the Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release, in accordance with paragraph (3).</p>	Similar provisions.

<b>Current Section 501</b>	<b>Proposed Amendment</b>	<b>Comments</b>
[para. (3) cont.] The Archivist may charge fees to recover such costs, in accordance with Section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.	(3) The Archivist may charge fees to recover the costs described in paragraph (2), in accordance with Section 2116 (c) of title 44. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.	Similar provisions.

**Table A-2. Zorinsky Amendment (22 U.S.C. §1461-1a)**

<b>Current Zorinsky Amendment</b>	<b>Proposed Amendment</b>	<b>Comments</b>
<p><b>SEC. 208. BAN ON DOMESTIC ACTIVITIES BY THE USIA.</b></p> <p>Except as provided in Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) and this section, no funds authorized to be appropriated to the United States Information Agency shall be used to influence public opinion in the United States, and no program material prepared by the United States Information Agency shall be distributed within the United States.</p>	<p><b>SEC. 208. CLARIFICATION ON DOMESTIC DISTRIBUTION OF PROGRAM MATERIAL.</b></p> <p>(a) IN GENERAL.—No funds authorized to be appropriated to the Department of State or the Broadcasting Board of Governors shall be used to influence public opinion in the United States.</p>	<p>The restated Sec. 208 removes the ban on domestic dissemination of public diplomacy and international broadcasting materials, while retaining the prohibition on influencing U.S. public opinion. The amendment replaces USIA with the State Department in accord with the 1999 transfer of international information authorities to the State Department, and would specifically place the BBG under the prohibition, to reflect the BBG’s status as an independent agency since 1999.</p>
<p>[cont.] This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.).</p>	<p>[(a) cont.] This section shall apply only to programs carried out pursuant to the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.).</p>	<p>The restated Sec. 208 lists the acts that are covered under this section, which includes the Smith-Mundt Act and the relevant international broadcasting acts, instead of exempting application to the 1961 Fulbright-Hays Act.</p>
<p>[cont.] The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.</p>	<p>[(a) cont.] This section shall not prohibit or delay the Department of State or the Broadcasting Board of Governors from providing information about its operations, policies, programs, or program material, or making such available, to the media, public, or Congress, in accordance with other applicable law.</p>	<p>The proposed restatement of Sec. 208 preserves the State Department’s and the BBG’s respective right to explain their policies and programs to domestic audiences, but also adds the right to make “program material” available.</p>

<b>Current Zorinsky Amendment</b>	<b>Proposed Amendment</b>	<b>Comments</b>
[No similar provision.]	(b) <b>RULE OF CONSTRUCTION.</b> — Nothing in this section shall be construed to prohibit the Department of State or the Broadcasting Board of Governors from engaging in any medium or form of communication, either directly or indirectly, because a United States domestic audience is or may be thereby exposed to program material, or based on a presumption of such exposure.	New subsec. (b) assumes and does not prohibit unintended domestic access to public diplomacy and international broadcasting materials on the Internet or otherwise.
[No similar provision.]	[(b) cont.] Such material may be made available within the United States and disseminated, when appropriate, pursuant to Sections 502 and 1005 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1462 and 1437), ...	This sentence authorizes the domestic availability and dissemination of public diplomacy and international broadcasting materials in accordance with the provisions of the Smith-Mundt Act requiring government utilization and deferral to private media and forbidding government monopolies of information or communication.
[No similar provision.]	[(b) cont.] except that nothing in this section may be construed to authorize the Department of State or the Broadcasting Board of Governors to disseminate within the United States any program material prepared for dissemination abroad on or before the effective date of the Smith-Mundt Modernization Act of 2012.	This clause in the restated subsec. (b) would align the provision with the similar limitation on availability of public diplomacy and international broadcasting materials produced prior to the effective date of the amendments to Sec. 501 of the Smith-Mundt Act.
[No similar provision.]	(c) <i>Application.</i> —The provisions of this section shall apply only to the Department of State and the Broadcasting Board of Governors and to no other department or agency of the Federal Government.”	New subsec. (c) clarifies the scope of application of the restated Sec. 208, limiting it to the State Department and the BBG.

## **Appendix B. Smith-Mundt Act Sections 502 and 1005**

Sections 502 and 1005 (22 U.S.C. §§1462 and 1437, respectively) are set out in this appendix as they would appear if the proposed amendments are enacted. Changes to the provisions below are shown using **bold** text denoting new language.

### POLICIES GOVERNING INFORMATION ACTIVITIES

SEC. 502. In authorizing international information activities under this Act, it is the sense of the Congress (1) that the Secretary **and the Broadcasting Board of Governors** shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this Act shall be construed to give the Department **or the Broadcasting Board of Governors** a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information.

### UTILIZATION OF PRIVATE AGENCIES

SEC. 1005. In carrying out the provisions of this Act it shall be the duty of the Secretary **and the Broadcasting Board of Governors** to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary **and the Broadcasting Board of Governors** shall encourage participation in carrying out the purposes of this Act by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country.

## Appendix C. Section 501 and the Zorinsky Amendment

### Section 501 of the Smith-Mundt Act (22 U.S.C. §1461)

Changes to the provision below are shown using ~~striketrough~~ text denoting deletions, and **bold** text denoting new language.

#### Section 501 as Enacted in 1948

SEC. 501. The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Any such press release or radio script, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and, on request, shall be made available to Members of Congress.

#### 1972 Amendment of Section 501

As amended by Section 204 of the Foreign Relations Authorization Act of 1972 (P.L. 92-352; 86 Stat. 494):<sup>26</sup>

SEC. 501. The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Any ~~such press release or radio script~~ **information (other than “Problems of Communism”<sup>27</sup> which may continue to be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but**, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination **only** by representatives of United States press associations, newspapers, magazines, radio systems, and stations, **and by research students and scholars**, and, on request, shall be made available **for examination only** to Members of Congress.

#### 1990 Amendment of Section 501

As amended by Section 202 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-146; 104 Stat. 49):

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<sup>26</sup> Section 204 of P.L. 92-352 in fact amended Section 501 by simply restating the second sentence. Much of the language of the original second sentence was retained in the restated sentence, however, and the provision as presented here shows the changes in a more exact manner.

<sup>27</sup> Section 208 of the ICA [International Communication Agency] Authorization Act, Fiscal Years 1980 and 1981 (P.L. 96-60; 93 Stat. 401) later added another publication, “English Teaching Forum,” after Problems of Communism.

SEC. 501. (a) The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. ~~Any~~ **Subject to subsection (b), any** information (other than “Problems of Communism” and the “English Teaching Forum” which may continue to be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.

**(b)(1) The Director of the United States Information Agency shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.**

**(2) The Director of the United States Information Agency shall be reimbursed for any attendant expenses. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.**

**(3) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release. The Archivist may charge fees to recover such costs, in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.**

## **Zorinsky Amendment (22 U.S.C. §1461-1a)**

### **SEC. 208. BAN ON DOMESTIC ACTIVITIES BY THE USIA.**

Except as provided in section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) and this section, no funds authorized to be appropriated to the United States Information Agency shall be used to influence public opinion in the United States, and no program material prepared by the United States Information Agency shall be distributed within the United States. This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.). The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.

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