

Rethinking Smith-Mundt

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The question asked repeatedly since 9/11 is how can a guy in cave out propagandize the country that created public relations and the Internet? An obscure group in 1998, Al-Qaeda increased their influence and reach with words, images, and actions. The United States responded with showcases of Americana that, not surprisingly, failed to resonate with the target audiences: our enemies' base, moderates, "swing voters", and even our friends and allies. Ignoring the importance of linking policy with the psychology of information to persuade and dissuade, American public diplomacy and strategic communication increasingly became an irrelevant whisper and beauty contest in stark contrast to the adversary's propaganda of words and deeds. In the war of ideas, the United States is largely unarmed and has accordingly fallen in global influence and stature, increasing vulnerabilities not only in the military domain, but in economic, financial, and diplomatic realms too.

Sixty years ago, the elements of America's national power – diplomacy, information, military, and economics – were retooled with the National Security Act of 1947 and the Smith-Mundt Act of 1948. The former has received significant attention over the years and is currently the subject of an intense project to recommend updates. In contrast, the latter, a direct response to the global ideological threat posed by Communist propaganda, has been variously ignored, glossed over, or been subject to revisionism. Smith-Mundt was a largely successful bipartisan effort, establishing the foundation for the informational and cultural and educational engagement that became known as "public diplomacy."

While today is unlike yesterday, it is worthwhile to look back on the purpose of Smith-Mundt and the debates surrounding the dissemination prohibition that has taken on mythical proportions. The modern interpretation of Smith-Mundt has given rise to an imaginary information environment bifurcated by a uniquely American "iron fence" separating the American media environment from the rest of the world. In 1948, the prohibition was a minor hurdle as the requirements for information and cultural and educational exchanges were debated.

However, modern analysis of Smith-Mundt tends to be informed by modern perceptions in disregard of the historical record.¹ The prohibition was not intended to be prophylactic for sensitive American eyes and ears, but to be a non-compete agreement to protect private media. It was also to protect the Government from itself in the form of censoring the State Department, whose loyalties were suspect to many Congressmen.

Skewed interpretation of the intent and purpose of Smith-Mundt, shaped by a “unilateral disarmament” in the struggle for minds and wills that began with a 1972 amendment to the Act, have left legislators, academics, and government officials struggling to re-discover how to engage global audiences as words like “advocacy”, “influence”, and “persuasion” have become pejoratives equal to “propaganda.” The resulting segregation of audiences between those in the United States and those outside ignores the modern virtual geography of people and ideas and creates limitations on engagement that is uniquely American.

In 1946, the threat was not an overt invasion by the Soviet Union or its allies through military force, but the fear of Communists capitalizing on economic and social unrest to expand their power and control through subversion and manipulation. To those paying attention at the time, policy and propaganda were intertwined. One of the most important realists of the era, Hans Morgenthau, noted that national morale and the quality of diplomacy, two of his nine elements of national power, were inherently unstable and subject to the effectiveness of domestic and foreign strategic influence.²

This was when George Kennan wrote his famous Long Telegram.³ It was also when United States Ambassador to Russia, Averell Harriman, reportedly said the most important “fact in the field of foreign policy today...is the fact the Russians have declared psychological war on the United States, all over the world.” It was, he continued, “a war of ideology and a fight unto the death.”⁴ The struggle for authority and relevance had shifted from the arena of power to the arena of ideas and international persuasion.⁵

Today, in an era of violent extremism, Smith-Mundt continues to set the parameters of American efforts to engage, inform, and influence key international audiences. But the importance and significance of Smith-Mundt is largely lost. Forgotten is the atmosphere that shaped Smith-Mundt, including the cooperative relationship between the government and the media. The

¹ Research for this paper is based on contemporary newspaper accounts and public diplomacy resources. There has been virtually no modern legal analysis of Smith-Mundt that properly examines the history, purpose, and intent of the Act. Even the most prominent modern analysis of Smith-Mundt disregards the concerns that created the prohibition on domestic dissemination: Allen W. Palmer and Edward L. Carter, "The Smith-Mundt Act's Ban on Domestic Propaganda: An Analysis of the Cold War Statute Limiting Access to Public Diplomacy," *Communication Law and Policy* 11, no. 1 (2006).

² Hans J. Morgenthau and Kenneth W. Thompson, *Politics among Nations: The Struggle for Power and Peace*, 6th ed. (New York: Knopf: Distributed by Random House, 1985).

³ George Kennan, "The "Long Telegram", " <http://www.gwu.edu/~nsarchiv/coldwar/documents/episode-1/kennan.htm>.

⁴ Frank A. Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950* (Cambridge [Eng.]; New York: Cambridge University Press, 1981), 135.

⁵ When the Cold War era is invoked, generally the intent is to emphasize the military standoff of the 1960s through the 1980s, however in the 1940s and at least through the early 1950s, the United States did not believe the Soviets had the intent or the capability to wage war against the U.S.

unilateral disarmament in the areas of advocacy, influence, and persuasion of the late 1990s capped a thirty year trend of dismembering America's "arsenal of persuasion" that began with a personal vendetta against international broadcasting that continues to shape how we engage globally.

Many of the concerns over Smith-Mundt and public diplomacy unwittingly echo historic debates over America's information activities. From discussions over the loyalty of radio broadcasters, truthfulness of news, and even the need and purpose of government involvement, Congress voiced concerns about the quality, purpose, and management of international information activities and cultural and education exchanges. However, delving into these issues a different Congressional intent than often invoke by modern analysts.

The modern "iron fence" significantly shapes America's information activities. First, it insinuates American information activities and engagements are full of lies and unfit for our own people to hear. This has been adopted by the Congress and reflected in not just modern proposals for revising Smith-Mundt but also in the 1985 Zorinsky Amendment. Second, it creates barriers in oversight and imposes costs on the State Department for redundant operations.⁶ Third, it partitions off some of the conversation with the American public about foreign affairs, imposing a sterile and limiting engagement model of "inform but not influence" or "inform by press release." Inhibiting both domestic knowledge of international affairs and inculcating against foreign propaganda is lost, regardless of transparency and government and public oversight. This reinforces the sound bite mentality to pass through the filter of American commercial media that continues to deprioritize international affairs.⁷ This naiveté on the purpose and requirements of foreign engagements as well as the nature of our own internal political discourse inhibits effective global engagement and countering enemy lies and misinformation. Without the ability to effectively engage in the information sphere it is no wonder the impact caused by the difference between what is said and what is done catches some in government by surprise. These issues were addressed by Congress in the Smith-Mundt as passed in 1948 but have been lost or distorted in the revisionism of the last thirty years.

Today, the Act is unevenly invoked and applied due to confusion on what the Act covers. For example, the void created by both inaction and ineffective action by the State Department has been filled by the Defense Department. As the Defense Department took on what used to be the State Department's mission, it also adopted its limitations. Misunderstanding of the purpose and intent of Smith-Mundt has led to problematic strategic, operational, and tactical use of information, advocacy, and influence by the Defense Department in the global information environment.

The transformation of the law from enabler to a prophylactic that segregates the foreign from the domestic prohibits a truly global engagement. As the United States explores "re-arming" itself in the war of ideas – as of this writing this author knows of a half-dozen reports in the works – it is essential that the future direction be based on reality and a full understanding what has gone on before and not the myths of revisionist interpretations.

⁶ See Gartner vs USIA, <http://www.annenberg.northwestern.edu/pubs/usfa/usfa4.htm>.

⁷ This point, raised by CBS correspondent Lara Logan, is out of scope for this paper but deserves its own analysis. For more, see Brian Stelter, "Reporters Say Networks Put Wars on Back Burner," *New York Times*, June 23 2008.

After two years of debates, amendments, testimonies, rewrites, and a European junket, on January 27, 1948, Public Law 80-402: United States Information and Educational Exchange Act was signed by President Harry S Truman. The purpose of what became known as the Smith-Mundt Act was to “promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations.”⁸ As the committee that recommended passage declared, it was a necessary response to the danger posed “by the weapons of false propaganda and misinformation and the inability on the part of the United States to deal adequately with those weapons.”⁹

In the tumultuous years after the war, when the Iron Curtain had not yet fallen, the United States was engaged in a global struggle for the minds and wills of people around the world. The need to counter Communist propaganda and actively promote American interests was a global imperative, including within our own borders.

The backdrop for the Smith-Mundt Bill, and its predecessor the Bloom Bill, was a growing global ideological struggle. The Communist threat continued to grow in volume, reach, and effectiveness in the new global information environment. On the minds of some in the House and Senate during this time were President Woodrow Wilson’s Committee for Public Information (CPI), President Franklin D. Roosevelt’s Office of War Information (OWI), and Nazi Germany’s propaganda machine. But the resistance was far more nuanced and focused on the present situation than recalling the past, even the recent past.

Smith-Mundt would be the answer to and would make permanent and fund both “slow” and “fast” engagement and communications with the world. Cultural and educational exchange programs were the “slow” and the information activities were the “fast.” These complimentary approaches were intended to inform and persuade a global audience to counter increasingly aggressive Communist misinformation campaigns. The bill would increase the resources available and institutionalize Senator William Fulbright’s (D-AR) exchanges that had previously been authorized on a limited scale by an August 1946 amendment to the Surplus Property Act of 1944, as well as expand the mandate to include books, cultural tours and exchanges, most of what is now considered “public diplomacy.”

The United States was also working on retooling the international system. This included Bretton Woods institutions such as the International Monetary Fund as well as the United Nations. In the UN, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) was the vehicle to promote the international understanding and knowledge of America and its principles. Its reach was considered essential to “integrate the free world” and attack Communism through

⁸ Robert William Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, Dissertations in Broadcasting (New York: Arno Press, 1979), 139.

⁹ Smith-Mundt Congressional Committee report from January 7, 1948, cited in Ibid.

its grassroots engagement. The result was an effort to make UNESCO “a mouthpiece of the expression of American ideological interests.”¹⁰

For some, developing international institutions, such as UNESCO, was more important than unilateral efforts. However, the leading proponent for this, Assistant Secretary of State for Public Affairs Archibald MacLeish, was sidelined. His replacement, William Benton, acknowledged the United States was “at the beginning of a long process of breaking down walls of national sovereignty and of persuading the peoples of the world to study each other and cooperate with each other.”¹¹

To Benton and others, while UNESCO was important, there was a clear need for America to have its own ability to communicate and engage the world and the United States went with what some hoped would only be a backup plan: the Smith-Mundt Bill. On March 21, 1947, pre-Pearl Harbor isolationist and former teacher Representative Karl Mundt (R-SD) introduced H.R. 3342, largely adopting the language from the Bloom Bill of the previous Congress, to formalize State’s information activities to ensure funding and quality thresholds. Co-sponsoring in the Senate was Senator H. Alexander Smith (R-NJ).¹²

The purpose of H.R. 3342 was not to curtail the overall information activities of the United States, but to raise the quality and volume of the government’s information programs. As the State Department admitted to lax oversight due to personnel and budget constraints, Congress voiced its frustration and slashed State’s information budget. The head of the House appropriations committee John Taber (R-NY) said if the “drones, the loafers, and the incompetents” were weeded out, he might allow a few million dollars for international broadcasting.¹³

Rep. Mundt, along with Benton, lined up an impressive list of supporters testified in support of the bill, including Secretary of State George Marshall, Chief of Staff General Dwight D. Eisenhower, Under Secretary of State Dean Acheson, Secretary of Commerce W. Averell Harriman (formerly the Ambassador to Russia), and Ambassador to Russia Lt. General Walter Bedell Smith.¹⁴ They agreed that it was “folly” to spend millions for foreign aid and relief without explaining America’s aims.¹⁵

Secretary of State George C. Marshall described the importance of active engagement in the war of ideas as a necessary evil: “As long as propaganda is engaged in, we are faced with the necessity of taking actions ourselves.” It is essential, he continued, to make known

what our motives are, what our actions have been and what we have done to assist peoples outside our borders. It is very hard for us here at home to comprehend the

¹⁰ Walter L. Hixson, *Parting the Curtain : Propaganda, Culture and the Cold War, 1945-1961* (Houndmills: Macmillan, 1997), 9.

¹¹ Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950*, 97.

¹² Burton Paulu, "The Smith-Mundt Act: A Legislative History," *Journalism Quarterly* Summer (1953).

¹³ "The American Twang," *Time Magazine*, May 26 1947.

¹⁴ Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 137.

¹⁵ "The American Twang."

degree with which we are not comprehended and the degree with which we are misrepresented.¹⁶

Eisenhower, following Marshall, gave his “ardent support” for the bill. He testified that “real security, in contrast to the relative security of armaments, could develop only from understanding and mutual comprehension.” He argued that creating awareness and knowledge of the United States and what it does was absolutely necessary. In his testimony he shared examples of “appalling ignorance” of the United States from World War II, including one in which Russian soldiers asked “where did the American soldiers get so many Russian jeeps?”¹⁷

Also supporting the bill were the American Library Association, the American Book Publishers Council, professors, and Allen Dulles (as attorney to the Near East College Association).

After passing in the House but stalling in the Senate, the special subcommittee of the House Foreign Affairs Committee with the co-sponsors, the Vice President, and others, visited twenty-two European countries in September and October of 1947.¹⁸ The significant increase in Communist propaganda in response to the Marshall Plan, announced the previous May, convinced the Congressmen on the European trip on the need for the information activities.¹⁹ Touring Europe the committee members were told that despite the American role in liberating the continent, “knowledge of the United States [was] being systematically blotted out” by Communist information activities that, in Paris, were compared to a “tremendous symphony orchestra” that played all the time.²⁰

Following the junket, Mundt suggested the Soviet Union would exploit the possible collapse of aid to Europe, a depression in the United States, and American withdrawal from Europe. The tool of the Communists, he continued, was propaganda. Information was the “cheapest weapon” to counter the Communist threat.²¹

The post-trip Committee report noted that not only is the United States outspent by the Communists, but American engagement and information activities were overshadowed in terms of budgets and staff by small countries like Holland and the bankrupt United Kingdom that also gave considerably higher priority to communicating with the world than the United States. The committee concluded “that America is old enough and strong enough to warrant a change of Voice.”²²

¹⁶ Edwin L. James, “Congress Weighs Fate of ‘Voice of America’; Secretary Marshall Backs Mundt Bill Which Provides Also for Keeping Other Benton Activities Objection to News Service,” *New York Times*, May 18 1947.

¹⁷ Samuel A. Tower, “House Group Votes to Keep U.S. Radio; Sanctions State Department’s Information Work after an Urgent Plea by Eisenhower” *New York Times*, May 21 1947.

¹⁸ Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 137.

¹⁹ Communist propaganda had increased in volume after the announcement of the Truman Plan in March 1947, but the response to the Marshall Plan was substantially greater.

²⁰ Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950*, 131.

²¹ Samuel Tower, “Mundt Foresees Ebb Tide of Reds; ‘Stopped Cold’ in West Europe, He Says -- Plans to Broaden Foreign Information Bill,” *New York Times*, October 14 1947.

²² Department of State Semi-Annual Report of January 1st to June 30th, 1948, quoted in Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 138.

The Committee noted that “Truth can be a powerful weapon on behalf of peace. It is the firm belief of the Committee that H.R. 3342, with all the safeguards included in the bill, will constitute an important step in the right direction toward the adequate dissemination of the truth about America, our ideals, and our people.”²³

The Smith-Mundt committee enumerated six key requirements of the Act for it to be effective:

1. Tell the truth.
2. Explain the motives of the United States.
3. Bolster morale and extend hope.
4. Give a true and convincing picture of American life, methods and ideals.
5. Combat misrepresentation and distortion.
6. Aggressively interpret and support American foreign policy.²⁴

The bill, passed in the House, was resubmitted to the Senate with a recommendation by the Senate Committee on Foreign Relations of “do pass” and comments that propaganda campaigns directed against the United States by Communist parties throughout the world called for “urgent, forthright, and dynamic measures to disseminate truth.”²⁵

Opposition to Smith-Mundt was a moving and varied target, switching from concerns over the information elements to the cultural and educational engagement, but ultimately there were three basic arguments against the bill. The first held that there was no need for such activities. The second argument was the idea was bad in theory. The third argument was based on concerns over the managerial capabilities and ideological sympathies.

The first argument was largely mitigated by the European trip. The second and third shaped the prohibition against domestic dissemination in a forgotten environment that does not exist today.

Ultimately, the prohibition satisfied two needs, neither of which have relevance in the twenty-first century. Both focused on who would speak to the American public. First, there was the handshake agreement with American media that feared government-funded competition. The information itself was not to be kept from the American public, but conveyed through private media, big and small, to protect both profits and First Amendment rights. In other words, American media wanted a non-compete agreement to protect its profits.

The second driving need for the restriction of who would speak to the American public was one of censorship, as the modern view goes, but not of the whole government or even of the executive branch. The pervasive view in Congress was the State Department was filled with

²³ Ibid., 138-9.

²⁴ John William Henderson, *The United States Information Agency* (New York, : Praeger, 1969), 65.

²⁵ Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 138.

“Communist sympathizers” (plus some left over socialist New Dealers) that would undermine the President and the United States government by being soft on the Communists.²⁶

Some believed that no action was the best action. After all, as Representative John Bennett (R-MI) said in opposing the bill, there was no need to tell the world about the United States because “for more than 200 years...people have known that the United States meant freedom in the fullest connotation of the term.”²⁷ Promoting the United States and its policies was unnecessary because, as Rep. Bennett continued, “things which are self-evident require no proof.” Representative Noah M. Mason (R-IL) echoed the pre-World War II isolationism of one of the bill’s sponsors when, saying he was “against selling the American way of life abroad because to sell anything required the owner to give it up.”²⁸

Others viewed any action as antagonistic that would undermine traditional diplomacy. As the Chairman of the House Rules Committee said in March 1946, it might be an “inopportune time” to push American views “directly to the peoples of the world.” Representative Clark (D-NC) believed an information program would inhibit State from having a “free hand” in talking with the Russians.²⁹ These traditionalists were out of step with the emerging reality of the ideological struggle and were easily mitigated or marginalized.

The second argument against the proposed legislation was based on the First Amendment. The concern was any direct government engagement in the news sphere would impinge on the First Amendment rights of the media. Central to this argument was the competitive advantage a government news agency would have over privately financed media.

The second argument was publicly represented by the executive director of the Associated Press, Kent Cooper. Cooper believed that any government that entered the news business infringed on the right of a free press. He believed this would constitute an infringement of the First Amendment so excessive that a Constitutional amendment was required.

Over time Cooper would draw on all three arguments described above in his protest against the bill. Some of his arguments made sense at the time and resonate today, others were suspect. Even as he fought the bill, it contained language that addressed his many of his concerns.

Some Congressmen echoed Cooper’s concern that a government news agency threatened the American free press system. Representative William Lemke (D-CT) questioned any governmental attempt to “compete” with private news stations, calling for financial support of short-wave stations and “those who blazed the trail with their own funds.” According to Lemke, “Any other procedure would be the rankest kind of injustice.” Congressman Hale Boggs (D-LA) said the practice of placing the government in “competition with a free press” reflected the Russian practice of controlling the “radio and the press.”³⁰

²⁶ It may be noteworthy in light of proposed legislation reforming public diplomacy that Smith-Mundt was “generic” in that it did not contain a specific ideological target while many modern draft bills do.

²⁷ Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950*, 125.

²⁸ John D. Morris, “Mundt Bill Gains in a House Test; but Critics Keep up Attack on State Department's Foreign Information Program,” *New York Times*, July 7 1947.

²⁹ William White, “Soviet 'Situation' Halts House Bill; Gives Views on Russia,” *New York Times*, March 15 1946.

³⁰ Parry-Giles, *The Rhetorical Presidency, Propaganda, and the Cold War, 1945-1955*, 14.

In January, 1946, the board of the AP decided to stop selling news to the State Department, with the United Press following soon after.³¹ The companies believed that government involvement in news distribution was contrary to the “principle of freedom of access to the news and the free flow of news around the world.”³² Permitting their news to be broadcast by the Voice of America, in their view, was to risk the stigma of being controlled by the Government.³³ At the time, Secretary of State Byrnes responded and reiterated that the government operations were “not intended to compete with or supplant the privately financed American news agencies.”³⁴ The AP was not apparently concerned that selling their feed to either the BBC or Tass, the official Soviet news agency, would reflect on their objectivity.³⁵

Cooper was committed to expanding the AP globally in an effort to spread “the doctrine of a free press to all peoples hungry for unbiased information.”³⁶ It is likely that influencing the AP and UP decision was that selling to the VOA put a “crimp” in their efforts to sell their news abroad.³⁷

Many in the media questioned the AP’s motives and approach. On the AP point that the “government cannot engage in newscasting without creating the fear of propaganda” that “would reflect on the objectivity of the news services,” one magazine said they “would be more impressed by this statement were we convinced that the Associated Press made a practice of disciplining those of its member newspapers which slant its dispatches by editing and headline writing.” To the point that Tass was an AP customer, the magazine asked the AP if they “are more certain of the objectivity of the Soviet Government than of that of their own?”³⁸

Ralph McGill of the *Atlanta Constitution* was “fed up with the pontifical attitude” of Cooper and the UP’s Hugh Baillie. McGill said the “attitude of the AP might make a silent giant of this country when every other giant and pigmy in the world is broadcasting its own interpretation of American news events and policies.”³⁹ Mark Ethridge, the editor of *The Louisville Courier-Journal and Times*, described the AP and UP as “exceedingly smug in their assumption they are the sole possessors of purity.” He criticized the wire services for imagining they could penetrate

³¹ The International News Service (INS), owned by the Hearst Corporation, continued to sell its services to the State Department. The AP did provide its feed for free to State, but only for fact checking. The UP acquired the INS in 1958 and became UPI.

³² “AP Shuts Off News for Use Abroad by State Department Service,” *New York Times*, January 15 1946.

³³ Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 117.

³⁴ “AP Shuts Off News for Use Abroad by State Department Service.”

³⁵ The AP also opposed the VOA, Radio Free Europe and Radio Liberty from being seated in the Senate Press Gallery. They held this opposition through 1983 when VOA was finally permitted to report directly from Congress. The AP never objected to seating Tass in the Senate Press Gallery. See Michael Nelson, *War of the Black Heavens: The Battles of Western Broadcasting in the Cold War*, 1st UK ed. (London ; Washington: Brassey's, 1997), 17-18. In April 1946, Cooper

³⁶ As of the end of 1945, the AP supplied news to 500 international newspapers and radio stations in 20 countries in the Eastern Hemisphere. See “Ap Supplied 2604 Outlets in 1945,” *The Washington Post*, April 21 1946.

³⁷ James, “Congress Weighs Fate of ‘Voice of America’; Secretary Marshall Backs Mundt Bill Which Provides Also for Keeping Other Benton Activities Objection to News Service.”

³⁸ Robert William Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, Dissertations in Broadcasting (New York: Arno Press, 1979), 464 FN19.

³⁹ “News or Propaganda?,” *Time*, January 28 1946.

countries “where they cannot go” at a time “when we are trying to win the peace—now, while we are in an ideological war.”⁴⁰

In April 1946, the AP and UP pressured the American Society of Newspaper Editors to condemn the Voice of America and push for an end to the State Department’s international information activities. The ASNE board appointed a committee to investigate. The member included editors from the *The New York Times*, *St. Louis Post-Dispatch*, and the *The Baltimore Sun*. The committee would conclude that “the present uncertainties in international relations justify an effort by the United States Government to make its activities and its policies clear to the people of the world through the agency set up in the State Department.” The committee also recommended the ASNE continue its oversight in the information field.⁴¹ Cooper held his ground.

The next month, in a speech at the Medill School of Journalism of Northwestern University, Cooper explained his opposition. He said that only “the abhorrent method of military force alone could” thwart Communism. He believed that any use of information would have no effect and could backfire and solidify opposition to the United States. Meeting Russian propaganda, he said, would be difficult and should not be done “any more than we should adopt communism itself.”⁴²

Cooper went on to explain American news agencies were already distributed internationally and saw no reason for the government to intervene and participate in this distribution. He complained that overseas broadcasts were not available for Americans to hear and monitor, questioning whether it really was America’s voice. The lack of central oversight could, in Cooper’s estimation, lead to parts of the government sending information overseas unbeknownst to others that “may lead us all to catastrophe.”⁴³

Benton, the State Department’s point person on Smith-Mundt, responded publicly and vigorously. He pointed out Cooper’s concession that “the State Department’s information program is not regarded by the wire services as being competitive.” He reiterated the earlier statement by Byrnes as well as noted language previously added to the bill that the government “ought to encourage the activities of private, competitive agencies in the communications field.” Benton continued, writing that “if and as private agencies develop in these areas the Government should withdraw.”⁴⁴

⁴⁰ Hinton, Harold. "Editors Endorse Us News Service." *New York Times*, May 15 1946.

⁴¹ Shawn J. Parry-Giles, *The Rhetorical Presidency, Propaganda, and the Cold War, 1945-1955*, Praeger Series in Presidential Studies, (Westport, Conn.: Praeger, 2002), 8.

⁴² "Cooper Criticizes 'Voice of America'," *New York Times*, May 27 1947. Less than two weeks before this speech, and unlike his unsuccessful effort with the ASNE, Cooper managed to get journalism's professional fraternity to condemn the government news service. See "U.S. News Service Opposed by Editor; Sigma Delta Chi Group Say Mundt Bill Would Impair Free Flow of Information," *New York Times*, May 15 1947.

⁴³ "Cooper Criticizes 'Voice of America'."

⁴⁴ "Benton Accuses Ap Chief of 'Misleading' in His Talk," *The Washington Post*, June 15 1947.

The safeguards went further. Representative Vorys (R-OH) wanted “to remove the stigma of propaganda” from the information activities.⁴⁵ An amendment attached to the Bloom Bill had said government information should be conducted only if needed to supplement international information dissemination by private agencies, that the State Department was not to acquire a monopoly of broadcasting or any other international information medium, and that outstanding private leaders should be invited to review and advise the Department in this work.⁴⁶

Cooper proclaimed that “all countries of any importance actually avail themselves of the news reports of the United States wire services.” In March, Ambassador Harriman told members of Congress that he observed that American news in the Soviet Union could be “shut off” at once if Moscow did not approve of its tone.⁴⁷ Benton noted that strategic areas “Hungary, Poland, Romania, Yugoslavia and Iran, among others” do not get the news report. The “twilight” regions of the Balkans and others also had limited if any service by private media. Benton continued on the point that the Soviet news agency receives the AP feed: “The Soviet Tass agency get the AP report, but I am sure you agree with me that Russian newspapers cannot, even in the most farfetched sense... [be] said to have the ‘AP service.’”⁴⁸

Representative Everett Dirksen (R-IL) also countered Cooper’s claim with evidence of “falsehoods” in the Russian media. To Dirksen, the Soviet goal was to destroy the “integrity” and the “greatness of the American system.” Representative Harold Cooley (D-NC) concurred, saying the Communists wanted to vilify America while defaming its “institutions in the eyes of the peoples of the world.” Mundt put the need for the bill in the context of preemption and not waiting for private media to fill the gaps over time: “The forces of aggression are moving rapidly and we must step up our action and increase our efforts in the field of information abroad if we are to prevent the eventuality of confronting a world which has been either coerced or corrupted against us.”⁴⁹

There were two efforts to explore privatizing the information activities. The first was put forward by the Chairman of the House Appropriations Committee, John Taber (R-NY). Taber wanted the Voice of America limited to “factual news,” use the three wire services (AP, UP, and the International News Service who was still selling to the Government but would later merged with the UP), and “quotations from some of the more able and more influential broadcasters.” He also wanted FBI-administered loyalty tests on State Department employees involved in the broadcasts. Taber was certain that if only the State Department used the “proper approach” the AP and the UP would resume selling to the Government.⁵⁰ This plan did not go far.

⁴⁵ John D. Morris, "Seek to Halt Fund for Federal News; Republicans Say Department of State Lacks Authority to Use \$10,000,000 Would Kill \$10,000,000 Fund Harriman Testimony Secret," *New York Times*, April 11 1946.

⁴⁶ Paulu, "The Smith-Mundt Act: A Legislative History."

⁴⁷ White, "Soviet 'Situation' Halts House Bill; Gives Views on Russia."

⁴⁸ Ibid. See also "Benton Questions Attack by Cooper: Replies in Detail to Criticism of Voice of America Made by Associated Press Chief," *New York Times*, June 15 1947. In 1946, Congress solicited the views of the AP and the UP on the previous version of the legislation but both declined. See "Public Corporation Proposed to Handle Voice of America," *Washington Post*, May 18 1947.

⁴⁹ Parry-Giles, *The Rhetorical Presidency, Propaganda, and the Cold War, 1945-1955*, 15-16.

⁵⁰ "Public Corporation Proposed to Handle Voice of America," *Washington Post*, May 18 1947.

The other proposal was from Senator Joseph Ball (R-MI). Hearings were held on his amendment to completely privatize America's information activities the month after Cooper's speech. Both CBS and NBC said private business could not afford the international broadcast part of the program.⁵¹ The broadcasters were content to continuing providing transmitters and content to the government.⁵²

More importantly, major media were behind Benton and the bill. The *The New York Times*, *Newsweek*, *Time*, the *Washington Star*, and the *Chicago Times*, all actively supported the bill. David Sarnoff, president of RCA, and Philip D. Reed, chairman of GE, also wrote favorable editorials supporting Smith-Mundt. Testifying on behalf of the bill in July 1947, Reed said "the simple truth about the United States...widely told throughout the world, will do more to reduce the risk of war, and thus to reduce the need for a multibillion dollar military force, than any other single factor."⁵³

Support for private media would be included in the, European Recovery Act, commonly referred to as the Marshall Plan, in the form of the Information Media Guarantee (IMG), which was passed soon after Smith-Mundt. The IMG subsidized exchange rate deficits and costs associated with international distribution of news, books, and films. The fifteen million dollars earmarked for the program in its first year emphasized the government's intent to expand private sector outreach, including the media.⁵⁴

Perhaps the most influential argument against the bill that influenced the prohibition against domestic dissemination was the deep bipartisan concern over Communist infiltration in the State Department. For example, in 1946, Representative Cox (D-GA) was hesitant on expanding the State Department's information programs, saying the department was "chock full of Reds" and "the lousiest outfit in town."⁵⁵ The House Rules Committee, he said, was against anything State favored because of its "Communist infiltration and Pro-Russian policy."⁵⁶ He would, however, allow the bill to proceed if "Communist party members" in the State Department did not have a hand in the information programs.⁵⁷

A subcommittee of the House Military Affairs Committee asked the Secretary of State in 1946 to remove from the State Department Intelligence Service men of "strong Soviet leanings."⁵⁸ The FBI was also concerned over the ability of State to monitor and control participants in the

⁵¹ "Chains Shy at Adopting U.S. 'Voice'," *The Washington Post*, June 13 1947.

⁵² About the time of their testimony, CBS and NBC produced about 42% of the Voice of America's output. See Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 128.

⁵³ Parry-Giles, *The Rhetorical Presidency, Propaganda, and the Cold War, 1945-1955*, 14.

⁵⁴ *Ibid.*, 10. For the cultural diplomacy angle on the IMG, see Nicholas J. Cull, *The Cold War and the United States Information Agency: American Propaganda and Public Diplomacy, 1945-1989* (Cambridge University Press, 2008), 45. Taken together, the IMG and Smith-Mundt suggest that government-backed information activities would cease once the private sector achieved the reach that, at the time, required government resources.

⁵⁵ Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950*, 121.

⁵⁶ *Ibid.*, 122.

⁵⁷ White, "Soviet 'Situation' Halts House Bill; Gives Views on Russia."

⁵⁸ *Ibid.*

exchange programs.⁵⁹ One Congressman even proposed all Voice of America scripts be edited by a committee of the Daughters of the American Revolution.⁶⁰

Suspicion over the loyalty of State Department personnel who might be in charge of the proposed information and exchange programs was bipartisan. Representative Fred Busbey (R-IL) wanted to delay the bill to permit Secretary of State Marshall an opportunity to clean up State first.⁶¹ Echoing this, the ranking minority member of the Appropriations Committee, Representative Taber (D-NY), called for a “house-cleaning” of “some folks” in the Department and “keep only those people whose first loyalty is to the United States.”⁶²

Congressional distrust of the State Department and the importance of the activities in the bill caused the inclusion of a provision for FBI-administered loyalty checks for current and future employees. These checks were even more stringent than the one given to people working on the atomic bomb during the war.⁶³ Aliens would be hired only when absolutely required, such as for “translation or narration of colloquial speech in foreign languages.”⁶⁴

The issue was not that propagating ideas to the American public was inherently wrong, but on the one hand a government news service might dominate domestic media and thus infringe on a free press and the right to make a profit and on the other be sympathetic to the enemy and undermine the government from within. Benton not only worked closely with American news broadcasters and business leaders to support the Act, but later collaborated with them to shape domestic information activities. It was less about the content and more about who delivered it.

Media access, Congressional and public oversight were not to be limited by this restriction. On the contrary, a biennial commission was established “to make periodic reports of our broadcasts so that the public may be kept advised of our activities.” In May 1947, Benton established an advisory commission that would later be the basis of a permanent advisory commission on information.⁶⁵ At the time, the commission included the vice president of CBS, a university president, the president of Time, Inc., advertising executives, and newspaper editors and publishers.⁶⁶ This group later became the U.S. Advisory Commission on Public Diplomacy.

⁵⁹ Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950*, 147.

⁶⁰ Thomas C. Sorenson in Garth S. Jowett and Victoria O'Donnell, eds., *Readings in Propaganda and Persuasion: New and Classic Essays* (Thousand Oaks: SAGE Publications, 2006), 103.

⁶¹ Morris, “Mundt Bill Gains in a House Test; but Critics Keep up Attack on State Department's Foreign Information Program.”

⁶² ———, “Seek to Halt Fund for Federal News; Republicans Say Department of State Lacks Authority to Use \$10,000,000 Would Kill \$10,000,000 Fund Harriman Testimony Secret.”

⁶³ It is worthwhile to note that Mundt was on the House Un-American Affairs Committee from February 1943 to December 1948. He also co-sponsored legislation with then-Congressman Richard Nixon to require registration of Communists in the United States and to bar Communists from holding office. He did not want to outlaw Communism for fear of driving it underground. The Nixon-Mundt Bill became the McCarran Act. See <http://www.departments.dsu.edu/LIBRARY/archive/unamerican.htm>.

⁶⁴ Paulu, “The Smith-Mundt Act: A Legislative History.” See also Pirsein, *The Voice of America: An History of the International Broadcasting Activities of the United States Government, 1940-1962*, 140.

⁶⁵ The Advisory Commission on Information included leaders from the media. The Act required the Commission to issue public, biannual reports on the status of the government's information activities.

⁶⁶ “Public Corporation Proposed to Handle Voice of America.”

The Smith-Mundt bill did not pass on its own, however. It languished in committee until mid-1947. The ratcheting up of propaganda by the Communists in the wake of the Truman Doctrine announcement earlier in the year gave the bill a shot in the arm, but it was not enough. The big push came in the Communist reaction to the Marshall Plan, announced by Secretary of State Marshall in a June speech at Harvard.⁶⁷ The increased volume and tempo of Communist propaganda against the Marshall Plan was noticed by Congress.⁶⁸

The European trip by the Smith-Mundt Congressional Committee as well as normal summer trips by most of the rest of Congress changed what had been widespread opposition to the information activities earlier in the year to active support for it.⁶⁹ What opposition that remained by this time was largely from Congressmen from the “geography of the hard core of isolationism.”⁷⁰

As a result, in December 1947, as signing the bill became a certainty, the recently established National Security Council approved NSC 4. This authorized the Assistant Secretary of State to develop coordinated information programs “to influence foreign opinion in a direction favorable to U.S. interests and to counteract effects of anti-U.S. propaganda”⁷¹ in response to the “intensive propaganda campaign” and “coordinated psychological, political and economic measures designed to undermine non-Communist elements in all countries.”⁷²

The contemporary global information environment created the need for and shaped the structure of the law. Firewalling off the State Department did not hinder access to or obfuscate America’s role in international affairs for the domestic public. The role and reach of private media, including the media’s growing international access, as well as engagement with Hollywood, education, and the private sector in general, engaged Americans in the ideological struggle. The efficacy of this partnership was seen in the black and white films shown in schools, encyclopedia entries on the requirements for and instructions on how to build bomb shelters, Hollywood movies, testing of air raid sirens, and in general keeping up the awareness of the Red Menace. In effect, the Government could rely on private media to educate and inculcate the American public.

The Act signed by President Truman contained two significant sections that addressed many of Congress’s concerns. The first encouraged the use of private news agencies:

⁶⁷ For text of the speech, see Secretary of State George C. Marshall, "Remarks of Secretary of State George C. Marshall," <http://usinfo.state.gov/products/pubs/marshallplan/marshall.htm>.

⁶⁸ The international propaganda arm of the Soviet Union reorganized in response to the Marshall Plan announcement as the Comintern was replaced by the Cominform.

⁶⁹ James Reston, "Debates Publicity for U.S. Overseas; Subcommittee Will Urge Early Action by the Senate on the Mundt Bill," *New York Times*, January 7 1948.

⁷⁰ Marquis Childs, "Washington Calling," *The Washington Post*, June 17 1947.

⁷¹ Ninkovich, *The Diplomacy of Ideas: U.S. Foreign Policy and Cultural Relations, 1938-1950*, 135.

⁷² Cull, *The Cold War and the United States Information Agency: American Propaganda and Public Diplomacy, 1945-1989*, 39.

...it shall be the duty of the Secretary 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 shall encourage maximum participation in carrying out the purpose 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...⁷³

The second, the prohibition against domestic dissemination, would be tested in 1972 by Senator Fulbright. Recalled today as evidence of Congressional intent to prevent domestic access to information materials produced for overseas audiences, it was in truth a personal vendetta against international broadcasting.

The push by Fulbright to end American international broadcasting laid the ground work for the modern interpretation of Smith-Mundt as establishing an “iron fence” between domestic and overseas information environments. Fulbright position on international broadcasting was clear: “these Radios [Voice of America, Radio Free Europe, and Radio Liberty] should be given an opportunity to take their rightful place in the graveyard of Cold War relics.”⁷⁴ When the radios were saved his attacks by moving them under a new Board for International Broadcasting, Fulbright focused all his attention on the United States Information Agency, created five years after the signing of Smith-Mundt, to shut it down.

After a New York Senator showed a USIA film on his monthly statewide television show for his constituents, Fulbright protested, claiming the screening violated Smith-Mundt. Acting Attorney General Richard Kleindienst said it did not, noting the language and “apparent purpose” of the section that prohibited the State Department from domestic dissemination “was to make USIA materials available to the American public through the press and members of Congress.”⁷⁵ The Senator spent the last of his political capital for an amendment to close this “loophole.” He failed at first, but it was later passed without fanfare and the once powerful chairman of the Senate Foreign Relations Committee lost his reelection bid immediately afterward. The Foreign Relations Act of 1972 changed the clause on distribution. Previously, material “shall be available” to the media, academia, the public, and Congress. Now the Act read that “any such information shall not be disseminated within the United States.”⁷⁶

The next modification to Smith-Mundt came in 1985 when Senator Edward Zorinsky (D-NE) put forward an amendment that restated the domestic ban to completely shut down access to USIA materials. “By law,” Zorinsky said, “the USIA cannot engage in domestic propaganda.” The

⁷³ Robert William Pirsein, *The Voice of America : An History of the International Broadcasting Activities of the United States Government, 1940-1962*, Dissertations in Broadcasting (New York: Arno Press, 1979), 141.

⁷⁴ Cull, *The Cold War and the United States Information Agency: American Propaganda and Public Diplomacy, 1945-1989*, 314-15. An “anti-Fulbright faction” would develop against the Chairman of the Foreign Relations Committee that was likely the product of the Nixon Administration in response to his attacks on the USIA. It got so bad that Fulbright would demurred sponsoring legislation the State Department asked for, saying “Why should I offer it? It will just be beaten.” See John Finney, “Vote in Senate Gives Fulbright Another in a Series of Rebuffs,” *New York Times*, May 26 1972.

⁷⁵ John W. Finney, “Kleindienst Says Buckley Can Show U.S.I.A.'S Film,” *New York Times*, April 1 1972.

⁷⁶ Sec. 204 of the Foreign Relations Act of 1972 (P.L. 92-352)

result virtually eliminated the transparency intended by Congress and inhibits, and even prevents, global engagement by the United States. These amendments went so far that USIA was exempted from the Freedom of Information Act for USIA, by far the greatest violation of the intent and purpose of the law.⁷⁷

These modern decisions based on a revisionist interpretation of the Act meant Cooper's concerns have come true. The self-censorship imposed by the amendments is unique among America's democratic peers. Moreover, it is out of touch and inconsistent with the today's virtual geography of psychological and informational landscape. Information is, in effect, generated and distributed based on the physical terrain and not the ideological terrain. The result is an Act that is out of step with the needs of the Internet Age when porous borders allow an increasing flow of information.

Today, the Act is viewed almost exclusively as an anti-propaganda law that ignores Congressional intent and purpose. The Smith-Mundt Act must be revisited so that America's public diplomacy programs can be effective in an era of global issues, including capacity building, global health, economic trade, and violent extremism. Its limitations go beyond the permeability of borders enhanced by the Internet. There must be a critical examination on the purpose, management, and methodology of global, not just international, government information activities, education and cultural exchange programs, including reviewing how they are monitored and evaluated by Congress and the American public. This examination must be based on a proper understanding of Congressional intent when it passed a comprehensive bill of greater impact than anything being considered today.

Recall the reasons for the prohibition on domestic dissemination by the State Department in the bill were concerns over ideological sympathies and competition with domestic media. Is the State Department, and by extension the Defense Department who has adopted the Smith-Mundt prohibition, is full of Al-Qaeda sympathizers? Would private media, from CNN, Fox, *The New York Times*, or the *Sacramento Bee* fold under competition from a domestic broadcast of the Voice of America, Al-Hurra, or other government information properties?

It was clearly Congress's intent to use private media and resources wherever possible. As open as it was, a Brookings report in 1948 recommended loosening the restriction against making material available to the general public.⁷⁸ However, the reverse would happen. As a result of the 1972 Fulbright-initiated amendment that closed the "loophole," the perception of Smith-Mundt was changed.

Relying on the private media to engage and inform the American public is increasingly wishful thinking. A recent report by the Pew Research Center shows coverage of international affairs by

⁷⁷ See "Propaganda Threat" in <http://www.annenberg.northwestern.edu/pubs/usfa/usfa4.htm>.

⁷⁸ The report made several other important recommendations, including combining the two advisory commissions, the cultural commission and the information commission, to give "comprehensive advice" in line with the combining of all the programs under one law. See "Brookings Report Sees Flaws in U.S. Information Service," *The Washington Post*, December 13 1948.

newspapers is markedly down. The space and staff dedicated to international coverage has been significantly reduced.⁷⁹ Coverage for television news is also down.⁸⁰

The territory of the United States is not neutral territory. Instant global communications and global news means friends and relatives in the United States can and do communicate with their families and their diasporas. They also share ideas with an expanding global community facilitated by Facebook, discussion boards, and blogs as they are brought together by interests like sports and politics, and just plain Google. And yet the government is prohibited by a law from engaging these audiences using the same means of engagement and language if the audience was overseas.

For example, countering Latin American adversarial communications must not just take place in Latin America, but here in the United States. Information and engagement that happens here will be transmitted into either the target country or neighboring countries, with the possibility of getting picked up by the media, traditional or “new”, along the way. The same holds true for other populations in the U.S.

Propagandizing the American people was never off limits. Just briefly, consider the monthly tests of air raid sirens, the now-campy warnings of communism and atomic warfare, deep cooperation between the military and Hollywood, and a slew of other campaigns of influence and persuasion undertaken by the government or by private parties on behalf of the government.

Smith-Mundt was not perfect, but it was to fix America’s information activities and “to make certain it develops the sturdy American twang”⁸¹ by ensuring the projection of a truthful American image in the face of a significant global ideological threat propelled not by force of arms but words, pictures, and promises. By the time the Act was passed in January 1948, in part propelled by a stepped up enemy propaganda campaign against the Marshall Plan,⁸² the Act would include a reporting function, loyalty checks for staff involved in information activities, and a domestic restriction on disseminating information produced for overseas audiences. Examining these interrelated checks is the primary purpose of this article.

The Smith-Mundt Act was passed to fill a gap, a gap the government readily admitted it would back out of if and when the private media stepped up. In other words, Smith-Mundt had programmed into it an end of life for the information activities based on the government-media relationship of the time. However today, the media’s ability to effectively tell the story and importance of America’s foreign affairs is questionable as the media shuts down their foreign bureaus and reduced foreign affairs coverage.

It is time to revisit Smith-Mundt and understand its intended purposes. Invoking Smith-Mundt to censor the government simply limits America’s ability to engage in the global media

⁷⁹ Richard Pérez-Peña, "As Papers Struggle, News Is Cut and the Focus Turns Local " *New York Times*, July 21 2008.

⁸⁰ Stelter, "Reporters Say Networks Put Wars on Back Burner."

⁸¹ "The American Twang."

⁸² It is worthwhile to note how our adversaries then as today do not like America’s reconstruction and stabilization initiatives.

environment. If preventing government advocacy and influence operations on the American public is the goal, Congress should limit appearances by the executive branch on the Sunday talk show circuit, implement campaign reforms, among other changes.⁸³ It is necessary to refocus on the requirements of a high-quality and integrated information apparatus, focused on truth and removing the then-useful constraints on domestic competition and censorship of a questionable State Department. Weak American information and outreach programs are not just a liability but a strategic vulnerability in our national security.

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⁸³ Smith-Mundt does not and would not prevent charges of domestic manipulation as described in {McClellan, 2008 #963}

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