

House Foreign Affairs Committee

Written Statement for the Record

September 24, 2020 Hearing

**“Oversight of the United States Agency for Global Media and U.S. International
Broadcasting Efforts”**

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Mr. Chairman, Ranking Member, Members of this Committee, in response to a request to do so, I am submitting this written statement for the record to further disclose a number of significant concerns about the U.S. Agency for Global Media (USAGM), specifically as they relate to the tenure of our first Presidentially-nominated, Senate-confirmed Chief Executive Officer (CEO).

I welcome this timely hearing, which I hope has helped draw attention to a number of troubling issues that have arisen since Mr. Pack arrived, including the plight of the entirety of our foreign journalist corps, and significant threats to the statutory firewall and the Agency’s editorial independence.

I know that this Committee cares deeply about the success of USAGM and its mission, having worked with your staff, on a bipartisan basis, including with respect to a number of concerns set forth herein. Ultimately, I am deeply concerned that the loss of credibility--absent significant course correction--will lead to a profound erosion of the trust in a brand that the U.S. Government has spent more than three-quarters of a century building and funding. Goodwill may take decades to build, but can be lost in the relative blink of an eye.

I writing in my personal capacity; I am not representing USAGM or any other government agency. I do not wish to duplicate the testimony of my former and current colleagues. I will keep my statement brief and focus on three areas of concern: targeting of career civil servants; evisceration of the Voice of America’s foreign journalist corps; significant risks to the firewall.

Targeting of Career Civil Servants

I am privileged to have spent well over a decade working for or with the federal government, across multiple Presidential administrations, both Republican and Democratic. I have served at USAGM for over seven years as a career civil servant. Prior to USAGM, I served at the U.S. Department of State, including as an attorney in the Office of the Legal Adviser. I served as USAGM’s General Counsel for four years; prior to that, I served as Lead Counsel for the Voice of America and the Assistant General Counsel for Fiscal Law. For eight months preceding Mr. Pack’s arrival, I served as the Acting Deputy CEO.

In mid-August, I was abruptly removed from my position, along with five other career Senior Executives in the Agency front office, on pretextual grounds. The actions against us are unlawful and retaliatory: decapitating the senior career leadership of the agency for political reasons, removing those who would, could, and did sound the alarm.

In various interviews, Mr. Pack has referred to his efforts as being intended to “drain the swamp”. As career civil servants, there should be no loyalty tests to a particular Administration; our loyalty is to the Constitution, the American people, and our Agency and its mission. We are not the swamp or the deep state. As career civil servants, our job is to serve, to the best of our ability, whomever the political leadership may be, regardless of which President or political party is in power. Frankly, it is terribly disappointing to find out that you have a target on your back because you properly executed your duties under previous leadership: in other words, because you did your job.

Furthermore, there should not be retaliation for making protected disclosures. I spoke truth to power and paid the price. Plain and simple. A brave soul who had worked in CEO Pack’s front office revealed to me -- a number of weeks before the events came to pass -- that I was going to be pretextually removed, and that the CEO’s office was directing staff to manufacture dossiers on me in order to force me out.

Sadly, these efforts have likely paid off. My colleagues and I are out of the way. I have been told, and it has been reported, that these brazen actions against us have had a profound chilling effect on the rank and file staff of the agency. After all, if it could happen to the Agency’s most senior career leadership, in such a visible and clearly pretextual way – without repercussion and consequence – then certainly it could happen to them.

Denial of Visas to VOA Journalists

Many, including my current and former colleagues, have spoken eloquently about the profound consequences flowing from the actions of the Agency, under Mr. Pack, to block VOA from submitting the required paperwork to allow their U.S. based, foreign journalists to renew their U.S. visas. Thoughtful observers have concluded that the justification appears to be grounded in a belief by the new Agency leadership that non-citizens are simply less desirable as employees than citizens; and the security concerns, raised as a justification for blocking VOA from submitting the forms, are purely pretextual. I am aware of information that would support such a conclusion.

Some may ask: ‘Why do we need non-citizens for these languages? Don’t we have citizens who speak these languages?’ The Agency does not provide a preference to non-citizens in its hiring. In fact, with respect to hiring non-citizens as civil service hires, the Agency is required to first look only at citizen applicants; it is only if VOA is unable to find a citizen to perform the work, that a non-citizen is considered. Keep in mind that fluency is only the starting point. It is very difficult to find people who are not just fluent, but whose speech is recognizable as native or local to the audiences that VOA seeks to reach, rather than sounding foreign. (As I understand it, even native speakers can lose that type of vernacular fluency after leaving their home countries

for long periods of time.) Even if VOA finds someone who has the type of fluency that they are looking for, that person should also have experience as a journalist. Not just any experience: they need experience in the kind of rigorous journalism that VOA requires. In other words, in many instances VOA is looking for unicorns. Until Mr. Pack and his team arrived, the Agency, like Congress, had a long history of recognizing the importance of this specialized workforce:

The people who work [for U.S. international broadcasting] are highly skilled individuals. They must have journalistic skills. They must be fluent in a number of languages. And they must have an in-depth knowledge of the people, history, and cultures of other nations. Historically, it has not been possible to find a sufficient number of people in the American workforce who have this combination of skills.¹

The harm to the Agency of this loss is profound. As far as I understand nothing seems to be changing: the Agency still refuses to let VOA renew any visa paperwork. In short, it is hard to conclude that this is not gross mismanagement, among other things. These journalists bring mission-critical skills and experience which are ordinarily exceedingly hard to replace. After betraying these people, it is hard to imagine how VOA will be able to recruit new talent in the future.

Perhaps more troubling is the profound personal harm that many of VOA's journalists will face when their visas are not renewed, and they and their families are unceremoniously forced to leave our country which they have so admirably served through their work. This is a profound betrayal of these brave men and women, and of our values. As my colleague Grant Turner said in his remarks to the Committee:

[This] failure to act risks putting the lives of many of those journalists -- and their families -- in danger. Without renewed visas, some will have to return to their home countries -- including countries that, to put it kindly, "pursue" journalists who do not toe the line.

To put a finer point on this, these folks came here and spoke the truth to audiences in their home countries. The truth often included less than flattering portraits of various powerful interests in their home countries, including national and local governments. Now they are simply being handed back to these regimes. For example, a few weeks ago, a colleague told me that blogs operated by State-controlled Chinese media -- who have been following the story of the visas denials as an example of why people cannot trust the US Government -- had been carrying posts calling for reprisals against the "traitorous dogs" who worked for VOA once their visas are let expire by USAGM and they get shipped back to China. Unlike Mr. Pack and his team, who seem content to send these brave men and women back to meet their fate, Congress has long recognized the risk that these brave men and women face in coming to work for the Voice of America, even providing a special immigrant visa category in recognition of the real "possibility of oppression if they are doing our work in their own countries but doing it from here. Broadcasting in their native language will get the message across, provide them with safeguards,

¹ 146 Cong. Rec. E2059-03, 146 Cong. Rec. E2059-03, E2059, 2000 WL 1637282

and will foster the entire purpose of the international broadcasting services of which we are so proud.”²

I urge this committee to look more closely into this issue, including the genesis of these efforts by the current USAGM leadership to target these individuals. To many these actions appear to be based on these reporters’ alienage; in other words, for improper reasons rooted in nativist sentiment by political officials that have no connection to the efficient operation of the organization or the best interests of VOA or its programming.

The Statutory Firewall

I urge this committee to look into Agency compliance with the firewall. The firewall is what guarantees the editorial independence of VOA and the other USAGM funded networks.

Background

The firewall is comprised of various protections set forth in the International Broadcasting Act of 1994 as amended, including section 305(b), 22 USC 6204(b). The corresponding regulation is set forth in 22 C.F.R. § 531, 85 FR 36150, which describes the firewall as follows:

All USAGM-funded Networks must adhere to the highest professional standards of journalism, pursuant to section 303(a)(5) of the IBA, in order to produce news which is consistently reliable and authoritative, accurate, objective, and comprehensive, per section 303(b) of IBA. Accordingly, USAGM networks necessarily enjoy full editorial independence in order to maintain their “professional independence and integrity,” per section 305(b) of the IBA. This statutorily mandated firewall protects the independence of the networks by insulating their editorial decisions from interference from those outside of the network, or from impermissible considerations, as set forth herein.

A statutory ‘firewall,’ provided for in section 305(b) of the IBA, and incident to adherence to the highest professional standards of broadcast journalism, exists around USAGM-funded networks, their products, and staff in order to protect their professional independence and integrity.

Within any credible news organization, a firewall exists between anybody involved with any aspect of journalism (e.g., the creation, editing, reporting, distributing, etc., of content) and everyone else in the organization. For purposes of USAGM, firewalls exist between the newsroom of a USAGM-network; everyone else in the organization; and the Executive Branch of the U.S. Government, as described herein.

² 146 Cong. Rec. H11699-01, 146 Cong. Rec. H11699-01, H11700, 2000 WL 1629721

*The firewall is critical to ensuring that the editors, reporters, and other journalists of the USAGM network make the decisions on what stories to cover and how they are covered, and that those decisions are ultimately governed by the highest standards of professional journalism.*³

The firewall is essential to the credibility of VOA and all of the USAGM funded networks. It is essential to ensuring that VOA and the other networks remain independent, and do not become mouthpieces of a particular administration. In other words, it insulates the networks from political interference. This is critical. We do not have a state broadcaster, and VOA should not be allowed to become one.

Previously, a bipartisan board provided a critical extra layer of protection. Vesting the hiring and removal of network heads in a bipartisan group insulated the network heads from political interference. They needed not fear repercussions from publishing a story that was considered politically unfavorable to a current administration. Now that authority is vested in a presidentially-appointed, senate confirmed CEO, answerable to the Whitehouse. Without a Board as a sort of physical embodiment of the firewall, rigorous self-enforcement by the Agency becomes critical, as does congressional oversight. Among other things, the firewall can be violated when the CEO or his staff takes actions which violate 22 C.F.R. § 531(c):

This “firewall” is understood to be violated when any person within the Executive Branch or a Network, but outside the newsroom, attempts to direct, pressure, coerce, threaten, interfere with, or otherwise impermissibly influence any of the USAGM networks, including their leadership, officers, employees, or staff, in the performance of their journalistic and broadcasting duties and activities. It is also violated when someone inside the newsroom acts in furtherance of or pursuant to such impermissible influence. Such impermissible influence would undermine the journalistic and editorial independence, and thus the credibility, of that USAGM network, and their reporters, editors, or other journalists.

Best Practices Review

News organizations are regularly called upon to assess content that they have previously published. It is common for readers, audience members, or others to ask for a retraction or correction; or point out that a particular story fails to comport with any number of precepts of professional journalism and/or an organization’s best practices. Sometimes the alleged errors are minor; in other cases they may be more significant. In a credible news organization that adheres to the highest standards of professional journalism, investigations involving editorial decisions are the purview of the “newsroom” (as opposed to the business/corporate side of the organization). In other words, such investigations are to be called for and ultimately carried out by and/or *on behalf of* VOA. After such a review, VOA would propose disciplinary actions, if any, with respect to the story and those responsible for it.

³ 22 C.F.R §§531.1(a); .3 (a)-(b), (d)

At VOA, like other reputable news organizations, such investigations are generally initially carried out by the VOA Standards Editor. Unfortunately, the Standards Editor was removed by Mr. Pack on the first day; he was not, the last I heard, returned to his duties or replaced.

Absent such protections, one could imagine a scenario whereby the political leadership of USAGM, who answer directly to the President or the Whitehouse, decide to investigate a VOA story which is deemed detrimental to the President. Perhaps, for example, the story could be perceived as harmful to the then-current U.S. President's re-election efforts, including by saying positive things about his or her opponent. In such a scenario, even if there are legitimate concerns about the story, one can see why it would be profoundly problematic for the political leadership of USAGM to carry out the investigation. At a minimum they would seem to be an interested party, such that their carrying out of the investigation would undermine the very credibility of the organization, and its editorial independence, and raise questions about political influence. This is in addition to the more general issue that investigations involving editorial decisions should be carried out on behalf of and ultimately be adjudicated by those on the news-side of the organization.

Disclosures of Wrongdoing

I have exercised my rights as a federal whistleblower to disclose the above and other acts of wrongdoing to the Office of Inspector General (OIG) for the Department of State and USAGM, as well as to the Congress.

Conclusion

There is a climate of fear and intimidation at the Agency, based on what I have witnessed or heard. VOA journalists are courageous and professional, but they are also human. I am hopeful that this Committee's strong oversight can help further shine light on the goings on, and help buttress the agency during these trying times.