

# EXHIBIT B



December 17, 2018

**VIA Electronic Delivery**

Chief FOIA Officer  
U.S. Agency for Global Media  
Room 3349  
330 Independence Avenue, SW  
Washington, DC 20237  
Fax No.: (202) 203-4585

**Re: Freedom of Information Act Records Request**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552 *et seq.*, and the U.S. Agency for Global Media (“USAGM”)<sup>1</sup> FOIA regulations, beginning at 22 C.F.R. Part 503, Democracy Forward Foundation submits this request for records.

***Background***

In October 2018, various media outlets reported on a 15-minute segment on George Soros (the “Soros Segment”), released in May 2018, that aired on Radio and Television Martí—the primary outlet of the Office of Cuba Broadcasting, which is itself a component of USAGM.<sup>2</sup> The Soros Segment was widely decried as an act of anti-Semitism for its description of Mr. Soros as, among other things, a “multimillionaire Jew of Hungarian origin” and a “non-practicing Jewish financial speculator of flexible morals.”<sup>3</sup> The segment cited only the work of the right-wing advocacy organization, Judicial Watch.<sup>4</sup> The blowback prompted John Lansing, chief executive for USAGM, to issue apologies to Mr. Soros and Mr. Soros’ foundation, the Open Society

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<sup>1</sup> Prior to its reorganization, the USAGM was known as the Board of Broadcasting Governors or BBG. See Press Release, *U.S. Government Media Agency Rebrands: Statement from CEO John F. Lansing* (Aug. 22, 2018), <https://www.prnewswire.com/news-releases/us-government-media-agency-rebrands-300701142.html>. Nevertheless, USAGM is still referred to by its previous name in certain official records. See, e.g., 22 C.F.R. Part 503. Accordingly, and for purposes of this request, please construe the terms “U.S. Agency for Global Media” and “USAGM” to also include the terms “Board of Broadcasting Governors” and “BBG” where it is reasonable and sensible to do so.

<sup>2</sup> See, e.g., Colin Dwyer, U.S. Agency Investigates ‘Taxpayer-Funded Anti-Semitism’ Against George Soros, NPR (Oct. 30, 2018), <https://www.npr.org/2018/10/30/662052937/u-s-agency-investigates-taxpayer-funded-anti-semitism-against-george-soros>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Foundation.<sup>5</sup> It also, reportedly, prompted USAGM to undertake a “‘full content audit’ of Martí’s work to identify any unprofessional reporting” and to provide “‘ethics and best practices training’ for the staff of Martí.”<sup>6</sup> It is also now “‘hiring a ‘standards and practices’ editor.”<sup>7</sup>

New reporting, however, reveals that USAGM is plagued by a broader trend of bigoted and biased content making it to print or air, and journalistic standards otherwise being flouted.<sup>8</sup> This trend has included the following incidents:

- A Voice of America (“VOA”) internal audit revealed that 15 of its journalists had “‘accepted ‘brown envelopes,’ or bribes passed to them by a Nigerian official;”<sup>9</sup>
- Sasha Gong, the chief of VOA’s Mandarin-language section, approved a three-hour live interview with Guo Wengui, a Chinese billionaire “‘known for making unsubstantiated charges against Beijing” (the “Wengui Interview”);<sup>10</sup>
- Ms. Gong was placed on paid leave following the Wengui Interview, and during that period “‘she appeared, while still on the federal payroll, in ‘Trump@War,’ a documentary directed by [Steve] Bannon”;<sup>11</sup>
- In September, Radio and Television Martí published an opinion article by Juan Felipe Benemelis, *Europa + Arabia = Eurabia*, which “‘decries the ‘Islamization that is happening in European cities” as part of “‘a decades-old ‘deliberate strategy of Muslim leaders’ to weaken opposition to sharia law and ultimately take over the continent.”<sup>12</sup> The Islamophobic article was reportedly one of four opinion pieces written by Mr. Benemelis and published by Radio and Television Martí.<sup>13</sup>

These breaches of journalistic standards and protocols have reportedly resulted in disciplinary actions, including termination, within a number of USAGM-affiliated offices.<sup>14</sup> And yet, concerns about the ability of USAGM to produce objective journalism befitting its mission persist, in part, because of the presence of Jeffrey Shapiro—“‘a former Breitbart News writer and “‘acolyte of Stephen K. Bannon””—and President Trump’s nomination of Michael Pack—a conservative documentary filmmaker who has partnered with Mr. Bannon—to serve as the chief executive for USAGM.<sup>15</sup> Both men are viewed as principally loyal to President Trump, who has suggested that the United States should, as a means of rebutting reporting critical to the

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<sup>5</sup> Elizabeth Williamson, *Troubled By Lapses, Government’s Voice To The World Braces For New Trump Management*, N.Y. Times (Dec. 12, 2018), <https://www.nytimes.com/2018/12/12/us/politics/voice-of-america-trump.html>.

<sup>6</sup> Aaron C. Davis, Probe of U.S.-funded news network that called George Soros a ‘Jew of flexible morals’ finds additional offensive content, Wash. Post (Dec. 12, 2018), [https://www.washingtonpost.com/investigations/probe-of-us-funded-news-network-that-called-george-soros-a-jew-of-flexible-morals-finds-additional-offensive-content/2018/12/12/9cc6bc74-fd56-11e8-ad40-cdfd0e0dd65a\\_story.html?utm\\_term=.3437a4687f26](https://www.washingtonpost.com/investigations/probe-of-us-funded-news-network-that-called-george-soros-a-jew-of-flexible-morals-finds-additional-offensive-content/2018/12/12/9cc6bc74-fd56-11e8-ad40-cdfd0e0dd65a_story.html?utm_term=.3437a4687f26).

<sup>7</sup> *Id.*

<sup>8</sup> *See, e.g.*, Williamson, *supra* note 5.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Davis, *supra* note 6.

<sup>13</sup> *Id.*

<sup>14</sup> *See id.*; *see also* Williamson, *supra* note 5.

<sup>15</sup> Williamson, *supra* note 5.

President, develop its “own Worldwide Network to show the World the way we really are, GREAT!”<sup>16</sup>

### *Records Requested*

In an effort to understand and explain to the public how bigoted and biased content, like the Soros Segment, made it to publication, and the steps being taken in response, Democracy Forward requests that USAGM produce the following within twenty (20) business days:

1. All records reflecting communications discussing or reacting to President Trump’s November 26, 2018 tweet in which he described “the possibility of the United States starting our own Worldwide Network to show the World the way we really are, GREAT!”
2. All records sent or received by Maite Luna discussing George Soros or the Soros Segment, whether before or after it aired, and including, but not limited to, discussions of or reactions to media coverage of the Soros Segment, and the review that USAGM conducted following these reports.
3. A copy of the “full content audit” reportedly being conducted on Radio and Television Martí’s work, including any interim or partial findings relating to that review.
4. All records containing implementing guidance or other instructions relating to ethics and best practices training, reportedly provided to the staff of Radio and Television Martí following the Soros Segment.
5. All records reflecting communications sent or received by Juan Felipe Benemelis, Maite Luna, Isabel Cuervo, Wilfredo Cancio, Andre Mendes, Jeffrey Shapiro, or Tomás Regalado discussing any of the four opinion pieces Mr. Benemelis wrote for Radio and Television Martí, whether before or after they ran, and including, but not limited to, discussions of or reactions to media coverage of the articles.
6. Copies of all articles or essays written by Juan Felipe Benemelis and published in any form by Radio and Television Martí, or other USAGM affiliates, whether or not those articles continue to be publicly accessible.
7. All records containing or discussing the terms of Juan Felipe Benemelis’s employment or affiliation with Radio and Television Martí, or other USAGM affiliates, including but not limited to copies of employment agreements or contracts.
8. All records sent or received by Sasha Gong, John Lansing, Amanda Benett, Matthew Walsh, Nasserie Carew, David Kligerman, or Jeffrey Shapiro discussing Guo Wengui or the Wengui Interview, whether before or after it aired, and including, but not limited to,

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<sup>16</sup> Donald J. Trump (@realDonaldTrump), Twitter (2:47 PM, Nov. 26, 2018), <https://twitter.com/realDonaldTrump/status/1067142820388052993>.

discussions of or reactions to media coverage of the Wengui Interview, and discussions of any USAGM or VOA review that followed the airing of the Wengui Interview.

9. All communications between (i) John Lansing, Jeffrey Shapiro, Andre Mendes, Tomás Regalado, Amanda Bennett, Sasha Gong, individuals at Radio and Television Marti, individuals at the Office of Cuba Broadcasting, individuals at Voice of America, individuals at Radio Free Asia, individuals at Radio Free Europe/Radio Liberty, individuals at Middle East Broadcasting Networks, or individuals at USAGM and (ii) Stephen Bannon, Michael Pack, individuals affiliated with Breitbart News, or individuals writing from a “breitbart.com” email address.

In completing this search, please search for records created between January 1, 2018 and the date on which the search is completed.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are

available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

### ***Request for Fee Waiver***

Democracy Forward requests a waiver of document search, review, and duplication fees because the disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Democracy Forward also requests a waiver of search fees on the ground that it qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The disclosure of requested records is “likely to contribute significantly to public understanding of the operations or activities of the government” because, as discussed above, news accounts underscore the substantial public interest in the records sought through this request. 5 U.S.C. § 552(a)(4)(A)(iii). Given the ongoing and widespread media attention, the records sought will contribute significantly to public understanding of an issue of profound public importance. Moreover, Democracy Forward is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and is dedicated to promoting policy engagement and civic education. As a nonprofit organization, it does not have a commercial interest in the records. The records obtained from this request will be made available to the public at no cost.

Democracy Forward also requests a waiver of search fees because it is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Democracy Forward meets the definition of “representative[s] of the news media” because it gathers information, exercises editorial discretion in selecting and organizing documents, and “distributes the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). It is therefore a “representative of the news media” for the same reasons it is “primarily engaged in disseminating information.” 5 U.S.C. §§ 552(a)(4)(A)(ii)(II), 552(a)(6)(E)(v)(II).

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

### ***Conclusion***

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Nitin Shah as soon as possible at foia@democracyforward.org or (202) 448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

*/s/ Nitin Shah*

Nitin Shah

Senior Counsel, Democracy Forward Foundation

*Counsel for Democracy Forward Foundation*