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INTELLIGENCE COMMISSIONER DECISION

IN RELATION TO A CYBERSECURITY AUTHORIZATION
FOR ACTIVITIES ON NON-FEDERAL INFRASTRUCTURES
PURSUANT TO SUBSECTION 27(2) OF THE
COMMUNICATIONS SECURITY ESTABLISHMENT ACT AND
SECTION 14 OF THE *INTELLIGENCE COMMISSIONER ACT*



DECISION

1. On [...], pursuant to subsection 27(2) of the *Communications Security Establishment Act*, SC 2019, c 13, s 76 (*CSE Act*), the Minister of National Defence (Minister) issued a Cybersecurity Authorization for Activities on Non-Federal Infrastructures (Authorization) for a non-federal entity – [...].
2. On [...], the Office of the Intelligence Commissioner received the Authorization for my review and approval under the *Intelligence Commissioner Act*, SC 2019, c 13, s 50 (*IC Act*).
3. By letter dated [...], the non-federal entity requested that the Communications Security Establishment (CSE) conduct cybersecurity activities on its information infrastructure. This request [...]. Indeed, as stated by the Minister, one objective of the Authorization is to allow CSE to provide critical cybersecurity services to the non-federal entity [...]. A compromise of the non-federal entity's electronic information and systems [...].
4. In the Minister's letter accompanying the Authorization, he expresses that, given the prevalence of cybersecurity threats and the importance of protecting [...], he would be grateful if I could conduct my review on an expedited basis, "to whatever extent is possible."
5. I agree with the Minister that there is a need for my review to be conducted expeditiously. I am convinced that the context of this Authorization is an instance where it would be beneficial to the non-federal entity, and by extension to Canadians, for CSE's cybersecurity solutions to be implemented as soon as possible. [...] is of the highest importance.
6. I am satisfied that the non-federal entity in question belongs to a class of information infrastructures designated by the Minister as being of importance to the Government of Canada (s 21(1), *CSE Act*).

7. I am also satisfied that the Minister's conclusions made under subsections 34(1) and (3) of the *CSE Act* in relation to activities set out at paragraph 76 of the Authorization are reasonable.
8. Having reviewed the Minister's conclusions and the record, I am satisfied that CSE will take the appropriate measures to protect the information related to Canadians that will be collected through CSE's cybersecurity activities. Such information must only be retained in accordance with CSE's legislative and policy obligations.
9. I note that in its letter of request to CSE, the non-federal entity indicates that CSE is to obfuscate all personal or proprietary information before it is shared. It is my understanding that CSE will comply with this request.
10. The non-federal entity has not been the victim of a known cyber compromise. The Authorization has therefore been issued proactively to ensure that the non-federal entity's systems are protected and [redacted].
11. As stated in Decision CSE-2024-07, the Minister may issue a cybersecurity authorization for proactive, or preventative purposes, as long as there exists a factual basis for CSE's assistance. Indeed, the cybersecurity and information assurance aspect of CSE's mandate specifically includes providing "advice, guidance and services to help protect" systems of importance to the Government of Canada (s 17(a), *CSE Act*). The factual basis requires that, even without an existing cyber compromise, a cyber threat to the non-federal entity is sufficiently substantiated. I am satisfied that the record and the Minister's conclusions establish this factual basis.
12. In Decision CSE-2024-05, I found that paragraph 20(1)(a) of the *IC Act* does not require that I issue my written decision and reasons concurrently. Indeed, the Act allows me to approve a ministerial authorization and subsequently render my full reasons within the 30-day legislated timeframe. I remain of the view that where the Intelligence Commissioner finds the Minister's conclusions reasonable in a context that requires or benefits from an

expedited approval, the preparation of the Intelligence Commissioner's reasons should not delay the implementation of CSE's cybersecurity solutions.

13. I find that this is such a context.
14. Consequently, pursuant to paragraph 20(1)(a) of the *IC Act*, I approve the Authorization for Cybersecurity Activities on Non-Federal Infrastructures, with my full reasons to follow.
15. As indicated by the Minister, and pursuant to subsection 36(1) of the *CSE Act*, this Authorization expires one year from the day of my approval.



(Original signed)

The Honourable Simon Noël, K.C.
Intelligence Commissioner