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Office of
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Commissioner

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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 issued a Cybersecurity Authorization for Activities on Non-Federal Infrastructures (Authorization) for [...].
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. [...] requested the Communications Security Establishment (CSE) to conduct cybersecurity activities on their information infrastructures in the context of a recent compromise [...]. As stated by the Chief, CSE, the Authorization seeks to assist [...] in remediating the compromise of its networks and to allow CSE to provide [...].
4. I note that the letters of requests of the non-federal entities emphasize the importance of protecting the privacy interests of Canadians and persons in Canada contained in the data to which CSE would have access under the Authorization. I share the concern with protecting these interests. The Minister addresses the protection of privacy interests in his conclusions.
5. I also share the concerns raised by the Minister with respect to his conclusions that the Authorization is necessary. The information in the record reveals the critical need for CSE's cybersecurity solutions to protect the important role played by the non-federal entities.
6. Based on my review of the record submitted, I am 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 72 of the Authorization are reasonable.
7. Given [...] I am of the view that it is in the interest of CSE and the non-federal entities – as well as Canadians and persons in Canada [...] – that my decision be issued as soon as feasible. Although the Minister has not requested that I render my decision on an expedited basis, the Chief's request to the Minister recognizes that time will be required to deploy the cybersecurity solutions and for CSE to [...]. I am of the view that [...] is of the highest

priority and the preparation of my reasons should not delay the implementation of the cybersecurity solutions.

8. Pursuant to paragraph 20(1)(a) of the *IC Act*, if I am satisfied that the Minister's conclusions are reasonable, I must approve the authorization in a written decision and must set out my reasons. I am of the view that paragraph 20(1)(a) allows me to issue my decision approving an authorization now, with my reasons to follow within the 30-day period set out at subsection 20(3) of the *IC Act*. Indeed, the legislation does not require the Intelligence Commissioner to issue his approval and reasons concurrently.
9. Consequently, pursuant to paragraph 20(1)(a) of the *IC Act*, I approve the ministerial Cybersecurity Authorization for Activities on Non-Federal Infrastructures, with my reasons to follow.
10. 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