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The Commissioner

Public Inquiry on Foreign Interference (PIFI)

Submission concerning allegations of foreign interference against Mr Erin O'Toole and Mr Kenny Chiu during the 44th General Election

Dear Commissioner:

I am grateful for the opportunity to take part in the Public Inquiry on Foreign Interference (PIFI). As an Intervenor, I will be making submissions from time to time that I hope will be helpful to the work of the Commission. I share with you and all participants a common interest in identifying genuine cases of foreign interference in the 2019 and 2021 general elections and coming up with better ways to protect our democracy from such unwanted interference. At the same time, I believe we must be vigilant against an overzealous approach to foreign interference that results in the stifling of legitimate political debate, the stigmatization of Canadians, stereotyping of racialized communities, and the violation of fundamental rights.

In this submission, I offer my analysis of foreign interference claims related to Mr Erin O'Toole and Mr Kenny Chiu during the 44th General Election, as presented in two redacted Top Secret Security Intelligence Threats to Elections Task Force

(SITE) documents that were made available to PIFI participants (CAN005804 and CAN003781) and subsequently entered into evidence. The claims concerning Mr O’Toole and Mr Chiu have been reported in the media and offered as one of the key reasons for having a public inquiry. Hence it is vital that the Commission closely examine not just the existence of the claims in SITE and other documents, but also their credibility.

It is my assessment that the conclusions reached in these two documents are problematic and that to accept the O’Toole/Chiu incidents as authentic cases of foreign interference and disinformation would be harmful to affected citizens and to Canadian democracy more broadly. To be clear, I am providing my input on just the O’Toole/Chiu examples cited in the SITE reports and not on the broader question of PRC and other foreign state or non-state interference in Canada’s democracy.

Redacted SITE document entitled *SITE Update on Foreign Interference Threats to Canadian Democratic Institutions – 2021*, dated 13 September 2021 (CAN005804)

The document reported on “what may be a CCP information operation that aims to discourage voters from voting for the Conservative Party of Canada (CPC)”.

It pointed to social media posts on WeChat and Douyin “widely sharing a narrative that CPC’s election platform suggests Erin O’Toole ‘almost wants to break diplomatic ties with China’”.

It goes on to say:

The narrative has now grown in considerable scale.

On September 9-12, a number of popular WeChat news accounts that service Chinese-speaking Canadians actively shared the narrative that O’Toole wants to break off relations with China; they did not credit the Global Times, obscuring the narrative’s point of origin.

Some accounts added commentary such as “Chinese Canadians are scared of the Conservative’s platform” and questioned whether Chinese compatriots should support the Conservatives if they use this rhetoric?

The report then makes this assessment:

RRM Canada is unable to determine whether there is coordination between the CCP media that originally promoted the narrative and the popular WeChat news accounts that service Chinese-speaking Canadians that are now amplifying the narrative. . . .

RRM Canada is also unable to determine whether there is inauthentic activity that boosted user engagement with the narrative as Chinese social media platforms are completely non-transparent.

Redacted SITE document entitled *Threats to Canadian Federal Election 2021*, dated 17 December 2021 (CAN003781)

This document reported that “the People’s Republic of China (PRC) sought to clandestinely and deceptively influence Canada’s 2021 federal election” and provided the following example:

SITE TF also observed online/media activities aimed at discouraging Canadians, particularly of Chinese heritage, from supporting the Conservative Party of Canada (CPC), Erin O’Toole, and particular former Steveston-Richmond East candidate Kenny Chiu GE44. While we do not have clear evidence that this online activity was a PRC-directed FI campaign, we have observed indicators of potential coordination of between various Canada-based Chinese language news outlets as well as PRC and CCP news outlets.

The report elaborates:

SITE TF identified numerous articles posted and shared among PRC and Canada-based Chinese-language news websites and WeChat news accounts containing false claims about former CPC candidate for Steveston-Richmond East Kenny Chiu, and his private member’s bill C-282 (An Act to Establish the Foreign Agent Registry). The articles claimed that, if elected, Chiu would pass a “foreign power registry act” that would designate “any individual or group connected with China as a spokesperson of the Chinese government”.

The articles portrayed Chiu and Bill C-282 in a false or misleading way, and the narrative appeared embedded or alongside news stories that claimed Conservative Party leader Erin O’Toole “almost wanted to break diplomatic relations with China” with his GE44 platform.

Different versions of the above examples have been widely cited in Canadian media as authentic cases of Chinese foreign interference in Canada and used as justification for a foreign interference inquiry.

I submit, however, that the SITE assessments are problematic, for the following reasons:

a) Was it Foreign Interference?

In both cases of alleged interference against Mr O’Toole and Mr Chiu, SITE states it was unable to definitively ascribe the offending WeChat/Douyin posts to the Chinese government or the CCP. Rather, SITE refers to having “*observed indicators of potential coordination between various Canada-based Chinese language news outlets as well as PRC and CCP news outlets*”. My understanding of this sentence is that the SITE analysts observed the posts going “viral”.

There are many reasons why a social media post might go “viral”, including, above all, that users of a given platform agree with that post. By assuming that posts on Canada-based Chinese language news outlets are examples of foreign interference without clear evidence of such is damaging to the reputations of the Canada-based news outlets and their users. It is also discriminatory and stigmatizing because there are a multitude of viral social media posts on non-Chinese language news outlets that contain distortions of the positions of Canadian politicians, but which are not listed as possible interference from a foreign state. A McGill University report provides examples of distorted information on non-Chinese social media during the 2021 General Election that would have had much greater reach and impact on Canadians than the WeChat/Douyin posts in question¹.

¹ https://www.mcgill.ca/maxbellschool/files/maxbellschool/meo_election_2021_report.pdf see Chapter 3

b) Was it Misinformation / Disinformation?

A fundamental premise behind the SITE assessment is that the WeChat/Douyin posts are in fact distortions of the positions held by Mr O'Toole and Mr Chiu.

In the case of Mr O'Toole, SITE cites posts which claim that he *"almost wants to break diplomatic ties with China"* and that *"Chinese Canadians are scared of the Conservative's platform"*. SITE further cites as evidence that these posts did not credit Global Times, hence *"obscuring the narrative's point of origin"*. The SITE claim of foreign interference hence relies heavily on the assumption that views expressed on WeChat/Douyin were fed to Canadians by a foreign source.

Yet, Mr O'Toole's position on China was already well established through his public statements, in the election platform of the Conservative Party, and in media reporting.

For example, Mr O'Toole asserted during the election campaign that "I am the only candidate with a plan to reset Canada's relationship with the Chinese regime. . ." and that "the world (is) on the brink of a new cold war with another repressive regime, this time in China". The Conservative Party's election platform for GE44 mentioned "China" 31 times in a negative light, including the idea that Canada should "decouple" from China in certain supply chains.

The Globe and Mail reported on 24 August 2020, well before the Global Times article and the WeChat/Douyin posts, that *"In Selecting Erin O'Toole, Conservatives elevate hawkish voice on China"*². There are many other examples

² <https://www.theglobeandmail.com/world/article-in-selecting-erin-otoole-conservatives-elevate-hawkish-voice-on/>

of Canadian media and think tank reporting on Mr O'Toole's "hawkish" stance against China³.

Why did SITE not consider that the Canada-based Chinese language news sites posted information about Mr O'Toole based on their reading of his public comments, the Conservative party's election platform, or the Globe and Mail and other Canadian media reports? Why are Canada-based Chinese language news sites typecast as relying only on information from the PRC, and users of those sites assumed to not have the wherewithal to find information about Canada-China relations from Canadian sources?

Some months after the election, the Chinese Canadian Conservative Association called out their leader for what they described as a "hatred message" towards China in his GE44 campaign⁴. Did the Association come to this view because of foreign interference? Surely the more plausible explanation is that even Conservatives agreed with the assertions made on WeChat/Douyin, based on independent judgement of their party's election platform and of the views expressed by Mr O'Toole.

³ For example

<https://nationalpost.com/opinion/terry-glavin-otooles-policy-on-china-is-getting-a-thumbs-up-from-pro-democracy-activists>

<https://www.scmp.com/news/china/politics/article/3098936/canadas-china-critic-takes-helm-opposition-party-trudeau-seeks>

https://www.ualberta.ca/china-institute/news/the-latest/2021/september/china_party_platforms.html

<https://natoassociation.ca/dragon-slayer-the-partial-foreign-policy-of-erin-otooles-conservative-party/>

<https://www.vice.com/en/article/z3x5vj/canada-china-relationship-conservatives-otoole-liberals-trudeau>

<https://rabble.ca/politics/canadian-politics/why-are-you-so-obsessed-china-erin-otooles-fixation-explained/>

⁴ <https://nationalpost.com/news/politics/chinese-canadian-tories-urge-otoole-to-resign-saying-tough-on-china-platform-alienated-voters>

The point is not whether Mr O’Toole’s positions on China are correct and certainly not about whether he has the right to take those positions. It may have been part of his calculation that a “hawkish” stance on China would win his party more Chinese Canadian votes⁵, but he surely would also have been aware of a possible backlash from other members of the Chinese community. That this backlash took place, as evidenced by the WeChat/Douyin posts and the reaction of some Conservative party members, should not have come as a surprise to either Mr O’Toole or our security and intelligence agencies. Why did SITE not consider that Chinese Canadians had honestly held reservations about the Conservatives’ election platform and instead jump to the conclusion that those reservations were fed by the Chinese state?

In the wake of the overwhelming attention on foreign interference from the PRC, Canadian politicians may well choose to mimic Mr O’Toole’s “hawkish” line on China as a winning strategy for future elections. That would be part and parcel of the democratic process in Canada. However, if the public acceptance of a “hawkish” position on China results in the stigmatization of those who do not agree with that position, and if it results in individuals and groups being branded as influenced by a foreign state or as foreign agents, based on little or no evidence, our democracy will in fact have been diminished.

The case of Mr Chiu is similar. Even though SITE cannot confirm that the WeChat posts concerning his private member’s bill were PRC-directed, they in effect listed

⁵ https://www.thestar.com/politics/federal/erin-o-toole-s-tough-stance-on-china-has-some-progressive-voters-taking-a-second/article_8ca14666-93b1-5917-806e-4cf21fb4467d.html

those posts as examples of foreign interference. SITE goes further in describing the posts as “false or misleading” and cite this example from a post:

A “foreign power registry act” that would designate “any individual or group connected with China as a spokesperson of the Chinese government”.

I have studied Mr Chiu’s private member’s bill very carefully and published an article in Policy Options with my findings⁶. I believe that the WeChat posts in question are not misinformation but are reasonable, non-specialist interpretations of his bill and that they represent legitimate political debate⁷.

At the heart of the issue is the requirement in Mr Chiu’s bill⁸ for all foreign principals to register, including “related entities”, which are defined – among several criteria – as one in which the leadership is “accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the foreign government or foreign political organization”⁹.

Given that the People’s Republic of China (the PRC) is a one-party, authoritarian state, one could reasonably argue that all legally constituted entities in China – including corporations, educational institutions, alumni organizations, cultural groups, and municipalities – fall under the definition of foreign principal. In that case, any individual in Canada acting on behalf of such an entity would be subject

⁶ <https://policyoptions.irpp.org/magazines/january-2022/election-disinformation-claims-and-kenny-chiu-richmond-riding/>

⁷ My analysis is limited to the phrases in selected WeChat messages that SITE and/or Mr Chiu specifically singled out as false or misleading, and not the universe of WeChat posts about Mr Chiu during GE44.

⁸ C-282 reference

⁹ <https://www.parl.ca/legisinfo/en/bill/43-2/c-282>

to registration if he or she were to speak with a parliamentarian or senior public official on a public policy matter. This is particularly relevant in the context of a view within our Security and Intelligence agencies that Chinese espionage is based on “non-traditional” methods and operate in a “grey zone” that could involve “diaspora communities, businesspeople, academics, politicians and political staffers, media and religious communities”¹⁰.

I have discussed this issue more broadly in the context of a foreign influence transparency registry proposed by the Government of Canada that is akin to Mr Chiu’s private member’s bill¹¹.

A recent Federal Court decision confirms my analysis. In *Li v Canada*¹², the Court expanded the definition of “espionage” in its denial of a student visa for a Chinese national seeking to do a PhD at the University of Waterloo.

In its decision, the Court deemed that if the student “were granted his visa to study at the University of Waterloo, there are reasonable grounds to believe that he may be coopted or coerced into providing sensitive information to the PRC”. In effect, the Court has deemed anyone who MAY be “coopted or coerced into providing sensitive information to the PRC” as a national security risk. The application of this principal to Canadians who have family, business, or cultural ties with the PRC would render them vulnerable to registration under a broadly defined foreign agent registry such as the one proposed by Mr Chiu.

¹⁰ PRC Foreign Interference in Canada: A Critical National Security Threat, PIFI -- Canada Release – 001, January 25, 2024

¹¹ <https://policyoptions.irpp.org/magazines/may-2023/foreign-influence-registry-harm/>

¹² <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/524706/index.do?q=Yuekang+Li>

The point here is not about Mr Chiu's right to propose a bill such as C-282 and whether it is a good piece of legislation. It is about whether Chinese Canadians should be allowed to voice their reservations about the bill, in the same way that other Canadians voice reservations about any other piece of legislation, without being stigmatized as objects of foreign interference. I have received thousands of messages from Canadians voicing their opposition to bills that are before the Senate, many of which are based on distortions of the bill, and which have the imprint of American political discourse and interest groups. There is virtually no discussion, however, about these messages as a form of foreign interference emanating from the United States.

Since the findings of PIFI will influence the implementation of a foreign agent registry, it is vital that the commission point to any erroneous findings of foreign interference because of the risk that such misdirection will pose for individuals and groups who may be deemed as "registrable".

While the phrasing of the WeChat posts is neither elegant nor precise, the idea that Mr Chiu's bill amounts to a "*foreign power registry act*" that would designate "*any individual or group connected with China as a spokesperson of the Chinese government*" is a reasonable lay interpretation of the bill. At the very least, it should be considered legitimate political debate. The offending WeChat post is certainly no more distorting of politicians' positions on various issues than the much higher volume of misinformation on non-Chinese social media platforms or in the emails that flood my Senate in-box daily.

Even if one accepts that the WeChat posts were inaccurate or distortionary, it is troubling that SITE would list them as examples of foreign interference when the analysts could not establish that the posts were PRC-directed. By doing so, SITE is implying that the problem with the posts is not necessarily that they are propagated by a foreign state, but it is the views as such that are objectionable, from an election security perspective.

That amounts to a suppression of legitimate political debate and the stigmatization of those who hold such views and who use the platforms on which they were posted. The irony is that these claims, from the very agency that was entrusted to protect the security of our elections, in fact undermined the security of Canadians who sought to participate fully in the 2021 election by expressing views on an issue that was important for them. If in a future election the issue of a foreign agent registry comes up again, how can voters be confident that they are able express concerns akin to the 2021 WeChat posts without being labeled a foreign agent or a stooge of foreign interference?

Implications for PIFI

My submission is based on an analysis of two redacted SITE documents. I will be pleased to revisit my analysis if the full unredacted documents are made public, but in the absence of such, the Commission will be in a position to assess if the redacted information affects my conclusions. To the extent that the Commission accepts my analysis, I believe it is important to find out how such serious errors of analysis could have found their way into a SITE report and to make recommendations on the actions that should be taken by the Government of Canada.

Recommendations could include:

- a) the issuing of public statements to disavow any *presumption* of disloyalty/foreign interference on the part of the Canadian-based Chinese language platforms and their users;
- b) an investigation to determine if the serious errors of analysis in the SITE reports are due to partisanship, prejudice, inadequate training, and/or a failure of leadership in the constituent bodies of SITE, namely CSIS, CSE, GAC and the RCMP; and
- c) measures to ensure that efforts to fight foreign interference (including in future elections) do not end up eroding the fundamental rights of Canadians and Canadian democracy more broadly.

Thank you for taking the time to review my submission.

Respectfully submitted,



