



Fourth Decision on Standing

Introduction

1. On December 31, 2023, the Commission received a late-filed application from Jenny Kwan for standing and funding during both the factual and policy phases of the Inquiry.
2. This decision explains why I grant Ms. Kwan standing.

The Request for an Extension of Time

3. Ms. Kwan acknowledges that her application for standing has been filed after the deadline has passed and provided an explanation for the delay. In my view, the explanation that she has provided is satisfactory.
4. Ms. Kwan is the Member of Parliament for Vancouver East, and a member of the New Democratic Party of Canada (“the NDP”). As I will discuss later in these reasons, she indicates that she is also a target of foreign interference by the Government of China.
5. Ms. Kwan indicates that she originally intended to participate in the Inquiry through the NDP. In my *Decision on Standing*, I granted the NDP standing at the Inquiry, but as an Intervener during the factual phase, and not as a Party. When this occurred, Ms. Kwan indicates that she did not know how to proceed. On December 14, 2023, she indicates that she learned that I had granted Michael Chong, a Conservative Party of Canada Member of Parliament and alleged target of foreign interference, Party

standing. At that time, however, she did not believe that it would be appropriate for her to apply for standing independently of her political party, like Mr. Chong had done, because the Commission's first report was due on February 29, 2024. However, on December 28, 2023, she learned that the Commission had received an extension until May 3, 2024 for the delivery of its first report. She brought her application for standing shortly thereafter.

6. I am satisfied that Ms. Kwan has provided an adequate explanation for the delay in bringing her application. While it would have been preferable for Ms. Kwan to have brought this application soon after my decision granting the NDP Intervener standing, I accept her assertion that she was not aware that this was a viable option at the time. I further accept her assertion that she believed that a late application was not possible until after the deadline for the Commission's first report changed.

7. I wish to make clear, however, that the change in the Commission's deadline to complete its first report is not the only relevant consideration in assessing delay. Perhaps even more important is the fact that the Commission's public hearings will begin at the end of January. Although I believe that I should consider Ms. Kwan's application on its merits, I wish to be clear that the Commission is quickly approaching the point in time when further delays in receiving applications may cause prejudice and potentially lead me to dismiss them on that basis.

8. However, in this case, and for the reasons mentioned, I exercise my discretion under Rule 9 and consider Ms. Kwan's application on its merits.

Request for Standing

9. Ms. Kwan indicates that she is the NDP's Critic for Immigration, Refugees and Citizenship and Housing, and also acts as the NDP lead on matters related to Hong Kong. In her application, she identifies herself as an active voice on a range of topics that are viewed as hostile by the government of the People's Republic of China, including support for the Hong Kong umbrella protest movement, criticism of China's National Security Law, and advocating for the recognition of Chinese government actions against Uighur and other Turkic Muslim people as genocide.

10. Ms. Kwan indicates that, on May 26, 2023, CSIS provided her with a classified briefing in which the Service informed her that she had been a subject of foreign interference by the Government of China, including during the 2021 federal election. She states that she was also informed that she will continue to be a subject of foreign interference for her entire life.

11. Ms. Kwan indicates that, as the representative of a riding with a large Chinese-Canadian population, the threat of foreign interference has had a particular impact on her Parliamentary activities, including limiting her ability to access her constituents. She also describes some of the personal impacts she has experienced. Ms. Kwan also notes that she has been a long-standing voice in Parliament with respect to foreign interference and the protection of Canadian democracy.

12. In her application, Ms. Kwan draws parallels between her situation, and that of Michael Chong, to whom I granted Party standing in my *Second Decision on Standing*. She submits that her position is substantially similar to that of Mr. Chong, except that there has been no public reporting on the details of how she has been the subject of

foreign interference. She submits that, largely for the same reasons that Mr. Chong was granted standing, she should receive the same status.

13. I agree with these submissions.

14. In my view, Ms. Kwan stands in substantially the same position as Mr. Chong. Both are current Parliamentarians who are reported to be the subjects of foreign interference activities. Both indicate that this information was revealed to them, albeit belatedly, by CSIS. Both have discussed the impact that foreign interference has had on their personal and professional lives. Both have discussed their ongoing Parliamentary work on the issue of foreign interference. Both have outlined how, in light of their direct connection with the subject matter of the Inquiry, they would provide a necessary contribution to the work of the Commission. I am satisfied that Ms. Kwan meets the test for standing for substantially the same reasons as Mr. Chong.

15. I would therefore grant Ms. Kwan Party standing in the factual phase of the Inquiry and standing in the policy phase of the Inquiry.

16. Given the late nature of this Application, I have not yet been able to address Ms. Kwan's request that I recommend to the Clerk of the Privy Council that she receive funding. I hope to address this aspect of her application in the near future.

Signed

Commissioner Marie-Josée Hogue

January 8, 2024