



Supplementary Decision on Funding (No. 3)

1. On September 15, 2022 the Commission received an application for funding from the Freedom 2022 Human Rights and Freedoms non-profit corporation and related individuals (“the Convoy Organizer Group”). This decision explains why I have decided to recommend to the Clerk of the Privy Council that funding be provided to them, albeit on different terms than they requested.

Background to the Applications

2. On June 27, 2022, I released my *Decision on Standing*. In that decision, I granted full standing to the Convoy Organizer group. The Convoy Organizer Group did not seek any funding at that time. Mr. Keith Wilson, K.C. was listed as “senior” counsel for the group. Ms. Eva Chipiuk was “junior” counsel assisting Mr. Wilson.

3. On September 2, 2022, the Commission received correspondence from Mr. Wilson indicating that, due to the involvement of Ms. Chipiuk and himself in events that may be examined as part of the Inquiry, he and Ms. Chipiuk could no longer act as counsel for the Convoy Organizer group during the public hearings. He indicated, however, that he and Ms. Chipiuk intended to continue to provide assistance in a “solicitor” capacity, such as by continuing to obtain, review and produce relevant documents to the Commission.

4. On September 15, 2022, Mr. Wilson wrote to the Commission and confirmed that he and Ms. Chipiuk would no longer act as Counsel to the Freedom Convoy group at the public hearings but would continue to provide support to the Freedom Convoy Group prior to, and outside of the hearings. He also informed the Commission that the



Convoy Organizer group had obtained new counsel to represent it during the public hearings. Mr. Wilson also indicated that the Convoy Organizer Group was now seeking funding. He explained that while funding had not been required for himself or Ms. Chipiuk, new counsel did require funding, and the Convoy Organizer group lacked the resources necessary to cover their fees.

5. The Convoy Organizer group's request for funding proposed a four-lawyer counsel team: a main senior and junior counsel pair, as well as a separate counsel pair specifically retained to deal with issues related to financial matters such as the freezing of bank accounts. The Convoy Organizer Group submitted that a distinct set of counsel for this topic was justified due to the complexity of the matter and the special expertise of the counsel identified to provide this representation.

6. In its application, the group provided a breakdown of rates and hours for its counsel team. The total amount of funding requested exceeded the amounts recommended for other parties and approved by the Clerk of the Privy Council.

Delay in Bringing this Application

7. As a preliminary matter, I would exercise my discretion to consider this application on its merits. In doing so, I rely on the same general considerations I have used in previous decisions related to late-filed applications.

8. In this case, I make particular note of the fact that the late filing of this application is unlikely to cause prejudice to either the Commission or any party. Unlike a late grant of standing, a late recommendation of funding does not directly impact the Commission's process.



Decision on Funding

9. I am satisfied based on the materials before me that the Convoy Organizer Group would no longer be able to participate at the public hearings without funding. As a result, I would recommend that funding be provided to them.

10. However, I do not agree that they ought to receive funding to the extent that they requested in their application. In my view, some reductions ought to be made. There are four bases on which I would reduce their requested funding.

11. The first relates to the continued involvement of Mr. Wilson and Ms. Chipiuk. As noted above, Mr. Wilson has indicated that, while he and Ms. Chipiuk are no longer able to act in the public hearings themselves, they are continuing to provide legal assistance to the group outside of the hearings. Mr. Wilson has also indicated in his materials that neither he nor Ms. Chipiuk require funding in order to perform these functions.

12. Where I have recommended funding for other parties, I have done so based on an assessment both of the number of hearing days the Inquiry is expected to last, as well as an estimate of the amount of time a party will require prior to the start of the hearing in order to prepare for it. Given that the Convoy Organizer Group continues to have Mr. Wilson and Ms. Chipiuk working for it in preparation for the hearing, it does not require additional funded counsel hours in order to participate in the Inquiry.

13. Second, I do not agree that it would be appropriate to fund four counsel for the hearing, even if there is an intention to divide the work of each counsel pair by issue area and to avoid duplication of work.

14. As discussed in my *Decision on Funding*, dated July 5, 2022, funding is provided to parties in accordance with a set of "Treasury Board Guidelines", and my Order in



Council requires me to make my funding recommendations in line with those Guidelines. The Guidelines do not provide for the funding of more than two counsel, except in extraordinary circumstances. In my view, the reasons identified by the Convoy Organizer Group to fund two additional counsel do not constitute extraordinary circumstances.

15. The Convoy Organizer Group submits in its application that it is “the only group with the standing that can put [evidence related to the freezing of bank accounts] before the Commission.” I do not agree. It is the role of Commission Counsel to take the lead in placing relevant evidence before me. In my view, Commission Counsel are adequately equipped to adduce the relevant evidence. I am also of the view that the proposed “main” lawyers for the group are adequately equipped to represent their clients’ perspective on this topic.

16. Third, the Convoy Organizer Group has sought an equal number of hours for each of its senior and junior counsel, effectively requesting that both counsel be funded to attend and participate at every day of the hearing. Under the Treasury Board Guidelines, funding is only to be provided for one counsel to appear each hearing day. The Convoy Organizer Group’s funding ought to be calculated on this basis.

17. Fourth, the Convoy Organizer Group has requested funding to cover the time required to review the Commission’s “Interim Report”. As the Commission has not proposed issuing an interim report, there is no basis to provide this funding.

Conclusion

18. I am satisfied that, given Mr. Wilson and Ms. Chipiuk’s withdrawal from representing the Convoy Organizer Group during the public hearing phase of the



Inquiry, the group is no longer able to participate without funding. I would therefore recommend to the Clerk of the Privy Council that funding be provided in accordance with the Treasury Board Guidelines to cover legal fees for the new counsel, Mr. Brendan Miller and Ms. Bath-Sheba van den Berg, for their work during hearing days of the Inquiry, plus the ordinary incidentals granted to all funded parties.

Signed

The Honourable Paul S. Rouleau
Commissioner

October 7, 2022