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Tēnā koe Mohammed

Official Information Act request

Thank you for your Official Information Act 1982 (OIA) request of 24 August 2022 to the Government Communications Security Bureau (GCSB) for the following information:

- 1) Was the GCHQ's review of Huawei's technology, which proved to the GCHQ that it was safe for Britain to implement Huawei technology, provided to GCSB?
- 2) Did GCSB conduct any real review or assessment of Huawei's technology, as the GCHQ did, or simply rely on the word of your American bosses? If a review or assessment was conducted, or a report prepared, how many full time equivalents were assigned to this, and for how long?
- 3) At what dates and by what means did Matthew Pottinger contact GCSB and GCSB personnel between January 2017, and January 2021?
- 4) Please provide all communications between GCSB and Spark regarding your decision to reject their use of the proven-safe Huawei 5g technology in 2018.

Response

My response to the first and third questions of your request is that I neither confirm nor deny the existence or non-existence of any information. This reply is given within the terms of section 10 of the OIA because disclosing the existence or non-existence of the information is likely to prejudice the interests protected by section 6(a) of the OIA (the security or defence of New Zealand or the international relations of the Government of New Zealand).

I can confirm that the GCSB conducted a review into Spark's proposal and a decision paper was completed in 2018. Under the Telecommunications (Interception and Capability and Security) Act 2013 (TICSA), the GCSB assesses potential network security risks on a case by case basis. It is important to note that TICSA applies a country and vendor neutral approach. The GCSB uses information from a variety of sources to inform its view, including all relevant material provided by the network operator, as well as other available information about threats to network security, including information obtained from classified intelligence reporting.

This work was completed by approximately 2.5 FTE for a period of 12 months.

Below are the items in scope of question four of your request and where possible copies have been provided. Disclosure of some of this information would be likely to prejudice the national security of New Zealand by revealing the GCSB's methods and capabilities. Additionally, information provided to the GCSB by network operations is provided on a basis of confidence and contains commercially sensitive information. Therefore some information has been withheld under the following sections of the OIA:

- 6(a), where the making available of the information would be likely to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand;
- Section 9(2)(a), the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons;
- Section 9(2)(b)(i), the withholding of the information is necessary to protect information where the making available of the information would disclose a trade secret;
- Section 9(2)(b)(ii), the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; and
- Section 9(2)(ba)(i), the withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.

Please note that names of GCSB staff have been withheld under sections 6(a) and 18(c)(i) of the OIA as the making available of the information would be contrary to section 227 of the Intelligence and Security Act 2017, restriction on publication and broadcasting of information regarding employees. The names of Spark employees have been withheld under section 9(2)(a) of the OIA.

Item	Date	Description	Release
1	28/11/2018	Letter from GCSB to Spark New Zealand Ltd providing notice of network security risks.	Release with redactions under S9(2)(a)
2	28/11/2018	Unclassified Decision Paper for NCSC-TN-2018-451	Withheld in full under S9(2)(b)(i), S9(2)(b)(ii) and S9(2)(ba)(i)
3	28/11/2018	Classified Decision Paper for NCSC-TN-2018-451	Withheld in full under S6(a), S9(2)(b)(i), S9(2)(b)(ii), and S9(2)(ba)(i)
4	8/11/2019	File note of meeting between Spark and GCSB	Withheld in full under s9(2)(b)(ii) and s9(2)(ba)(i)
5	14/11/2019	Spark's withdrawal of TICSA notification	Release with redactions under s 6(a), s9(2)(a), s18(c)(i)

Please note that the classified and unclassified decision papers listed above were the supporting material for the 28/11/2018 letter from GCSB to Spark. Summaries of the decision papers have not been provided because the releasable material is already contained in the 28/11/2018 letter.

Review

If you wish to discuss this response with us, please feel free to contact information@gcsb.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Ngā mihi



Andrew Hampton

Te Tumu Whakarae mō Te Tira Tiaki
Director-General, GCSB