



12 September 2019

Standing Committee on Social Issues
Chair
NSW Department of Premier and Cabinet
GPO Box 5341
Sydney NSW 2001

NSW Business Chamber Limited
140 Arthur Street
North Sydney NSW 2060
Postal address
Locked Bag 938
North Sydney NSW 2059
t (02) 9458 7385

Dear Mr Mallard

Australian Business Industrial and NSW Business Chamber Feedback on Modern Slavery Draft Regulation

Australian Business Industrial (**ABI**) and the NSW Business Chamber (**NSWBC**) represent the interests of more than 20,000 businesses engaging employees across over 100 industries. We welcome and appreciate the opportunity to provide feedback on the NSW Modern Slavery Draft Regulation.

As New South Wales' peak business organisation, the NSWBC provides these members with a variety of advice, policy advocacy and representation services, which in turn enables the NSWBC and ABI to speak with an authoritative voice about the impact of employment and other regulatory conditions on business.

ABI is a registered organisation under the Fair Work (Registered Organisations) Act 2009 and the NSWBC is a recognised State registered association under Schedule 2 of the same Act.

GENERAL COMMENTS

What issues does the Commissioner need to consider to implement a workable system of supply chain reporting under the Act?

ABI and NSWBC strongly support actions necessary to reduce modern slavery in all its forms. However, we maintain the existence of the Commonwealth Modern Slavery Act 2018 negates the need for NSW legislation.

The NSW legislation as currently drafted covers largely the same territory and imposes similar, and at times, identical obligations with major differences being the legislation applies to businesses with \$50 million annual turnover and the imposition of criminal penalties. The Chamber is concerned that NSW and Commonwealth legislation in respect to modern slavery adds regulation and a level of complexity that will impose an unnecessary burden on business and create confusion in the business community.

Further to the above, we are of the view that the Australian Government, and Commonwealth bodies such as Austrade, the Australian Federal Police and the Attorney General's Department are best placed to deal with the majority of these matters, particularly in dealing with the potential of modern slavery practices in the

business supply chain. NSW Police of course have a role and should cooperate with the Federal bodies to stamp out any instances of modern slavery.

The Chamber notes that NSW laws as currently drafted establish additional and alternate obligations to those applied by the Commonwealth Act. Best practice in regulation should seek to align regulatory obligations and to this effect we again refer to the value of adopting provisions and obligations as set out in the Commonwealth Modern Slavery Act 2018.

As per the terms of reference and notwithstanding the position outlined above we provide specific responses to the Department's questions below.

PREPARING MODERN SLAVERY STATEMENTS

How can the Anti-Slavery Commissioner best support businesses to comply with the reporting requirement under the Act? What guidance would businesses find helpful in preparing their statements?

The Commissioner should make as many resources available to relevant stakeholders to assist compliance. While this regime does have penalties that apply for non-compliance, the main intention of this regime should be education and compliance as no business wants modern slavery practices occurring in their supply chain.

ABI and the NSW Business Chamber recommends the Department release guidance material, including example case studies and best practice to assist businesses in preparing their statements.

Complying with the reporting obligations under the Act will not be taken lightly and will no doubt involve the engagement of lawyers to assist in preparation of these statements at potentially great expense to a business, where possible the Government should seek to reduce these compliance costs.

Should the NSW scheme enable voluntary reporting from businesses falling below the \$50 million turnover threshold and who choose to comply with its requirements?

NSWBC and ABI support the option to voluntarily opt in to this scheme. We support businesses who may choose to self-report to be pro-active in preventing modern slavery practices in their supply chain. We believe businesses may do this for a competitive and reputational advantage. However, we would strongly advocate that any businesses that voluntarily reports and attempts to comply with the legislative requirements should not be subject to any of the penalties applicable to those who are subject to the mandatory reporting requirements.

PUBLISHING STATEMENTS ON A PUBLIC REGISTER

What are stakeholder views on the public register, and what functions could it include?

If there is to be a public register, the Department should be mindful that these statements run the risk of containing confidential or business sensitive information.

Businesses should be able to have the option to submit a confidential and unredacted version to the Department which is not for release, and a redacted report for the Public Register.

What would be the easiest way to lodge statements with the Commissioner? Would businesses prefer to upload statements onto the register if this function is made available?

The Commissioner should have both an online portal and a specific submission email address that will accept submissions. Businesses can then choose which method they wish to submit by.

How long should statements be available on the register?

ABI and NSWBC propose a set time window that a statement can remain available, unless the business opts for the statement to remain publicly available.

For example, with the statements being due within 6 months after the end of the relevant Reporting Period, we propose that Statements be available from the time of submission to no later than 31 December of the next calendar year. This would mean statements would be available for between 12 -18 months depending on when they are first submitted.

EXEMPTIONS FOR CERTAIN BUSINESSES

What are stakeholders' views on the exemptions in the draft Regulation for voluntary reporters and subsidiaries of parent entities reporting under the Commonwealth Act?

As previously above, it is the position of ABI and NSWBC that the existence of the Commonwealth Modern Slavery Act 2018 negates the need for state based legislation that deals with modern slavery.

What are stakeholders' views on the exemptions in the draft Regulation for charities, not-for-profit organisations and small businesses? Are these appropriate to reduce regulatory burden and at the same time ensuring organisations take seriously their responsibility to combat modern slavery?

See above.

CONSULTATION

What communication channels can the Commissioner use to raise awareness of the Act's requirements and effectively engage with businesses?

The Commissioner and the Department should provide regular guidance and assistance to businesses who are required to comply with the reporting obligations of the Act so businesses can respond as efficiently and cost effectively as possible. Practical advice and assistance to assist in ensuring compliance with supporting case studies and associated information should be available on key government websites and a hotline should be established for any and all businesses who may seek information on obligations and reporting requirements.

MONITORING AND EVALUATION

How should the Commissioner allow for businesses and civil society to provide feedback on the effectiveness of the reporting requirements?

We encourage the Commissioner to ensure its website has a feedback portal that allows such outside comment to come through on a regular basis.

The Commissioner is encouraged to regularly consult with, and engage with employer organisations and professional bodies, such as ABI and NSWBC, on the legislation and reporting requirements. Such organisations are in daily contact with their members and are best placed to comment on the impact of the legislation and relay member feedback to the Department and the Minister.

If you and/or the Committee would like any further information please do not hesitate to contact Mr Dean Tyler on (02) 9458 7583 or email dean.tyler@ablawyers.com.au .

Yours sincerely

A handwritten signature in black ink that reads "Chris Lamont".

Chris Lamont
Director - Policy and Advocacy