



INTERNATIONAL CORPORATE
ACCOUNTABILITY ROUNDTABLE



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Dear Ms. Mills,

Thank you for the opportunity to comment on the Australian Modern Slavery Act 2018's Draft Guidance for Reporting Entities. Our organizations appreciate the work, diligence, and collaboration that was put into this Draft Guidance. Overall, we are encouraged by its contents. We do, however, believe that there are areas where the Draft Guidance should be strengthened. We accordingly make the following recommendations for your consideration.

1. Encourage a Gender Sensitive Approach

Modern slavery impacts women and men differently and the Guidance should include gender considerations in each section to address those gender-specific impacts. Companies should be aware that women are disproportionately affected by modern slavery in many sectors and regions and that over half of all victims of modern slavery are women. They are often exposed to high levels of violence, including sexual harassment and abuse, and threats of other harm or termination if they lodge a complaint. The Guidance made a great effort to highlight forced marriage as a type of exploitation, which mostly affects women, but the gender-specific risks leading up to this form of modern slavery might be helpful to include.

Recommendation 1: The Guidance should encourage reporting entities to integrate a gender-sensitive approach when seeking to describe and explain modern slavery risks under the Mandatory Criterion Three, and to describe the actions taken by the entity to assess and address those risks under Mandatory Criterion Four. A gender-sensitive approach may include conducting gender-sensitive human rights due diligence, collecting and disclosing gender disaggregated data, and providing gender-sensitive training throughout supply chains. Collaboration and discussion with women's rights organizations may help companies in identifying concealed gender-specific risks of modern slavery. The Unit should also consider highlighting 'at risk' groups, such as women, in "Table Four: Risk Indicators for Modern Slavery".

2. Encourage the Disclosure of Factory Names and Addresses

In order to adequately describe their corporate structures, operations and supply chains and to enable external stakeholders to understand this information, reporting entities should provide detailed and meaningful information regarding their business operations and entities in their supply chain. Such information could include the disclosure of the names and addresses of the factories which the reporting entity works with. The disclosure of this information also provides workers with a clearer understanding of which brands their factory is supplying to and may empower them to assert their rights¹.

Recommendation 2: In “Table One: Suggested Ways to Describe an Entity’s Structure, Operations and Supply Chain”, the Guidance should include the disclosure of factory names and addresses as part of the best practices to describe the reporting entity’s structure, operations and supply chains.

3. Consider Modern Slavery as Part of a Continuum of Other Labor Rights Violations

Understanding modern slavery is essential in effectively identifying and addressing modern slavery risks. Indeed, our organizations understand modern slavery as occurring along a continuum from lower level labor abuses to more extreme forms of exploitative practices. Poor labor practices, that do not themselves constitute modern slavery, can escalate into severe exploitation and push workers into conditions of modern slavery if combined with other factors, as has been shown by recent research². It is therefore essential for reporting entities to assess, address and report on risks of broader labor rights abuses to effectively address modern slavery risks.

Embedding general labor protections into auditing mechanisms and supplier requirements (such as contracts and codes of conduct) are some of the ways that companies can address broader labor rights abuses. The Guidance should also note that enabling workers themselves to monitor and protect their rights, through freedom of association and collective bargaining, is a crucial first line of defense in protecting a workforce from abuse and exploitation.

Recommendation 3: Under Mandatory Criterion Seven, reporting entities should be encouraged to include information related to risks, instances and measures to address broader labor abuse which may be conducive to modern slavery. The Guidance should make clear that including such information is a way for reporting entities to show that they have a comprehensive understanding of and are serious about addressing modern slavery risks.

¹ For more information, see <https://transparencypledge.org/>

² [Labour Compliance to Exploitation and the Abuses In-between](#), Labour Exploitation Advisory Group Position Paper, April 2016

4. Consider the Impacts of Business Models and Practices

The Guidance must acknowledge that companies' own business models and business practices, such as their purchasing practices, can in and of themselves be generating risks of modern slavery. For instance, there is strong evidence that last-minute orders, last-minute changes or demands on orders, demand for fast turn-around, and other aspects of procurement practices can contribute to abusive labor practices that include forced labor and other forms of labor exploitation. This is the case for the reporting entity's model and practices, as well as for that of its suppliers and other business relationships. The business operations that should be examined both in the reporting entity and its business partners include, among others, their recruitment and employment practices, the extent of outsourcing of labor and services, their procurement practices, and their overall labor standards and practices.

Recommendation 4: Reporting entities should be encouraged to assess how their own business model and practices, as well as those of their suppliers and business relationships, may be conducive to risks of modern slavery. Reporting entities should be advised to implement and report on measures to address such risks in their statements.

5. Consider Workforce Characteristics

The risks of forced labor, human trafficking and other forms of modern slavery have been shown to be aggravated depending on the specific characteristics of the workforce used. Factors that may aggravate risks include the lack of unionised workers; high proportions of outsourced workers; precarious employment structures leading to uncertainty about earnings and future work availability; or reliance on migrant workers who may have limited access to public funds or tied visas and may lack local support networks or language skills. Understanding their supplier and operational workforces is key for businesses to effectively address modern slavery risks.

Reporting entities should therefore examine and provide information on the nature and background of their workforce, including the extent to which labor and services are outsourced; the extent of the use of agency workers and casualized and/or temporary workers; and the proportion of workers that may have characteristics leading to increased vulnerabilities (such as women, young people, and migrants) within the workforce. Reporting entities should require suppliers and firms over which they exercise control or with which they hold relationships to provide them with similar information.

Recommendation 5: Reporting entities should be encouraged to consider the specific risks related to the nature and background of their workforce when assessing modern slavery risks, and to report on the measures taken to mitigate these.

6. Encourage Ongoing Stakeholder Engagement

The Guidance mentions stakeholder engagement in Chapter 5 as a way for entities to become more aware of what is happening in their supply chains and investment portfolios. However, stakeholder engagement is important throughout the entire reporting process, including in stages leading to the issuing of statements, such as during the identification of risks and of measures to prevent and mitigate such risks. Reports are most effective when reporting entities

work in partnership with stakeholders who can provide a more comprehensive account of risks in their supply chains and of possible measures to prevent and address risks, including remedial measures, and who can help assess the effectiveness of modern slavery procedures and policies. Stakeholders, including local worker and union representatives and affected individuals, are allies in addressing modern slavery and should be consulted on an ongoing basis.

Recommendation 6: Reporting entities should therefore be encouraged to consult with relevant stakeholders when designing and reporting on their policies and processes to prevent and address modern slavery in their operations and supply chain. Consultation with affected individuals, CSOs, trade unions, or other organizations should be used to develop a clear and thorough plan to identify modern slavery risks, to elaborate and implement measures to prevent and mitigate these risks, to assess if efforts to address risks have been impactful, and to create an accurate and meaningful reporting statement. Reporting entities should also be encouraged to work with industry associations and multi-stakeholder initiatives that may offer to help address industry-wide challenges.

7. Include Effectiveness Criteria for Grievance Mechanisms

The Guidance refers to 'grievance mechanisms' a number of times in Chapters 5 and 8 but it does not provide advice to businesses on what an appropriate and adequate grievance mechanism might look like. It would be beneficial to companies using this document to be provided with clear criteria for an effective mechanism, such as those outlined in principle 31 of the UN Guiding Principles on Business and Human Rights. These criteria should include worker confidentiality, the availability of translation in relevant languages, the availability hours which should enable workers to use the mechanism alongside their working hours, and timely follow up action. Any meaningful grievance mechanism should also have a clear pathway to resolution with measurable corrective action taken after investigation into a grievance has taken place. Businesses do not need to view grievance mechanisms as purely a channel by which workers can raise complaints; rather, such mechanisms can be effective ways for companies to receive information about issues within their operations and supply chain and to undertake targeted action to resolve them in a timely fashion, rather than wait for and rely upon broader auditing processes.

Recommendation 7: The Guidance should describe the key criteria to ensure the effectiveness of grievance mechanisms, drawing on the UN Guiding Principles on Business and Human Rights.

8. Recommend Efforts to be Taken in the Long Term

The process of assessing and addressing risks of modern slavery should be an ongoing and constant one. It is therefore important for reporting entities to disclose the measures they have taken to address modern slavery in a given year, as well as what specific actions they plan to take in the future to address risks they have identified but have been unable to address yet. This would give reporting entities an opportunity to communicate the challenges they face; for example, that of fully mapping risks in complex supply chains potentially spanning several

sectors and countries, as well as to outline a detailed plan to reach this goal over time. Recognizing that setting up and communicating these action plans takes time, reporting on long term plans to address modern slavery would benefit companies in the long run by enabling external stakeholders to provide better guidance to companies based on their specific risks, and to push for improved policies and practices.

Recommendation 8: The Guidance should suggest that reporting companies describe both efforts to address modern slavery in a given year, as well as how they intend to continue such efforts in the future.