

20 October 2017

Transnational Crime Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Email: slavery.consultations@ag.gov.au

Submission regarding the Modern Slavery in Supply Chains Reporting Requirement

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from diverse cultural and linguistic backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

Recommendations:

FECCA recommends:

- that legislation should provide for the appointment and resourcing of of an Independent Anti-Slavery Commissioner.
- that legislation should include a government-funded, publicly accessible and user-friendly repository for all company statements.
- FECCA's view that the legislation should include provisions to publish a public list of companies who are compliant, those who are non-compliant, and also those who have opted in to the reporting process as a way to encourage companies to comply with the legislation.
- that Commonwealth, state and territory government departments and agencies be obliged to engage only compliant contractors and suppliers.
- mandated statement content including the four areas suggested in the government discussion paper on pg16.

Key Message

FECCA welcomes the opportunity to provide feedback on the Modern Slavery in Supply Chains Reporting Requirement consultation paper.

Independent Anti-Slavery Commissioner

FECCA believes that legislation should establish an office of the Australian Independent Anti-Slavery Commissioner which is similar in design to that of the United Kingdom, “to encourage best practice in the fight against slavery and provide independent assessments on the effectiveness (or not) of actions taken by the Government and other actors to fight slavery.”¹ Evidence shows that in the first year after the UK established, via legislation, an Independent Anti-Slavery Commissioner, more victims were identified, more proactive and reactive police investigations were undertaken, more prosecutions and convictions were achieved, judicial awareness was notably increasing and more training was put in place.²

The independence of the Commissioner has been vital in ensuring cooperation from business in addressing labour exploitation in creative and proactive ways. This has increased reporting of breaches of the Act, victim identification, and ultimately, successful prosecutions (71% increase in just one year).

FECCA argues that the creation of an Australian Independent Anti-Slavery Commissioner will be vital in securing the cooperation of key stakeholders and increasing successful outcomes. This is particularly important in light of evidence presented throughout the Modern Slavery Act inquiry process that Australia is a world leader in anti-slavery laws but that awareness of the laws is low, enforcement is weak and there are gaps in communication between civil society and criminal frameworks despite efforts to reduce these.

It is FECCA’s recommendation that the legislation include the creation of an Independent Anti-Slavery Commissioner Office with a role not restricted to an ombudsman-like function which would relegate the role to a reactive, complaints-based mechanism.

Public Repository

It is FECCA’s view that the legislation should include a government-funded, publicly accessible and user-friendly repository for all company statements. The repository should be managed by civil society (as per the UK model) but with government funding and strong partnership with government and the Independent Anti-Slavery Commissioner, both of which may provide guidance and support to business. Oversight of compliance with reporting requirements, including filing statements and meeting minimum quality standards in accordance with prescribed content areas, should remain the function of government or another body. We recommend a list of compliant, non-compliant, and opted-in companies be drawn and published from the repository to increase incentives for reporting compliance.

Proportionate Penalties

FECCA would encourage the development of legislation which makes it initially safe to identify slavery in order to remove incentive *cover up*. This model of legislation is *transparency legislation* which aids in exposing situations of slavery and assists in corporate engagement. It differs from *due diligence legislation* by not having penalties for identifying slavery in a company supply chain. However, it is FECCA’s view that it is both fair and appropriate that

¹ UK Home Office.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf

there should be reasonable penalties for failing to comply with legislation that merely requires disclosure of the efforts that have been undertaken to find slavery.

FECCA would encourage a phased-in approach, providing an introductory grace period of one year; however, the government should consider ways to reward companies which meet requirements within the first year of reporting. It is FECCA's view that the legislation should include provisions to publish a public list of companies who are compliant, those who are non-compliant, and also those who have opted in as a way to encourage companies to comply with the legislation.

Public Procurement

There is huge revenue generated by public procurement and it is FECCA's view that it would be remiss to exempt government (State, Territory or Commonwealth) from reporting and compliance obligations under the legislation. FECCA would therefore recommend that governments be obliged to engage only compliant contractors and suppliers.

Mandated Content for Modern Slavery Statements

FECCA believes that for reporting statements to be maximally effective, the legislation should mandate statement content and we support the four areas suggested in the government discussion paper. Clear and manageable expectations as well as providing support and guidance to companies in the initial period of reporting would generate high quality reporting.

FECCA has concerns about the possibility of allowing companies to meet reporting requirements by simply stating that no steps to ensure slavery and trafficking are taking place. We argue that companies should be obliged to provide evidence of their efforts to identify and mitigate risks of slavery in their supply chains. They should be assisted in these efforts by the provision of clear criteria and guidelines on acceptable evidence. Companies should be required to provide evidence of the steps they took to rule out risk within their supply chains.

The Federation would welcome the opportunity to expand on this submission to the Committee as required. For enquiries please contact the FECCA Director, Dr Emma Campbell at emma@fecca.org.au or on (02) 6282 5755.

Modern Slavery in Supply Chains Reporting Requirement Submission to Attorney-General's Department

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Confidentiality

Would you prefer this submission to remain confidential? NO