

13 March 2024

The Hon Mark Dreyfus KC MP  
Attorney-General of Australia  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

By email: [attorney@ag.gov.au](mailto:attorney@ag.gov.au)

Dear Attorney-General,

### **Strengthening Australia's modern slavery laws and Anti-Slavery Commissioner**

We welcome the recent introduction of the Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023 (Cth) (**ASC Bill**) to establish an independent Anti-Slavery Commissioner to lead the Government's efforts to abolish modern slavery in Australia and abroad. We acknowledge that the introduction of the Commissioner is the Government's first step in an anticipated wider package of reforms to the *Modern Slavery Act 2018* (Cth) (**Act**) in response to the recommendations in the recent independent statutory review of the Act (**Review**).

The purpose of this letter is to reiterate our strong support for further reforms to strengthen the Act. We urge the Government to respond to the Review recommendations as soon as possible, noting eight months have passed since the Review was published. In particular, we believe the introduction of a due diligence obligation on companies, in addition to penalties for non-compliance, will be critical to ensuring that the Act meets its objective of effectively tackling modern slavery. We also urge the Government to strengthen the ASC Bill to increase the powers, resourcing and independence of the Anti-Slavery Commissioner so that the Office can undertake its role effectively.

#### *The Modern Slavery Act needs a due diligence obligation*

In our view, key among the reforms to the Act recommended by the Review is the introduction of a due diligence obligation for reporting entities. The introduction of a due diligence obligation is crucial to achieving the policy objectives of the Act to drive changes in corporate behaviour to effectively tackle modern slavery. The introduction of penalties alone will not ensure that businesses take action to investigate and address modern slavery risks in their operations and supply chains.

The introduction of a due diligence obligation under the Act would advance Australia's compliance with its international human rights obligations (e.g. under the ILO Forced Labour Protocol and *UN Guiding Principles on Business and Human Rights*) and align Australia with many other jurisdictions in Europe and elsewhere that have already introduced similar human rights due diligence requirements for large businesses.

Similar positive obligations to take steps to identify, mitigate and prevent well known responsible business conduct risks can be found in the *Crimes Legislation Amendment (Combatting Foreign Bribery) Bill 2024* (Cth), *Illegal Logging Prohibition Act 2012* (Cth), *Work Health and Safety Act 2011* (Cth) and *Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021* (Cth).

In our view, the introduction of a due diligence obligation in the Act is essential. We note that leading Australian businesses and investor groups are also supportive of this reform, as it would create a more level playing field for businesses that are already taking action to address modern slavery risks.

*Anti-Slavery Commissioner role must be strengthened*

We welcome the [recommendations](#) made by the Senate Legal and Constitutional Affairs Committee in their recent inquiry report that the ASC Bill should be amended to increase the Commissioner's engagement with victim-survivors. However, we remain concerned that the Committee did not heed concerns raised by a number of stakeholders about the Commissioner's independence, enforcement powers and resourcing, and urge the Government to reconsider these issues in the ASC Bill, and revisit them following the Government's response to the Review of the Act.

In particular, we believe it is essential that the role of the Commissioner has adequate investigative and enforcement powers to help ensure compliance with the Act, including with respect to due diligence by companies. These should include, in our view, the power to issue penalties for non-compliance, to initiate own motion inquiries (for example in relation to the identification of systemic issues in particular industries) and to handle complaints to facilitate access to remedy for victim-survivors. The Commissioner should also be empowered to make written declarations that a region, location, industry, product, supplier or supply chain is regarded as having a high modern slavery risk.

The current budget for the Commissioner's office of \$8 million over 4 years should be substantially increased so that it can effectively discharge the wide and varied functions of the role and help to position Australia as a global leader in tackling modern slavery.

In light of the above, we strongly urge the Government to:

1. respond to the Review recommendations as soon as possible;
2. introduce a due diligence obligation for reporting entities under the Act in addition to penalties for non-compliance;
3. strengthen the powers, independence and resourcing of the Commissioner (in particular in relation to enforcement, investigation and complaint handling) in the ASC Bill and also revisit the Commissioner's role when the wider reforms to the Act are introduced.

We would welcome the opportunity to meet with you to discuss how we can support the progress of these much-needed reforms. Please have your offices contact Nicole Tooby, Government Relations Manager at the Human Rights Law Centre ([Nicole.Tooby@hrlc.org.au](mailto:Nicole.Tooby@hrlc.org.au)) should you require any further information.

Yours sincerely,

1. Keren Adams, Legal Director, Human Rights Law Centre
2. Michele O'Neil, President, Australian Council of Trade Unions (ACTU)
3. Carolyn Kitto, Co-Director, Be Slavery Free
4. Justine Nolan, Professor and Director, Australian Human Rights Institute, UNSW Sydney
5. Serena Grant, Head of Business Engagement, Walk Free
6. Ramila Chanisheff, President, Australian Uyghur Tangritagh Women's Association
7. Amy Sinclair, Regional Representative for Australia, New Zealand & Pacific, Business and Human Rights Resource Centre
8. Sam Klintworth, National Director, Amnesty International Australia
9. Karen Flanagan AM – Principal Advisor Child Protection, Save the Children Australia

10. Dr Mark Zirnsak, Senior Social Justice Advocate, Uniting Church in Australia, Synod of Victoria and Tasmania
11. Kerry Weste, President , Australian Lawyers for Human Rights
12. Sarah Knop, Advocacy Manager, Baptist World Aid Australia
13. Jonathan Kolieb, Co-Director, RMIT Business and Human Rights Centre
14. The Very Rev'd Dr Peter Catt, Chair, Social Responsibilities Committee, Anglican Church Southern Queensland
15. Dr Murray Harvey, Bishop of Grafton, The Anglican Diocese of Grafton
16. Susie Hughes, Executive Director, International Coalition to End Transplant Abuse in China (ETAC)
17. Sr. Margaret Ng, Coordinator of Josephite Counter Trafficking Project, Josephite Counter Trafficking Project
18. Jenny Stanger, Executive Manager and ACAN Program Manager, Australian Catholic Antislavery Network
19. Nikki Capp, CEO, Entrust Foundation
20. Melinda Tankard Reist, Movement Director, Collective Shout - for a world free of sexploitation
21. Robin Mellon, CEO, Better Sydney
22. Sue Mowbray, CEO, Mercy Foundation
23. Grace Wong, Chief Advocacy Officer, International Justice Mission Australia
24. Chloë Spackman, Board President, Project Didi Australia
25. Robyn Parkin, Head of Sustainability, Ethical Partners Funds Management
26. Maree Marsh Leadership Team, Brigidine Sisters
27. Christine Carolan, Executive Officer, ACRATH
28. Alison Clentsmith, Senior Program Manager, Taldumande Youth Services
29. Jane Jeffes and Becky Honey, Co-Founders and Directors, War on Slavery
30. Dr Darian McBain, CEO, Outsourced Chief Sustainability Officer
31. Blake Looney, Reach Manager, The A21 Campaign Ltd
32. Fuzz Kitto, Co Director, Spirited Consulting

#### Individuals

33. Martijn Boersma, Associate Professor, University of Sydney
34. Professor John Dumay, Macquarie Business School
35. Heather Moore, Modern Slavery Researcher and Subject Matter Expert, RMIT University, Business and Human Rights Centre
36. Kyla Raby, Researcher, University of South Australia
37. Holly Cullen, Adjunct Professor of Law, University of Western Australia Law School
38. Dr Fiona McGaughey, Associate Professor, University of Western Australia Law School
39. Vikram Bhakoo, Associate Professor, University of Melbourne
40. Dr Erin O'Brien, Associate Professor, Griffith University
41. Dr Tim Connor, Senior Lecturer, School of Law and Justice, University of Newcastle

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