

**INQUIRY INTO MODERN SLAVERY ACT 2018 AND
ASSOCIATED MATTERS**

Organisation: The Freedom Hub Ltd

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To the NSW Legislative Council's Standing Committee on Social Issues -
Inquiry into the *Modern Slavery Act 2018* and associated matters

Sydney, 3rd October 2019

Submitted by : The Freedom Hub Ltd.



in agreement with the following 14 entities:



ETHICAL MERCH CO



Contact: The Freedom Hub Founder & CEO:

E-mail:

Mobile:

We welcome this opportunity to comment on the Inquiry into the Modern Slavery Act 2018 and associated matters to incorporate the many businesses that expressed the wish to collaborate with us on this matter and declared their agreement with our comments. As we are leading other businesses in being ethical, they have decided to co-logo with us.

We would also like to declare our agreement on all points submitted by our coalition partner *Be Slavery Free* in their own submission paper.

Who Are We?

The Freedom Hub Café and Event venue exists to end human trafficking and modern slavery in Australia and help people who have been victims of this crime recover and reintegrate. As an ethical business for purpose, we have become renowned for our ethical procurement policies and collaborative partnerships with businesses who have ethical values. Our strong focus is on helping others develop corporate ethical skills and run their business accordingly.

We have been running our social enterprise for the past four years. Because of this success, we are proud recipients of the *2019 Sydney City Regional Business Award for Excellence in Social Enterprise*.

Our unique feature is that we run our business with the aim being to provide funds that support the Freedom Hub Survivor School. Through the Survivor School, people who have been victims of slavery receive long-term support throughout their rehabilitation process. Our two cafés and event venue not only raise funds, but also become a focal point for community involvement and awareness.

Preliminary Comments

'Start by doing what's necessary, then do what's possible, and suddenly you are doing the impossible.'¹ This has been our main motto since the very beginning. We are persuaded that the implementation of the New South Wales (NSW) Modern Slavery Act (MSA) will make the impossible possible.

While many people live in the wrong belief that modern slavery doesn't affect us as a country, it is indeed a reality even within the Australian borders. As a matter of fact, **25,200 new people are trafficked into labour-related slavery every day. Moreover, for every 6 months the NSW MSA is delayed, the equivalent of the population of Sydney enters slavery.**

NSW has the strongest and most comprehensive Modern Slavery legislation in the world. As the 7th largest economy in Asia - **the region of the world where 70% of modern slavery is found** - NSW must therefore take the moral imperative its government identified seriously and offer leadership. In view of the above, NSW must push forward to implement the MSA (2018) as a matter of urgency.

Comments On Specific Items Within The Terms Of Reference:

Having reviewed and considered each of the proposed amendments to the NSW Act, we would like to address our specific concerns with respect to the operability of the anti-slavery scheme as follows.

¹ Francis of Assisi

Terms of Reference (a)

The operability of the proposed anti-slavery scheme

We commend the Government on the consultation draft of the Modern Slavery Bill 2019 (MSA Amendment Bill) with the focal point of these changes being to ensure that the NSW MSA better aligns with both the policy intent behind the NSW MSA (2018), the constitutionality and the ability of the NSW Act to operate and function effectively.

We also commend the Department of Premier and Cabinet on the inclusion of Attachment A in their submission into the Inquiry into the Modern Slavery Act 2018 (the NSW Inquiry 2019), which outlines the reasons for, and the effect of, each of the proposed amendments to the NSW Act.

The proposals address any ambiguous, erroneous and inconsistent drafting which potentially exists in the NSW Act, and ensure the Act operates as intended and works in conjunction with the Modern Slavery Act 2018 (Commonwealth) (MSA Commonwealth).

It is our position that the Amendment Bill ensures the operability of the proposed anti-slavery scheme by:

- Ensuring goods and services procured by government agencies are not the product of modern slavery
- Ensuring Corporations where a Minister is a Shareholder fall within the definition of a 'commercial organisation' and be required to produce a Modern Slavery Risk statement
- Clarifying the role of the Commissioner and allowing greater flexibility in the role and overseeing flexibility in reporting by businesses

It is imperative that the MSA Amendment Bill

- continues to include penalties for non-compliance in reporting (recognising that voluntary schemes have had little success in addressing modern slavery and child labour)
- retains the threshold of \$50 million (see below, page 4)

The Commonwealth Inquiry Report, 'Hidden in Plain Sight'³ recommended a reporting threshold of \$50 million (like the UK MSA of UK£36 million⁴). The reason given for choosing a higher threshold was explained as lack of capacity within the Commonwealth government to identify and process more than approximately 3,000 reports from organisations. As it stands, some Australian companies operating in the UK are required to report in the UK but will not be required to report in the Commonwealth. The proposed NSW scheme threshold simply matches the UK threshold.

³ Parliament of the Commonwealth of Australia, Hidden in Plain Sight, An inquiry into establishing a Modern Slavery Act in Australia. Joint Standing Committee on Foreign Affairs, Defence and Trade, December 2017 Canberra: <https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024102/toc_pdf/HiddeninPlainSight.pdf;fileType=application/pdf>.

⁴ Some submissions to the Cth Inquiry recommended a threshold of \$25 million, the definition of a large corporation in the Corporations Act <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Submissions>

Terms of Reference (b)

The effect of the anti-slavery scheme on business, including the supply chain reporting obligations under s24 of the NSW Act

A Modern Slavery Act requiring mandatory assessment of risk and reporting for transparency in supply chains is beneficial for business. It defines a level playing field so that those who are doing the right thing by conducting their business in accordance with human rights obligations⁵ are not penalised by needing to compete with the majority who drive prices down through the use of slave labour.

Our own experience working as a business who has taken the eradication of slavery in our supply chain seriously is that it has been advantageous for our business. We have customers consciously choose us and pay more, because they know they are doing the right thing. Also, suppliers are willing to comply with our ethical standards, because it aligns with the sustainable development goals.⁶

It is clear that the presence of competition on the market is beneficial for the economy. However, intensified competition is not justified when other businesses owe their success to business models built on modern slavery and thus on the violation of most fundamental human rights.⁷ Any business built on such reliance has a flawed business model. Any economy built on slavery is a false economy and false economies will collapse. Therefore, it is imperative that the supply chain risk assessment and reporting process become a normality and that everyone participate and comply with it.

We urge the NSW Government to require and support those doing business in NSW to be a part of ending Modern Slavery.

I. Complying with legislation is simply the cost of doing business in this day and age

The financial cost for businesses in NSW addressing slavery should be viewed as a necessary investment into meeting their international human rights obligations for the workers in their supply chains.

II. The reputational risk of not taking these steps is much higher than any cost of compliance

As public interest in ending modern slavery continues to grow, there will be an implicit social cost and a real financial cost (penalties plus loss of customers and business) for companies who are recalcitrant on modern slavery. As millennials are driving change, corporate social responsibility (CSR) has become a top priority and so are sustainable supply chains.⁸

III. The Commonwealth (Cth) has estimated the regulatory impact of producing a Modern Slavery Risk statement as \$21,950

With a lower reporting threshold for the NSW Modern Slavery Act, the reporting organisations will be smaller. As such they will have smaller and less complex supply chains. This will make the average cost of compliance less than the Cth estimation. As a company that has just reached the \$1 million threshold, the Freedom Hub has demonstrated this can be done.

⁵ See article 8 of the ICCPR.

⁶ See United Nations, Sustainable Development Goals, <<https://www.un.org/sustainabledevelopment/sustainable-development-goals/>>.

⁷ Universal Declaration of Human Rights, GA Res 217A (III), UN GAOR, UN DOC A/810 (10 December 1948) article 4.

⁸ Debbie Haski-Leventhal/Mehrdokht Pournader, 'Business students willing to sacrifice future salary for good corporate social responsibility: study', <<https://theconversation.com/business-students-willing-to-sacrifice-future-salary-for-good-corporate-social-responsibility-study-73122>>.

IV. The submission to the Inquiry from the NSW Government uses this same figure of \$21,950 for companies covered under the NSW Act. However...

While the first year of reporting will be more onerous and resource intensive for any organisation that has not begun the process of addressing Modern Slavery. In subsequent years, once a culture of prioritising addressing Modern Slavery has been established, this should decrease. The Commonwealth Register will help large businesses buy from small businesses. Moreover, the voluntary submission will serve as a “supplier list” for any business surpassing the \$100 million threshold.

Terms of Reference (c)

Clarifying supply chain reporting obligations – Charities and not-for-profits, Local Government and Small Business

We do not agree with the excluding of any organisation, business or entity on the basis of their size and capacity. We disagree with the exclusion of charity donations from the turnover calculation in particular and would like to specifically comment on this matter.

We believe the public has a right to be assured that their charitable donations are not being used to procure goods and services which are the product of Modern Slavery. Hence, we believe that donations should be included in calculation for establishing a charity’s turnover or consolidated revenue.

Terms of Reference (g)

Whether the passage of the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary, or requiring of amendments to address inconsistencies or gaps

Any response to Modern Slavery requires a holistic approach. In that sense, the NSW MSA (2018) is a true Modern Slavery Act. At this stage, the Commonwealth Act 2018 is a Transparency in Supply Chains Act only and does not take this all-inclusive approach.

The NSW Act provides a holistic, person-centred approach to addressing Modern Slavery. Such an approach engages civil society, business, government and the community, providing the best chance there is to end Modern Slavery. It is a shared responsibility with crucial components such as the following five points:

i. A commissioner for advocacy and victim support and regular review of the Act

Working with survivors ourselves, we would like to urge the Committee to recognise the necessity of an advocate representing the victims of modern slavery. On the behalf of many of them we would like to underline that guaranteeing the access to an advocate would be of major importance to ensure that the survivors’ voices are heard and it would make them feel empowered and confident that they can build a new life.

ii. Education and awareness raising for the community and business identification

As mentioned at the beginning of this document, the Freedom Hub Café and Venue provide funds for our Survivor School, which lays the foundations for the rehabilitation of the respective victims. Survivors of slavery are trained, encouraged and prepared for the workforce through one-to-one mentoring, supported learning and practical application. **Our Survivor school is proof that slavery happens in our country and**

therefore education to the community and business sector is paramount when it comes to the identification of and eradication of modern slavery.

iii. Compensation and protection systems for those who have experienced slavery

Use of technology solutions by NSW can enable the processing of large numbers of reports as well as providing the kind of data which governments, business and civil society currently only dream of having access to.

iv. Government procurement being covered by the Act

v. Modern Slavery risk reporting with penalties for non-compliance

Terms of reference (h)

The preferred course of action to address the matters identified

Whilst we understand that the decision by the NSW Government to send the NSW MSA (2018) to the Legislative Council Standing Committee on Social Issues for review, rather than enacting the legislation relates to operability of the proposed anti-slavery scheme, it also implies serious consequences as no clear timeline is provided for when or if the Act will be implemented:

- By the time this submission closes and the Inquiry report is due (February 2020), **3,326,400 new people – the equivalent of half the population of NSW** - will have potentially entered slavery;
- The MSA (2018) was due to come into effect on 1 July 2019. Over 12 months delay means that **approximately twice the population of Sydney may have been enslaved in that time**;
- Furthermore, the MSA (2018) passed through all process including being given 'Assent' last year. Therefore, it is ready for implementation.
- In view of these facts, strong moral and ethical leadership dictates that urgent consideration needs to be given to the establishment of a clear timeline and to any other necessary steps to enable implementation at the earliest possible point in time.

We propose that:

- The committee develop a timetable to report earlier;
- The regulations be developed and approved alongside the Inquiry process;
- A clear timeline for the implementation be disclosed by the Government as soon as possible, enabling the Act to come into effect on **1 January 2020**

Terms of Reference (i)

Any other related matter

I. Human Rights Focus

We are shocked that the Terms of Reference give so much weight primarily on the impact of the Act on business, when they are supposed to focus on the victims in the supply chains of consumer goods and services we purchase. We highly recommend the Inquiry committee to include the capacity such an Act has to release people who are enslaved and to prevent further enslavement of people in its final report.

II. Forced Marriage

On 4 September 2018 our Survivor School Principle and social workers attended the *NSW Forced Marriage Network meeting* at the Red Cross Offices. This Network incorporates government, non-government organisations, and civil society, providing an opportunity for key stakeholders to share knowledge and collaborate to prevent forced marriage.

Therefore, we encourage the Inquiry Committee to consider whether the introduction of Forced Marriage Prevention Orders (as in the UK) may be useful in strengthening the NSW Act.

III. Labour Hire

In the absence of progress towards a National Labour Hire Licencing scheme, we encourage the Inquiry Committee to consider and recommend a NSW state-based licencing scheme of labour hire agents as has been done in Victoria¹⁴, South Australia¹⁵ and Queensland¹⁶.

This Act is not just a piece of legislation. It should be a blueprint for the kind of society we want NSW to be, respecting and upholding human rights including the fundamental right of people to be free. The Act should be an expression of the society and values we want to characterise NSW. We can – and should – be setting world standards. There is a moral imperative to do so.

A list of contact details of business entities who agree with the content of this submission can be provided upon request.

¹⁴ See <<https://labourhireauthority.vic.gov.au>>.

¹⁵ See <<https://www.sa.gov.au/topics/business-and-trade/licensing/labour-hire-licence>>.

¹⁶ See <<https://www.labourhire.qld.gov.au>>.