

Submission  
No 102

## INQUIRY INTO MODERN SLAVERY ACT 2018 AND ASSOCIATED MATTERS

**Organisation:** Konica Minolta Business Solutions Australia

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# Submission to the Legislative Council Standing Committee on Social Issues

## Inquiry into the Modern Slavery Act 2018

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## Introduction

1. Konica Minolta Business Solutions Australia Pty Ltd (“Konica Minolta Australia”) thanks the Committee for the opportunity to contribute to the inquiry into the New South Wales (NSW) Modern Slavery Act 2018 (the NSW Modern Slavery Act) and associated matters. Included in this submission are our comments on the draft Modern Slavery Regulation 2019 (the “NSW Regulation”) in addition to the following terms of reference of this inquiry:
  1. *That the Standing Committee on Social Issues inquire into and report on the Modern Slavery Act 2018 (NSW) (the NSW Act), the consultation draft of the Modern Slavery Bill 2019 (the amendment Bill), and the consultation draft of the Modern Slavery Regulation 2019 (NSW) (the Regulation), with particular reference to:*
    - (a) *the operability of the proposed anti-slavery scheme*
    - (b) *the effect of the anti-slavery scheme on business, including the supply chain reporting obligations under section 24 of the NSW Act*
    - (c) *the intended application of the anti-slavery scheme with respect to charities and not-for-profit organisations, State Owned Corporations and local councils*
    - (g) *whether the passage of the Modern Slavery Act 2018 (Cth) renders parts or all of the NSW Act unnecessary, or requiring of amendment to address inconsistencies or gaps*
    - (h) *the preferred course of action to address the matters identified*
    - (i) *any other related matter.*
2. This submission is informed by the published submissions of other individuals and organisations to this inquiry and the evidence provided by witnesses appearing before the Committee at the hearing on 4 November 2019.

## Who we are

3. Konica Minolta Australia is a fully owned subsidiary of Konica Minolta Incorporated (“KMI”), a Japanese listed multinational technology company. Konica Minolta Australia is a market leading provider of integrated print hardware and software solutions, 3D printing and robotics and is the sales and distribution arm of KMI in Australia. In Australia, we have our headquarters in Macquarie Park in NSW, with branch offices around the country.

## Our commitment to Human Rights

4. Both globally and locally, Konica Minolta Australia takes the protection of human rights seriously. KMI, a Japanese Incorporated company, has been an active member of the Responsible Business Alliance (RBA) for approximately 7 years

(previously known as the Electronic Industry Citizenship Coalition), a network of companies committed to supporting the rights and wellbeing of workers affected by the global electronics supply chain.

5. Locally, Konica Minolta Australia works to cascade global practice in our value-chain by taking action to embed ethical sourcing, which includes assessing the risks of modern slavery in our operations and supply chains and building the capacity of our suppliers to understand and address the risks of modern slavery for themselves. We launched our Ethical Sourcing Roadmap<sup>1</sup> in early 2016, a copy of which is annexed to this submission. We also work closely with civil society to support their efforts to uphold the rights and support the wellbeing of victims of human trafficking in Australia and Cambodia. We are members of the UN Global Compact Network Australia (GCNA) and active participants in the GCNA Modern Slavery Community of Practice Group.
6. Our Human Rights Position Statement<sup>2</sup> first published in December 2016 sets out Konica Minolta Australia's commitment and approach to the mainstreaming and implementation of human rights across our business, which are aligned with the Sustainable Development Goals as well as key internationally recognized human rights laws and standards.
7. We are also members of the NSW Government's Department of Planning, Industry and Environment's 'Sustainability Advantage' programme, through which we collaborate with government, civil society and other businesses to advance our sustainability programs and drive greater impact in social and environmental sustainability.
8. Pertinently, Sustainable Development Goal 8.7 concerns the eradication of child labour and actions to address human trafficking, matters which are at the heart of this inquiry. Accordingly, this legislation represents and will facilitate meaningful action from multiple parts of our society to address this wicked social problem.

## Recognition of our work

9. In 2017, Konica Minolta Australia received the Freedom Award from Anti Slavery Australia, in recognition of 'an outstanding contribution to the field of ethical

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<sup>1</sup> The current version of our Ethical Sourcing Roadmap is available here: [https://www.konicaminolta.com.au/KonicaMinolta/media/KonicaMinolta/Insight%20Series/Konica-Minolta-Ethical-Sourcing-Roadmap\\_v2.pdf](https://www.konicaminolta.com.au/KonicaMinolta/media/KonicaMinolta/Insight%20Series/Konica-Minolta-Ethical-Sourcing-Roadmap_v2.pdf)

<sup>2</sup> Our Human Rights Position Statement is available here: [https://www.konicaminolta.com.au/KonicaMinolta/media/KonicaMinolta/Insight%20Series/Human-Rights-Position-Statement\\_121216.pdf](https://www.konicaminolta.com.au/KonicaMinolta/media/KonicaMinolta/Insight%20Series/Human-Rights-Position-Statement_121216.pdf)

sourcing and human rights’<sup>3</sup>. We were the first business to have received such an award.

10. In 2018, we received the Human Rights Award in the Business category from the Australian Human Rights Commission, in recognition of our ‘leadership on modern slavery’ as well as our ‘family violence leave policy’ and our ‘commitment to gender and diversity equality’<sup>4</sup>.
11. At the global level, in January 2019, our parent company, Konica Minolta Inc, was named as one of the ‘2019 Global 100’, that is the ‘100 Most Sustainable Companies in the World’ by Canadian based media, research and financial information products company Corporate Knights<sup>5</sup>.
12. Additionally, Konica Minolta Inc has been listed on the Dow Jones Sustainability World Index, a leading global index for ESG Investment, for eight consecutive years<sup>6</sup>.

## Our advocacy concerning Modern Slavery and the relevant NSW and Commonwealth legislative regimes

13. On 15 June 2017, two representatives of Konica Minolta Australia appeared before the Legislative Council Select Committee on human trafficking in New South Wales, and their evidence appeared throughout the report of that inquiry.
14. We also made submissions to the various federal governments consultation processes concerning the development of what is now the Modern Slavery Act 2018 (Cth) as well as concerning the draft of the Guidance document published by the Department of Home Affairs to support businesses with reporting obligations under that Act. Konica Minolta Australia and our Managing Director, Dr David Cooke, were vocal supporters of the need for such legislation and our business now has reporting obligations under that legislation.

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<sup>3</sup> Anti Slavery Australia, 2017, Freedom Awards Announcement Available at: <http://www.antislavery.org.au/what-we-do/news-archive/293-congratulations-to-the-2017-freedom-award-recipients.html>

<sup>4</sup> Australian Human Rights Commission, 2018, ‘Winners Announced – 2018 Human Rights Awards’. Available at: [https://www.humanrights.gov.au/about/news/winners-announced-2018-human-rights-awards?\\_ga=2.48543023.829719681.1573705394-1259865573.1565240460](https://www.humanrights.gov.au/about/news/winners-announced-2018-human-rights-awards?_ga=2.48543023.829719681.1573705394-1259865573.1565240460)

<sup>5</sup> Konica Minolta Inc, 22 January 2019, News Releases, ‘Konica Minolta Listed among 2019 Global 100 Most Sustainable Corporations in the World’, Available at: <https://www.konicaminolta.com/global/newsroom/2019/0122-02-01.html>

<sup>6</sup> Konica Minolta Inc, 30 September 2019, News Releases, ‘Konica Minolta Listed on the Dow Jones Sustainability World Index, a Leading Global Index for ESG Investment, for Eight Consecutive Years’ Available at: <https://www.konicaminolta.com/global/newsroom/2019/0930-01-01.html>

## General Comments on the NSW Modern Slavery Act

15. Konica Minolta Australia applauds the NSW Parliament for the passage of its Modern Slavery Act 2018 on 21 June 2018 and its assent on 27 June 2018. This legislation, as many have commented in their submissions to and during oral evidence before this Committee, is world-leading in many respects. Some of the key aspects of this include:
  - a. The creation of the post of the NSW Anti-Slavery Commissioner, which will provide critical support for victims of modern slavery and drive greater awareness of the existence of modern slavery and galvanise effective responses to address and eradicate it. What is required is meaningful engagement from multiple parts of society, and it is critical that there be an independent voice with a mandate to progress this important work.
  - b. The inclusion of the NSW government in the reporting obligations under the NSW Modern Slavery Act, noting its considerable commercial influence as a major procuring entity or collection of entities, and the robust framework set up within the legislation to foster real and meaningful engagement.
  - c. The reporting threshold of the NSW Modern Slavery Act which captures businesses with employees in NSW with an annual turnover of \$50million to \$100million, which will create a level playing field for businesses of that size, thus galvanising action within the business community to find collaborative solutions to address the challenges of supply chain transparency and assessing and addressing the risks of modern slavery in supply chains; and
  - d. The inclusion of penalties within the supply chain reporting regime, which goes beyond the approach taken in both the UK Modern Slavery Act 2015 and the Modern Slavery Act 2018 (Cth).

## Comments Concerning the Modern Slavery Bill 2019 and the Modern Slavery Regulation 2019

16. We applaud the efforts that have been made to align the reporting requirements of the NSW Modern Slavery Act as set out in s24 of the Act and in the draft regulation with its federal counterpart.
17. We support the proposal in the draft regulations with respect to s26 of the Act to create a public register where all statements will be located, not only those disclosing findings of modern slavery within supply chains. Publishing all statements in a centrally located and publicly accessible manner, will be an extremely important aspect of the success of this legislation to drive best practice and increase transparency and awareness.
18. It is likely in our view that a register which is designed to only publish instances of findings of modern slavery by reporting entities may be a disincentive for businesses to really look for and find these issues within their supply chains. Throughout our advocacy, external engagement and capacity building efforts, it has been apparent that there is still much to be done to raise our collective

consciousness of the risks of modern slavery within the everyday goods and even services we buy and use.

19. We support the proposal to exempt subsidiaries of parent companies reporting under the federal legislation from reporting obligations under the NSW Act.
20. We note the discussions that took place during the hearing on 4 November with respect to the terms 'annual turnover' or 'consolidated revenue'. In keeping with this stated desire to achieve consistency where possible, we submit that the term 'turnover' be replaced with 'consolidated revenue'.
21. We note the proposal to exempt not-for-profits and charities from the supply chain reporting requirements in the legislation. Whilst we appreciate that the reporting requirement will require resourcing within any entity with reporting obligations, we submit that this question is one that the NSW Government ought to address as a matter of capacity building and technical assistance. Importantly, it should not be a barrier to requiring action from organisations that carry out their operations in NSW and have procurement functions where there are likely to be inherent risks of modern slavery, as there are with commercial entities.
22. Similarly, with respect to the proposed exemption for organisations with less than 20 employees in NSW that nevertheless meet the annual turnover of at least \$50million, we submit that such an exemption might fail to capture layers of subcontracting within such entities' operations and supply chains, which is one area in which increased transparency might further the aims of this legislation. Again, any concern as to resourcing required to meet reporting obligations might be best addressed by the NSW Government through capacity building and technical assistance.
23. We note that considerable efforts have been undertaken and progress made in this regard by the NSW Interim Anti-Slavery Commissioner and her office to both consult extensively with businesses and other entities as well as to prepare Guidance material in advance of the commencement of this legislation. Such efforts have and will continue to go a long way to assisting businesses and all NSW Government agencies with reporting requirements to understand and implement these new obligations.
24. One area where technical assistance and capacity building is required, is in supporting businesses in understanding the UN Guiding Principles on Business and Human Rights, how to implement the 'respect, protect and remedy' framework and the nature of undertaking 'human rights due diligence', which is in essence what is being called for in the supply chain reporting requirements. These principles, unanimously endorsed by the UN Human Rights Council in 2011, serve as the blueprint for business in respecting human rights. Importantly, these Principles apply to businesses of all sizes and in all sectors and they also acknowledge that the nature of a company's approach to implementing the responsibility to respect human

rights will in part be dictated by its size, operations and resources, as set out in Principle 15<sup>7</sup>:

*15. In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes **appropriate to their size and circumstances**, including:*

*(a) A policy commitment to meet their responsibility to respect human rights;*

*(b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;*

*(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute. [emphasis added]*

25. We note points of divergence have emerged with respect to the treatment of State Owned Corporations and Local Government. As a business who is engaged in actively trying to influence business processes for positive social impact and as a supplier to various state, federal and local government entities, we recognise the complexities involved in the major changes that these requirements will bring. Additionally, we recognise the significant flow-on effects that NSW government procurement requirements will have for the market more broadly, representing genuine and positive business transformation.
26. Accordingly, in our view, it would be prudent to put in place consistent requirements for different government agencies to enable standardised reporting and guidelines and galvanise collaboration even within and across NSW Government entities. Such measures would need to include provisions for oversight and monitoring to ensure compliance, which inclusion in reporting obligations would provide. In our experience, driving ethical purchasing is as critical to achieving supply chain transparency as ethical sourcing, that is the management from the top of the supply chain.
27. With respect to the treatment of local government and State Owned Corporations in the legislation, we would want to see at least the same treatment being applied to those entities which meet the reporting threshold as that which applies to commercial entities in s24.
28. Legislation such as this creates an enormous opportunity for those entities with reporting obligations. It is all about inputs and outputs. How much effort do you need to put in and how much benefit are you likely to receive back. This is a standard decision-making equation that every business makes every day multiple times. No business wants modern slavery in its supply chain; it's not just immoral, it is illegal and the risk of reputational damage is huge, far greater than ever before as the spotlight is being shone on this issue like never before.

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<sup>7</sup> Office of the High Commissioner for Human Rights, 2011, "Guiding Principles for Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework", available at: [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)



29. So how do businesses, and other organisations start on the journey to ensuring their supply chains are free of forced labour? It is through legislation such as this and related Acts and the offices and support structures set up along with them and the development of consulting practices which have emerged in response to the Acts. This new ecosystem provides far greater resources than have ever existed before to assist organisations to undertake their work of eliminating human rights abuses from their operations. So to exempt certain entities potentially lessens their commitment (as it becomes optional), lessens the likelihood of them acting and by definition increases the likelihood of them continuing with forced labour in their supply chains. Exemption is a curse not a blessing.
30. Finally, it is important to recognise that what the NSW Parliament has championed in this legislation is at the forefront of efforts globally to address one of the greatest human rights violations of our times; that of slavery and human trafficking. Like all matters of law and policy, it is likely that good practice and lessons learned will emerge over time. This legislation is subject to oversight through a Parliamentary Committee and this will be a crucial method for review and continuous improvement of our society's response to these vexing issues over time.
31. We look forward to seeing this Act proclaimed.