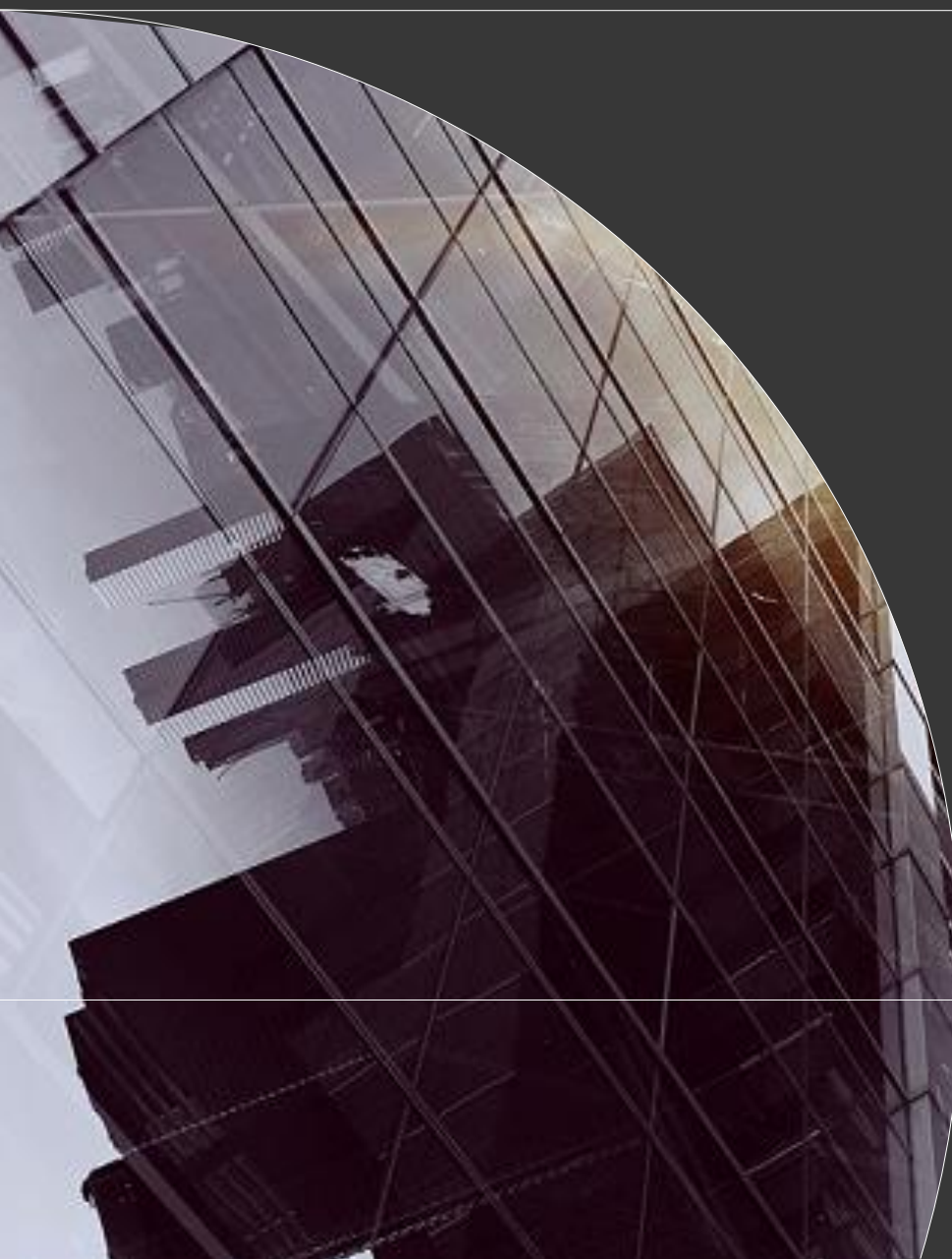


Submission to the Senate Standing
Committee on Legal and
Constitutional Affairs

Inquiry on the Modern Slavery
Amendment (Australian Anti-Slavery
Commissioner) Bill 2023

January 2024



BCA

Business Council of Australia

Contents

1.	Overview.....	2
2.	Key recommendation.....	2
3.	Proposed legislative changes.....	2
4.	The BCA's Position	3
5.	Conclusion	3

1. Overview

The Business Council of Australia (BCA) welcomes the opportunity to submit this submission in response to the inquiry on the *Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023*. This submission seeks to articulate the BCA's stance on the proposed establishment of the Anti-Slavery Commissioner and emphasise broader business views on the modern slavery legislation.

Modern slavery, representing a significant human rights violation and criminal act, has been increasingly prevalent on a global scale. Within the Australian context, estimates indicate a worrying presence of human trafficking and slavery, with data from the Australian Institute of Criminology suggesting a hidden but substantial number of victims. The Modern Slavery Act 2018 (Cth) has been a pivotal step in addressing this issue, mandating large businesses to report on their efforts to identify and mitigate modern slavery risks in their operations and supply chains.

Addressing modern slavery risks remains a top priority for Australian businesses. Effective resolution of this issue necessitates a united effort among government entities, businesses, and civil society organisations. The introduction of the Anti-Slavery Commissioner is a welcome step to enhance this collaboration. However, we recommend aligning this new role with existing initiatives, including that of the NSW Anti-Slavery Commissioner, to minimise duplication and maximise impact. Through these collaborative efforts, we can strive for a future where modern slavery is more effectively targeted and eliminated in our society.

2. Key recommendation

The BCA recommends maintaining a non-punitive, educational approach towards modern slavery compliance, emphasising the importance of clear communication and support for businesses in understanding and fulfilling reporting requirements. Furthermore, the BCA recommends that the Anti-Slavery Commissioner prioritise raising awareness, fostering collaboration, and offering support, especially to small and medium-sized enterprises within larger corporate supply chains, without imposing additional bureaucratic burdens.

The BCA also suggests that the Anti-Slavery Commissioner helps businesses navigate regulatory obstacles that may obstruct sector-wide cooperation in identifying and addressing modern slavery risks in supply chains. This collaboration can be hampered by concerns about anti-competitive legislation. The Commissioner's role may thus play a crucial part in enabling companies to work together effectively, without violating competition laws, to identify and mitigate these risks.

3. Proposed legislative changes

The *Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023* proposes important amendments to the *Modern Slavery Act 2018 (Cth)*, primarily the establishment of an independent Anti-Slavery Commissioner within the Attorney General's portfolio.

The BCA recognises the Australian Government's commitment to combatting modern slavery and suggests that the Commissioner's role should complement existing government efforts at both federal and state levels. Aligning the Commissioner's functions with those of the NSW Anti-Slavery Commissioner and within Australia's international obligations and existing legislation is essential.

4. The BCA's Position

The BCA recommends the Anti-Slavery Commissioner's role should be to help elevate public awareness of modern slavery and enhancing cooperation among business, government, and civil society sectors. This collaborative approach, particularly in knowledge exchange and best practice validation, is seen as crucial to tackling modern slavery effectively.

Feedback from BCA members suggests that the Anti-Slavery Commissioner could play a significant role in increasing awareness among smaller-sized businesses, even those without direct reporting obligations. This could potentially help reduce the educational burden on larger businesses with smaller suppliers.

The BCA suggests that the Anti-Slavery Commissioner could help businesses to overcome regulatory barriers, facilitating effective sector-wide collaboration to address modern slavery risks in supply chains while avoiding anti-competitive concerns.

The BCA also wishes to acknowledge the current level of compliance with the Act's reporting requirements, noting that businesses have been responsive to stakeholder concerns, leading to continuous improvements in reporting systems. The BCA firmly believes that challenges observed in the initial reporting phases, such as discrepancies in the extent and depth of reporting on due diligence measures, do not arise from a lack of willingness. Instead, they primarily emanate from differing interpretations and the evolving stage of comprehending effective reporting practices.

The BCA also appreciates its involvement in the Government's Modern Slavery Expert Advisory Group. We anticipate that the Anti-Slavery Commissioner will actively engage with this group to solicit its insights regarding the implementation of the legislation and to ensure that the concerns of Australian businesses, and the community more broadly, are duly considered.

As previously submitted to the Review of Australia's Modern Slavery Act 2018¹, it remains the BCA's opinion that introducing civil penalties and sanctions are not necessary at this stage. The current mechanisms, including the Minister's capacity to publicly identify non-compliant companies, have proven effective in incentivising appropriate conduct. The BCA advocates for maintaining a non-punitive, educative approach, emphasising the need for clear communication of reporting obligations and support for businesses in fulfilling these requirements.

5. Conclusion

In conclusion, the BCA continues to advocate for a strategy that prioritises awareness, education, and collaboration over punitive measures. The Commissioner's role is crucial in enhancing awareness, encouraging collaboration, and building capacity, particularly among smaller businesses. This approach is in line with the BCA's commitment to ethical business practices and the broader goal of eradicating modern slavery in Australia and internationally.

¹ https://www.bca.com.au/submission_on_the_statutory_review_of_the_modern_slavery_act_2018_cth_the_act

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