

"The Corporate Code of Conduct Bill 2000"

A Commentary and Analysis

The Australian Chamber of

Commerce and Industry

October 2000

The Democrats Say	The Chamber Says
<p>Objects of the Act</p> <p>"(1) The objects of this Act are:</p> <p>(a) to impose environmental, employment, health and safety and human rights standards on the conduct of Australian corporations or related corporations which employ more than 100 persons in a foreign country; and</p> <p>(b) to require such corporations to report on their compliance with the standards imposed by this Act; and</p> <p>(c) to provide for the enforcement of those standards.</p> <p>(2) To avoid doubt, a body corporate to which this Act applies is not required to take any action to meet the requirements of this Act in respect of its operations in a foreign country that it would not be required to take in respect of its operations in Australia."</p> <p>(Clause 3).</p>	<p>Objects of the Act</p> <p>Commerce and industry considers the Bill to be fundamentally flawed.</p> <p>The Bill erroneously presumes the Australia has the best practice model and appropriate moral ascendancy in each of these areas. Comment.</p> <p>The Bill also wrongly assumes a 'one size fits all' model is appropriate for all countries, discounting the specific circumstances of individual (especially developing) countries. Comment.</p>

The Democrats Say	The Chamber Says
<p>Extra-territorial Operation</p> <p>"This Act applies outside Australia but does not apply in relation to any corporation outside Australia unless that corporation employs or engages the services of 100 or more persons in a country other than Australia and is:</p> <p>(a) a trading or financial corporation formed within the limits of the Commonwealth; or</p> <p>(b) a holding company of such a corporation; or</p> <p>(c) a subsidiary of such a corporation; or</p> <p>(d) a subsidiary of a holding company of such a corporation."</p> <p>(Clause 4)</p>	<p>Extra-territorial Operation</p> <p>Commerce and industry is strongly opposed as a matter-of-principle to the extra-territorial application of laws. Opposed.</p> <p>Such laws are gross incursions of the national sovereignty of other countries, and patronising especially where they are applied by developed upon developing countries. Comment.</p> <p>Enactment of the Bill is likely to adversely impact upon those it's advocates may be seeking to assist, by discouraging Australian firms from engaging in trade and commerce with developing countries and so impairing their development capacities and potential. Comment.</p> <p>Commerce and industry, from an operational perspective, is also concerned at compliance with laws having extra-territorial application.</p> <p>How does an overseas corporation deal with any conflicts of laws/legal obligations between the Australian and host country jurisdictions? Clarification Required.</p>

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	<p>Is full and effective compliance with the laws of the host country an absolute defence against the extra-territorial application of laws, a problem compounded where there are multiple jurisdictions. Comment.</p> <p>Commerce and industry notes the Bill discriminates by size of firm, which implies either a policy bias against larger enterprises or a perception smaller firms are likely to be ineffectual in meeting the objects of the Bill. Comment.</p>
<p>Application to Government Business Enterprises</p> <p>"(1) This Act binds the Crown in right of the Commonwealth in so far as the Crown in right of the Commonwealth carries on a business, either directly or by an authority of the Commonwealth.</p> <p>(1) Subject to subsections (3) and (4), this Act applies as if:</p> <p>(a) the Commonwealth, in so far as it carries on a business otherwise than by an authority of the Commonwealth; and</p>	<p>Application to Government Business Enterprises</p> <p>Commerce and industry, while rejecting the Bill as a matter-of-principle, considers Federal legislation should have application on a competitive neutrality basis.</p> <p>That is, apply equally to private and public sector enterprises regardless of their ownership. Comment.</p>

The Democrats Say	The Chamber Says
<p>(b) each authority of the Commonwealth (whether or not acting as an agent of the Crown in right of the Commonwealth) in so far as it carries on a business; were a body corporate.</p> <p>(2) Nothing in this Act makes the Crown in right of the Commonwealth liable to be prosecuted for an offence.</p> <p>(4) The protection in subsection (3) does not apply to an authority of the Commonwealth." (Clause 5).</p>	
<p>Interpretations - Corporate</p> <p>"In this Act, unless the contrary intention appears:</p> <p>anti-competitive agreement means an agreement which if enforced within Australia would be contrary to Part IVA of the Trade Practices Act 1974...</p> <p>body corporate means:</p> <p>(a) A trading or financial corporation formed within the limits of the Commonwealth; or</p>	<p>Interpretations - Corporate</p> <p>Commerce and industry, while rejecting the Bill as a matter-of-principle, considers these interpretations to be comprehensive in their coverage.</p> <p>However, the Bill leaves open the issue of how does an overseas corporation deal with any conflicts of laws/legal obligations between the Australian and host country jurisdictions? Clarification Required.</p>

The Democrats Say	The Chamber Says
<p>(b) A holding company of such a corporation; or</p> <p>(c) A subsidiary of such a corporation; or</p> <p>(d) A subsidiary of a holding company of such a corporation....</p> <p>Executive officer of a body corporate means a person, whether or not a director of the body corporate, who is concerned in, or takes part in, the executive management of the body corporate.....</p> <p>Industrial undertaking means:</p> <p>(a) mines, quarries and other works for the extraction of minerals, including oil and gas, from the earth or seabed; or</p> <p>(b) industries in which articles are manufactured, altered, cleaned, repaired, finished, adapted for sale, broken up or demolished, or in which materials are transformed; or</p> <p>(c) the generation or transmission of electricity; or</p> <p>(d) the distribution of gas or water; or</p>	<p>This provision could have wide and deep application within an enterprise, beyond the senior management which may be the original intent.</p> <p>Indeed, it could be read to embrace persons of a supervisory nature at the shop floor level. Comment.</p> <p>The interpretation to be given to industrial undertaking is biased between enterprises by the nature of their activity.</p> <p>The Bill provides coverage for enterprises engaged in mining, infrastructure and manufacturing, but not those engaged in the supply of many services (for example, health or education). Comment.</p>

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<p>(e) the construction, reconstruction, maintenance, repair, alteration or demolition of any building or structure; or</p> <p>(f) the transport of passengers or goods by road, rail, air, sea or inland waterway, including the handling of goods at docks, quays, wharves and warehouses...</p> <p>overseas corporation means a body corporate which employs or engages the services of 100 or more persons in a country other than Australia..." (Clause 6).</p>	<p>The Bill also demonstrates a bias against incorporated entities, relative to unincorporated entities, although this may well reflect the Constitutional limitations imposed on the Federal Government's legislative reach.</p> <p>Comment.</p>
<p>Interpretations - Labour and Social</p> <p>"In this Act, unless the contrary intention appears: ...</p> <p>basic needs means nutritious food, clothing, health care, education, potable water, child care, transportation, housing and energy...</p>	<p>Interpretations - Labour and Social</p> <p>The interpretation of 'basic needs' is potentially open-ended as to quality - is 'basic' measured by developed or developing countries standards, or those appropriate to the host country?</p> <p>Comment.</p>

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<p>employees means persons engaged to perform work or service for an enterprise.</p> <p>forced or compulsory labour means all work or service which is exacted from any person under the threat of any penalty, and for which that person has not offered himself or herself voluntarily, but does not include any work or service:</p> <p>(a) of a purely military character exacted by virtue of a law providing for compulsory military service; or</p> <p>(b) which forms part of the normal civic obligations of the citizens of a self-governing country; or</p> <p>(c) required to be performed as a consequence of a conviction in a court of law, provided that the work or service is to be performed only under the control of a public authority; or</p> <p>(d) required in cases of emergency, famine, war or serious threat...</p> <p>living wage means a wage sufficient to meet the basic needs of a family of two adults and three children in the country or region they are resident in...</p>	<p>This may potentially cover a range of people it is not intended that the legislation cover, such as independent contractors.</p> <p>It may be clarified by specifying that employees refers to those persons engaged under a contract of service. Clarification Required.</p>

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<p>minimum international labour standards means standards contained in the following International Labor Organization Conventions as agreed under Australian law:</p> <p>(a) Freedom of Association and Protection of the Right to Organize Convention (No. 87);</p> <p>(b) Right to Organize and Collective Bargaining Convention (No. 98);</p> <p>(c) Forced Labour Convention (No. 29);</p> <p>(d) Abolition of Forced Labour Convention (No. 105)</p> <p>(e) Discrimination (Employment and Occupation) Convention (No. 111);</p> <p>(f) Equal Remuneration Convention (No. 100);</p> <p>(g) Minimum Age Convention (No. 138);</p> <p>(h) Occupational Safety and Health (No. 155)."</p> <p>(Clause 6).</p>	<p>Comments regarding the term ‘basic needs’ also apply to this definition.</p> <p>This is the wrong approach to ILO Conventions. Australian legislation, federal and State, determines the appropriate conditions to apply to Australian companies. Disagree.</p> <p>When Australia ratifies an ILO Convention it does so when satisfied that Australian legislation is in conformity with the Conventions in question.</p> <p>The Bill seeks to directly apply ILO Conventions which are often ambiguous, phrased very generally, and offer a variety of methods of implementation. Disagree.</p>

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<p data-bbox="236 293 692 327">Interpretations - Environment</p> <p data-bbox="236 389 778 472">"In this Act, unless the contrary intention appears:</p> <p data-bbox="236 533 778 757">ecosystem means a dynamic complex of plant, animal and micro- organism communities and their non-living environment interacting as a functional unit...</p> <p data-bbox="236 817 564 851">environment includes:</p> <p data-bbox="236 911 778 1039">(a) Ecosystems and their constituent parts, including people and communities; and</p> <p data-bbox="236 1099 778 1182">(b) natural and physical resources; and</p> <p data-bbox="236 1243 778 1326">(c) the qualities and characteristics of locations, places and areas; and</p> <p data-bbox="236 1386 778 1514">(d) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b) or (c)...</p> <p data-bbox="236 1574 778 1899">precautionary principle means that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage." (Clause 6).</p>	<p data-bbox="799 293 1256 327">Interpretations - Environment</p> <p data-bbox="799 389 1353 566">The proposed definitions on the environment are so broad as to encompass all elements, both tangible and intangible.</p> <p data-bbox="799 627 1353 754">As such, it is conceivable that any action or conduct could impact upon the environment. Disagree.</p> <p data-bbox="799 815 1353 943">Any definition should be limited strictly to ecosystems, and the physical resources they contain. Disagree.</p> <p data-bbox="799 1003 1353 1131">Humans are not critically dependent upon the environment, and their inclusion cannot be justified. Disagree.</p> <p data-bbox="799 1574 1353 1702">The precautionary principle should be replaced by appropriate risk management strategies. Proposal.</p>

The Democrats Say	The Chamber Says
<p>Standards - Environment</p> <p>"(1) An overseas corporation which undertakes any activity in a place must take all reasonable measures to prevent any material adverse effect on the environment in and around that place from that activity.</p> <p>(2) Without limiting subsection (1), an overseas corporation must:</p> <p>(a) at least once in every period of 12 months, collect and evaluate information regarding the environmental impacts of its activities; and</p> <p>(b) establish objectives for the measurement of its environmental performance; and</p> <p>(c) monitor and assess its compliance with those objectives; and</p> <p>(d) provide timely information to its employees and to members of the public in any place in which it undertakes activities on the actual and potential environmental impacts of the activities of the corporation; and</p>	<p>Standards - Environment</p> <p>Such an approach is consistent with the practice of commerce and industry. Agree.</p> <p>Commerce and industry is strongly opposed to mandatory reporting. Disagree strongly.</p> <p>Firms may elect, on a voluntary basis, to publish information on its environmental policies and performances. Comment.</p> <p>Where companies operate under licences, they must ensure the terms and conditions of those arrangements are honoured and provide any information required under that licence. Comment.</p>

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<p>(e) have appropriate policies on matters of environmental safety, including (where applicable) the handling of hazardous materials and the prevention and control of environmental accidents; and</p> <p>(f) undertake environmental impact assessments of all new developments, including providing an opportunity for public comment on the assessment; and</p> <p>(g) have regard to the precautionary principle in carrying out the actions mentioned in paragraphs (a) to (f)."</p> <p>(Clause 7)</p>	<p>Such assessments should not be mandatory unless required by the law of the sovereign nation host country. Comment.</p> <p>This proposal is unclear, but appears inappropriate for reporting purposes. Clarification required.</p> <p>How does an overseas corporation deal with any conflicts of laws/legal obligations between the Australian and host country jurisdictions? Clarification Required.</p>
<p>Standards - Occupational Health and Safety</p> <p>"(1) An overseas corporation must take all reasonable measures to promote the health and safety of its workers.</p>	<p>Standards - Occupational Health and Safety</p> <p>Commerce and industry recognises the responsibility of employers under a general duty of care to provide a safe and healthy workplace for all employees. This is already provided for in Australian legislation.</p>

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<p>(1) Without limiting subsection (1), an overseas corporation must:</p> <p>(a) provide a safe and healthy workplace for its employees; and</p> <p>(b) provide satisfactory sanitary conditions at a workplace; and</p> <p>(c) not require its employees to work for more than 5 consecutive hours without a break of at least 20 minutes; and</p> <p>(d) not require its employees to work for more than 12 hours each day; and</p> <p>(e) not require its employees to work more than 48 hours each week without the agreement of the employees; and</p> <p>(f) have appropriate policies for responding to an accident or medical emergency at a workplace; and</p> <p>(h) provide adequate education and training to employees in health and safety matters, including the prevention of accidents."</p> <p>(Clause 8)</p>	<p>Australia cannot second guess, amend, supersede, supplement, or otherwise vary the legislation applying in other countries.</p> <p>Hours of work are matters best dealt with by agreement between employers and employees at a workplace level. Disagree.</p> <p>Commerce and industry recognises that employers should put in place appropriate policies and procedures for responding to an accident or medical emergency, and provide induction and ongoing education and training in health and safety matters, for their employees which are appropriate for the worksite.</p>

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	<p>Again, Australia cannot second guess, amend, supersede, supplement, or otherwise vary the legislation applying in other countries. Disagree.</p> <p>How does an overseas corporation deal with any conflicts of laws/legal obligations between the Australian and host country jurisdictions? Clarification Required.</p>
<p>Standards - Employment</p> <p>(1) "An overseas corporation must not use or obtain the benefit of any forced or compulsory labour.</p> <p>(2) An overseas corporation must not use or obtain the benefit of the labour of any child under the age of fourteen years in any public or private industrial undertaking.</p> <p>(3) An overseas corporation must:</p> <p>(a) as a minimum, pay all its workers a living wage; and</p> <p>(b) not dismiss a worker for reasons of illness or accident; and</p> <p>(c) respect the freedom of its workers to associate; and</p>	<p>Standards - Employment</p> <p>The obligations of Australian businesses are those set out in Australian legislation and Australian awards and the legislation in place in countries where those businesses operate.</p> <p>The addition of these proposed obligations is unnecessary and potentially inconsistent with the detailed legislative obligations already placed on Australian businesses. Disagree.</p> <p>What for example is a 'living wage'? What countries provide this? What countries do not? Does even Australia provide this, given that the phrase is not actually used in the legislation providing for fixation of awards and in the relevant arbitrated decisions?</p>

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<p>(d) respect the right of its workers to organise independently and bargain collectively; and</p> <p>(e) enable any complaints about conditions of labour to be forwarded to independent authorities; and</p> <p>(g) comply with minimum international labour standards."</p> <p>(Clause 9)</p>	<p>The Australian award system is termed a 'safety net' which could be argued to be different in nature to a so-called 'living wage'. Comment.</p>
<p>Standards - Human Rights</p> <p>(1) "Subject to subsection (2), in any matter which relates to the employment or occupation of a person, an overseas corporation must not distinguish, exclude or prefer a person on the basis of race, colour, sex, sexuality, religion, political opinion, national extraction or social origin if this has the effect of nullifying or impairing equality of opportunity or treatment in that employment or occupation.</p> <p>(2) Subsection (1) does not apply to any distinction, exclusion or preference:</p>	<p>Standards - Human Rights</p> <p>The Chamber is strongly opposed to discrimination.</p> <p>However, the draft clause does not explain how an overseas corporation will deal with any conflicts between the laws/legal obligations of Australia and the host country jurisdiction. Clarification Required.</p>

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<p>(a) in respect of a particular job based on the inherent requirements of the job; or</p> <p>(b) in connection with employment as a member of the staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, where that distinction, exclusion or preference is made in good faith in order to avoid injury to the religious susceptibilities of adherents of that religion or creed; or</p> <p>(c) in connection with established governmental policies which specifically promote greater equality of employment opportunity."</p> <p>(Clause 10)</p>	
<p>Standards - Taxation Laws</p> <p>"An overseas corporation must comply with the tax laws in each country in which it operates."</p> <p>(Clause 11)</p>	<p>Standards - Taxation Laws</p> <p>Commerce and industry recognises all businesses should comply with, and are entitled to the opportunities provided, by all the laws, including those of a taxation nature, in the countries within they operate. Agree.</p>

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<p data-bbox="236 293 777 376">Standards - Consumer Health and Safety</p> <p data-bbox="236 439 777 757">"(1) An overseas corporation must ensure that any goods or services which it provides satisfy the required standards for consumer health and safety for those goods or services in Australia and in any country in which it undertakes activities.</p> <p data-bbox="236 819 777 1189">(1) An overseas corporation must take all reasonable measures to prevent any serious threat to public health in any country in which it undertakes activities which might occur from the consumption or use of products made by that corporation.</p> <p data-bbox="236 1252 777 1621">(2) An overseas corporation must take all reasonable measures to remove any serious threat to public health in any country in which it undertakes activities which has occurred from the consumption or use of products made by that corporation."</p> <p data-bbox="236 1671 400 1704">(Clause 12)</p>	<p data-bbox="799 293 1340 376">Standards - Consumer Health and Safety</p> <p data-bbox="799 439 1340 667">Commerce and industry recognises all businesses should comply with the laws relating to consumer health and safety in the countries in which they operate. Comment.</p> <p data-bbox="799 730 1340 902">How does an overseas corporation deal with any conflicts of laws/legal obligations between the Australian and host country jurisdictions?</p> <p data-bbox="799 913 1145 947">Clarification Required.</p>

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<p data-bbox="236 293 777 376">Standards - Consumer Protection and Trade Practices</p> <p data-bbox="236 439 777 712">"(1) An overseas corporation must not, in any country in which it undertakes activities, engage in any conduct that is misleading or deceptive or which is likely to mislead or deceive.</p> <p data-bbox="236 775 777 1048">(1) An overseas corporation must not, in any country in which it undertakes activities, enter into or carry out or give effect to any anti-competitive agreement with another person."</p> <p data-bbox="236 1111 400 1144">(Clause 13)</p>	<p data-bbox="799 293 1353 376">Standards - Consumer Protection and Trade Practices</p> <p data-bbox="799 439 1353 618">Commerce and industry recognises all businesses should comply with the laws relating to trade practices in the countries in which they operate.</p> <p data-bbox="799 629 959 663">Comment.</p>
<p data-bbox="236 1245 596 1279">Compliance - Reporting</p> <p data-bbox="236 1346 767 1715">"(1) Before 31 August each year, an overseas corporation (the corporation) must lodge with the Australian Securities and Investments Commission a Code of Conduct Compliance Report in accordance with subsection (2).</p>	<p data-bbox="799 1245 1161 1279">Compliance - Reporting</p> <p data-bbox="799 1346 1353 1671">Commerce and industry, while rejecting the Bill as a matter-of-principle, considers a number of the provisions of this Clause to be incompatible with those of Australia's principal laws in this area, namely the Corporations Law. Comment.</p>

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<p>(2) Subject to subsection (3), a Code of Conduct Compliance Report must include:</p> <p>(a) the financial and operating results of the corporation for 12 months; and</p> <p>(b) the members of the board of directors of the corporation and their remuneration; and</p> <p>(c) the 5 most significant executive officers of the corporation in each country (other than Australia) in which the corporation undertakes activities, and their remuneration; and</p> <p>(d) details of all shareholdings representing more than 5% of the issued capital of the corporation; and</p> <p>(e) the number of employees employed by the corporation in each country (other than Australia) in which the corporation undertakes activities; and</p> <p>(f) the total remuneration paid to the employees in each country (other than Australia) in which the corporation undertakes activities; and</p>	<p>The reporting time frame, with a deadline of 31 August of each year, is impractical (and unachievable) from a commercial operational perspective, and out-of-step with mainstream reporting processes. Comment.</p> <p>Commerce and industry considers many of these proposals unreasonable and onerous in the burdens they would impose upon businesses, and so subjective as to be impractical in compliance. Disagree.</p>

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<p>(g) a statement of the environmental impact, prepared by an independent auditor, of the activities of the corporation in each country (other than Australia) in which the corporation undertakes activities; and</p> <p>(i) a statement of any foreseeable risk factors that might arise as a result of the activities of the corporation in each country in which it operates (other than Australia); and</p> <p>(j) a statement of any contraventions of standards or laws relating to the environment, employment, health and safety and human rights by the corporation in each country in which it operates (other than Australia); and</p> <p>(k) a statement of the social, ethical and environmental policies of the corporation; and</p> <p>(l) any other matter relevant to the environmental, employment, health and safety and human rights standards observed by the corporation.</p>	

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<p>(3) If a corporation is required to lodge reports with the Australian Securities and Investments Commission apart from under this section, the corporation is not required to include in a report under subsection (2) any information that it has provided to the Commission in another report.</p> <p>(4) A corporation which, without reasonable excuse, fails to lodge a Code of Conduct Compliance Report is guilty of an offence punishable on conviction by a fine not exceeding 2000 penalty units.</p> <p>(5) If a corporation contravenes subsection (4) and:</p> <p>(a) an executive officer of the corporation knew that, or was reckless or negligent as to whether, the contravention would occur; and</p> <p>(b) the officer was in a position to influence the conduct of the corporation in relation to the contravention; and</p> <p>(c) the officer failed to take all reasonable steps to prevent the contravention, the officer contravenes this subsection.</p>	<p>While this provision provides modest relief from duplication of reporting, it does not offset the substantial increase in compliance costs imposed by the Bill upon commerce and industry.</p> <p>Comment.</p>

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<p>(6) An executive officer who is guilty of an offence under subsection (5) is liable, on conviction, to pay a fine not exceeding 1000 penalty units."</p> <p>(Clause 14)</p>	
<p>Enforcement - Civil Penalties</p> <p>"(1) Conduct which contravenes a provision in Part 2 renders an overseas corporation liable to proceedings for the recovery of a civil penalty.</p> <p>(2) If an overseas corporation contravenes a provision in Part 2 and:</p> <p>(a) an executive officer of the corporation knew that, or was reckless or negligent as to whether, the contravention would occur; and</p> <p>(b) the officer was in a position to influence the conduct of the corporation in relation to the contravention; and</p> <p>(c) the officer failed to take all reasonable steps to prevent the contravention;</p>	<p>Enforcement - Civil Penalties</p> <p>Commerce and industry, while rejecting the Bill as a matter-of-principle, considers criminal rather than civil penalties to be the appropriate form of sanction. Disagree.</p> <p>This view reflects the nature of the perceived wrongs being addressed, and the more appropriate suitability of criminal processes for actioning such matters. Proposal.</p> <p>Further, commerce and industry, while rejecting the Bill as a matter-of-principle, considers the limitation of authority to initiate legal action under the Bill to the three designated Officers to be appropriate. Comment.</p>

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<p>the executive officer also contravenes that provision.</p> <p>(3) Within 6 years of a person or corporation (the wrongdoer) contravening a provision in Part 2, the Treasurer or the Attorney-General or the Chairperson of the Australian Securities and Investments Commission may apply on behalf of the Commonwealth to the Federal Court of Australia for an order that the wrongdoer pay the Commonwealth a pecuniary penalty not exceeding 10,000 penalty units.</p> <p>(4) In determining the pecuniary penalty to be imposed, the Court must have regard to all relevant matters, including:</p> <p>(a) the nature and extent of the contravention;</p> <p>(b) the nature and extent of any loss suffered as a result of the contravention;</p> <p>(c) the circumstances in which the contravention took place; and</p>	

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<p>(d) whether the wrongdoer has previously been found by the Court in proceedings under this Act to have engaged in any similar conduct.</p> <p>(5) If conduct constitutes a contravention of 2 or more provisions in Part 2, proceedings may be instituted under this Act against a person or corporation in relation to the contravention of any one or more of those provisions. However, the person or corporation is not liable to more than one pecuniary penalty under this section in respect of the same conduct."</p> <p>(Clause 16)</p>	
<p>Enforcement - Civil Actions</p> <p>"(1) Where an overseas corporation contravenes a provision of Part 2, any person who suffers loss or damage as a result may bring an action in the Federal Court of Australia.</p> <p>(2) Where an overseas corporation contravenes a provision of Part 2, any person who is reasonably likely to suffer loss or damage as a result may bring an action in the Federal Court of Australia.</p>	<p>Enforcement - Civil Actions</p> <p>Commerce and industry, while rejecting the Bill as a matter-of-principle, considers the legal processes set down as fair and reasonable, and compatible with the general due processes of law, including those of standing, with the exception of sub-clause 6. Comment.</p>

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<p>(3) If the Federal Court of Australia is satisfied that a person has suffered loss or damage as a result of a contravention of a provision of Part 2, the Court may:</p> <p>(a) grant an injunction to prevent any further loss or damage; and</p> <p>(b) make an order for compensation.</p> <p>(4) If the Federal Court is satisfied that a person is reasonably likely to suffer loss or damage as a result of a contravention of a provision of Part 2, the Court may grant an injunction to prevent any further loss or damage.</p> <p>(5) In this section, person means any person, whether resident in Australia or elsewhere, and includes any body corporate or association of persons.</p> <p>(6) An action may be taken under subsection (1) or (2), on behalf of a person to whom either subsection applies, by a body corporate or association of persons whose principal objects include protection of the public interest."</p> <p>(Clause 17)</p>	<p>Commerce and industry rejects unequivocally any attempts to create standing for private legal persons, in whatever form, to initiate legal action on the ground of "the public interest".</p> <p>Disagree.</p> <p>Beyond the amorphous (and much debated) nature of the concept, commerce and industry foresees this platform being exploited by vested interests to advance political or social action agendas. Comment.</p>