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Good Food, Good Life

Submission to the Senate Standing Committee on Legal and Constitutional Affairs Inquiry into a Modern Slavery Bill

Nestlé Australia welcomes the opportunity to comment on the Modern Slavery Bill 2018 (“the Bill”).

In commenting, we wish to acknowledge the highly consultative approach taken by the Department of Home Affairs and the very positive way they have engaged with stakeholders through this process.

Nestlé is the world’s largest food and beverage company. It is present in 189 countries around the world, and its 323,000 employees are committed to Nestlé’s purpose of enhancing quality of life and contributing to a healthier future.

An important part of this is our aim to help develop thriving and resilient communities as part of a secure, long term supply chain. Human rights abuses have no part in our value chain, which is why we promote human rights at global and local levels across our business operations and value chain. This requires commitment and work over time. We will always be open and transparent about our efforts to address these issues.

Our comments on this Bill are based on our perspective as a multinational company which:

- reports each year on our actions to identify and address modern slavery risks as part of our global reporting,
- reports under the United Kingdom’s Modern Slavery Act 2015 (“UK Act”), and
- operates in a wide range of jurisdictions where requirements with a similar intent may be considered.

Reporting requirements

We note that the reporting requirements of the Bill go significantly beyond those of the UK Act. This is in part because they are mandatory, but in particular, because Australian business must also report on the steps we are taking to address modern slavery risks which have been identified and assess the effectiveness of those steps.

While we are of the view that the mandatory requirements are sensible, in practical terms this difference means that multinational companies will have to prepare bespoke statements for each country in which they are required to report. This will add cost and time to these businesses, as well as to their suppliers, which will need to be borne somewhere (not all suppliers may bear those costs themselves; some may pass them on to customers/consumers). It also lacks logic where the same supply chain and same issues will be covered in each separate national report.

We also note that since Australia has departed significantly from the UK legislation, there is less reason for any other country to feel it should follow the model of the UK – or Australia – in legislating its own modern slavery reporting requirement; so companies face the risk of multiple different reporting criteria in different countries.

For these reason, we encourage the Australian government to take ongoing steps to support global harmonisation of reporting standards.

Anti-Slavery Business Engagement Unit

We welcome the establishment of the Anti-Slavery Business Engagement Unit.

We encourage the government to ensure that this Unit is adequately resourced to be helpful to business in not only reporting, but understanding what steps can be taken to identify and address slavery risks. It is also our view that this Unit will need to be highly proactive, particularly in the earliest years, as this is the period where business will not only need most support, but also the period where raising awareness of this legislation is important.

There are a number of areas in the Bill which are not entirely clear to us. We recognise that these may be intended to be addressed through the Anti-Slavery Business Engagement Unit, through regulation or through guidelines; nevertheless we will raise them here:

- Reporting entities will need guidance from government on what government is looking for in statements, particularly in terms of how to assess the *effectiveness* of any steps taken to address identified modern slavery risks (s. 16(1)(e)) and what information is sought in response to s.16(f) re consultation with other entities.
- The intent of s.16(1)(e) “*describe how the reporting entity assesses the effectiveness of such actions*” needs clarification. Is this asking business to set out our assessment methods? Or to explain whether we believe the steps taken have been effective? While we assume the latter, it is important to be aware that assessing effectiveness is subjective and can be quite difficult.
- We would welcome clarity as to whether “revenue” and “consolidated revenue” are an entity’s revenue within Australia or globally. S.5(1)(a) of the Exposure Draft referenced the revenue as being “global”, but the word has been deleted from the draft Bill and it is not clear either from the Bill itself or from the cross-referenced legislation what geographic coverage is applicable to revenue for the purposes of calculating whether the reporting threshold is met.
- We would welcome confirmation that under s.14(1) the “entity” which submits a statement on behalf of one or more “reporting entities” need not be an Australian entity. For example, an overseas parent company could both approve and submit a statement covering all its controlled subsidiaries in Australia (to the extent those Australian subsidiaries fall within the definition of “reporting entity”).
- We also welcome the ability to submit revised statements if required (s.20). We suggest that further details of this provision be covered either in Regulations or guidelines, to provide reporting entities with clarity about the circumstances in which a revised statement may be warranted.

Three year Review

Given the intent and purpose of this legislation, we welcome Ministerial review of the operation of the Act three years after its commencement.

It would be helpful to provide early clarity to all stakeholders as to what the Ministerial review will encompass and how they might contribute to the review process.

Penalties

In the early stages of the legislation as organisations increase their understanding of modern slavery in their supply chains, change their outlook and operations to identify and address modern slavery risks within their supply chains and adjust to the reporting requirement, we welcome the absence of penalties for failure to file a statement.

However our view is that the absence of penalties will be counterproductive in the medium term, and that penalties for failure to report should be a focus of the three year review.

Commonwealth Procurement

The inclusion of government as an entity which must report is welcome leadership which will be instrumental in driving the success of this legislation and in shaping supplier behaviour.

Thank you again for the opportunity to comment.