1. **Corporate sector**

    a. *What are your views on which of the best practice criteria should be considered in any reforms for **corporate sector** whistle blowing legislation in Australia?*

The *Breaking the Silence* report contains best practice criteria which are consistent with but also extend upon the OECD's *Compendium of Best Practices and Guiding Principles*, which are the principles that Brisbane G20 identified as a reference point for self-assessment. The criteria in the *Breaking the Silence* report were developed by experts in the field and are a useful tool in considering whistleblower reforms in any sector. The criteria are not inconsistent with the principles we identified in our submission.

    b. *Are there aspects of the recent Fair Work Registered Organisation amendments (ROC amendments) to legislation for whistleblowing that would be appropriate to include in **corporate** sector reforms?*

In the most general terms, yes. For example, the framework ought to permit protected disclosures by persons who are no longer officers or employees of the company, ought to permit anonymous disclosures and ought to apply to a broader range of contravening conduct. In addition, the capacity for persons who have engaged in a "transaction" with a company may be less problematic in its application to corporation than it may be in its application to unions.

However, as we pointed out in our submission, the detailed provisions of the ROC amendments reveal technical shortcomings that require addressing.

    c. *Are any additional provisions necessary to ensure that whistleblowing laws are effective for multinational corporations, with significant management structures outside Australia?*

Yes, particularly if the intent is to permit and protect disclosures made domestically about conduct that is or may be unlawful in the "home" jurisdiction of the company concerned.

2. **Public sector**

    a. *What are your views on which of the best practice criteria should be considered in any reforms for **public sector** whistle blowing in Australia?*

Refer to our answer to 1(a) above.

    b. *Are there aspects of the recent ROC amendments for whistleblowing that would be appropriate to include in **public** sector reforms?*

No. It seems that the ROC amendments were based, to some extent, on *Public Interest Disclosure Act*. That Act performs well on the criteria in the *Breaking the Silence* report.

c. *Do you have any comments on the findings made by the Moss review of the Public Interest Disclosure Act 2009?*

We have nothing to add to the comments made in our submission.

3. Not-for-profit sector

a. *What are your views on which of the best practice criteria should be considered in any reforms for **not-for-profit** whistle blowing in Australia?*

Refer to our answer to 1(a) above.

b. *Are there aspects of the recent ROC amendments for whistleblowing that would be appropriate to include in **not-for-profit** sector reforms?*

No, the *Public Interest Disclosure Act*, which performs well on the criteria in the *Breaking the Silence Report* criteria, ought to be the basis for further expansion but based on detailed sector specific consultations to prevent the oversights that occurred in relation to the ROC amendments.

PIDA Agency, harmonisation and consistency

4. *Some submitters and witnesses have commented on the idea of establishing a Public Interest Disclosure Agency (PIDA) agency as an independent body to receive disclosures, provide advice to whistleblowers and a clearing-house for initial investigations (e.g. Submissions 32, 22). What do you consider to be the potential advantages and disadvantages of such an approach?*

Any central agency ought to be seen as a complement, rather than a substitute, for managing whistleblower disclosures, investigations and protecting whistleblowers. If an external agency were to become wholly and exclusively responsible, it may be more difficult to encourage appropriate cultures at an organisational level. Having said that, it needs to be recognised that not all sectors have the same capacity to compel co-operation with an investigation and/or their capacity to do so may vary depending on the source they wish to inquire of. Having an agency to refer such matters to in such instances would assist in ensuring disclosures are fully investigated. We see such a role as compatible with that of the broad based body we described in our submission to the Select Committee Inquiry into the establishment of a National Integrity Commission.

5. *What do you consider to be the advantages and disadvantages of putting all whistleblower protection laws in a single Act versus the current situation where the laws are spread over at least four Acts?*

A single Act has some appeal however we are concerned that it could become unwieldy owing to the need to adapt the general principled based approach to a multitude of sectors. Such an approach could be better justified if there was some common institutional framework which underpinned each of the frameworks it dealt with.

6. *To what extent should there be harmonisation (not replication, but consistency and difference where appropriate) of whistleblower provisions across the public, corporate and not-for-profit sectors?*

We favour harmonisation. We are not opposed to commonality in principle, but the distinguishing features of each type of organisation and the legal environment in which they operate must be taken into account achieving this.

   a. *What arrangements should be in place for companies or not-for-profit organisations that undertake contracts or work for the public sector to ensure that they or their staff or whistleblowers are not subject to conflicting arrangements?*

It is not at all uncommon for service providers that provide services to the Commonwealth to become subject to specific requirements as result of that engagement that do not apply to their other engagements. We see no reason to insulate service providers from such requirements. We regard the merits of the particular requirements imposed as the proper contestable policy space.