

Submission to the Parliamentary Committee inquiry:

Establishing a Modern Slavery Act in Australia

Introduction

Assent Compliance is a software service provider working with companies across all industries to facilitate their compliance programs. Among other regulations, Assent advises companies on due diligence efforts and compliance with anti-human trafficking and modern slavery laws such as the UK Modern Slavery Act, which is the subject of the Parliamentary Committee's inquiry.

In submitting this response to the Parliamentary Committee's inquiry, Assent hopes to leverage its considerable experience and expertise in this field to provide insights that will help the Committee develop a law that both addresses the issue of human trafficking and modern slavery within supply chains, while doing so in a manner that empowers businesses.

The following submission by Assent Compliance specifically addresses three of the Parliamentary Committee's terms of reference.

1) The prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia

While the prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia is outside of Assent's purview to comment on, as the Committee moves forward it is important to carefully consider the definitions of terms such as "organisations operating in Australia."

In the UK Modern Slavery Act, for example, this term is broad in its definition to include companies doing business in the UK, and not just those companies that are UK-owned or headquartered within the UK. This distinction is important as it creates a level playing field for all businesses, and does not provide any unfair advantages to companies outside of the UK.

With that in mind, and in response to the identified term of reference, Assent suggests the following action:

- That the definition of “organisations operating in Australia” should be broad enough to include companies who do business in Australia, rather than being restricted to Australian-owned companies or those headquartered in Australia.
- 2. Identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation**

Based on Assent’s experience supporting hundreds of the world’s largest companies in their due diligence and compliance activities, multinational companies currently struggle to identify key areas of risk of modern slavery within their supply chains. These companies repeatedly tell Assent they are searching for practical, standard tools to assess risk and collect data from their supply chain to guide them in preventing and mitigating the risk of modern slavery. Standardized guidance and tools are helpful in many ways:

- By avoiding overwhelming suppliers who currently receive hundreds of different types of requests from their customers
- In helping companies ensure good practice
- In facilitating benchmarking and ensuring transparency with regard to corporate approaches to tackling modern slavery

As such, and in response to the identified term of reference, Assent suggests the following action:

- That the Committee examine existing multi-stakeholder initiatives that bring together industry, NGOs/civil society and other stakeholders to develop standard tools, templates and resources for risk screening and mitigation in supply chains. One example of such an initiative is the Human Trafficking Risk Template, available at www.htrt.org.

3. Provisions in the United Kingdom’s legislation which have proven effective in addressing modern slavery, and whether similar or improved measures should be introduced in Australia;

Successful UK MSA measures:

Section 54 of the Modern Slavery Act has played a crucial role in galvanizing corporate attention and efforts to eradicating modern slavery and human trafficking in supply chains. As a result of Section 54 of the MSA, over the last year Assent has been contacted by companies across different industries seeking to increase their overall due diligence efforts with regards to modern slavery.

In particular, the success of the MSA’s Section 54 is linked, in Assent’s view, to the following provisions, requiring companies doing business in the UK to:

- Publicly disclose their efforts to eradicate modern slavery in their operations and supply chains results
- Have their statement approved and signed by the highest level of management
- Publish a statement annually, thereby creating the expectation of continuous improvement and commitment

These three key provisions ensure companies are accountable for their efforts, that compliance personnel achieve managerial support for compliance initiatives, and that the company is moving forward towards a common and well-defined goal.

UK MSA Areas for Improvement:

Assent has identified two key areas of improvement within the UK MSA. These include the introduction of mandatory due diligence and the establishment of a central repository of MSA statements, updated annually..

The UK MSA mandates companies report on their efforts to eradicate modern slavery and trafficking from their operations and supply chains, but does not mandate due diligence activities. While the UK MSA's Section 54 mandatory reporting is a good first step in improving corporate efforts to address modern slavery in supply chains, mandatory due diligence is the next step required to strengthen the legislation. In addition to having a more direct impact on human trafficking and modern slavery in supply chains, mandatory due diligence would also help to create a more level playing field for companies operating within the Act.

In addition, a key criticism of the UK MSA has been the lack of a publicly-accessible repository of all modern slavery statements filed each year. One of the intentions of the UK MSA's Section 54 was to 'level the playing field' for companies, but without such a repository some companies, predominantly well-known B2C to companies, are under much more scrutiny than other companies, such as B2B. By creating a central repository, not only will this help level the playing field for companies in scope, it will also enable companies to benchmark their efforts and statements, and understand what their peers are doing.

Therefore, in response to the identified term of reference, Assent suggests the following action:

- That the Committee look to other laws, such as the recent French Corporate Duty of Vigilance Law, which goes a step further than the UK MSA in requiring companies in scope to implement due diligence efforts in relation to their respect for human rights,

for insights into how such a requirement can be developed, framed and implemented to the benefit of all parties involved.

- That the Committee examine the benefits of establishing, or financing, a public repository to house the Australian equivalent to modern slavery statements, to be updated annually, which will ensure equal scrutiny across all businesses and help to support a level playing field for companies in scope of the law.

Closing Statement

This document is submitted to the Parliamentary Committee with the intent to help develop a law which both respects the needs of the Australian government and those of the businesses operating within the country, and which makes a positive impact to the rights of workers across global supply chains.

Assent Compliance is pleased to offer this submission and welcomes any opportunity to offer further comment or assistance in the development of this legislation.