

Submission to the Australian Competition and Consumer Commission

Telco Together Foundation & Ors application for authorisation
AA1000555 – interested party consultation

9 July 2021



1. Summary

Anti-Slavery Australia, at the University of Technology Sydney, welcomes the opportunity to make a submission to the Australian Competition and Consumer Commission on the application by Telco Together Foundation & Ors (TTF) for authorisation under the *Competition and Consumer Act 2010* (Cth) (AA1000555).

This submission draws upon Anti-Slavery Australia's research and advocacy as well as our extensive experience in working with and providing legal advice and assistance to victims and survivors of modern slavery in Australia since 2003.

Anti-Slavery Australia welcomes and supports collaborative initiatives, like TTF, and organisations collaborating to address modern slavery practices in their operations and supply chains.

This submission will provide comments on the likely public benefits that will result from the proposed conduct.

2. About Anti-Slavery Australia

Anti-Slavery Australia, at the University of Technology Sydney, is the only specialist legal, research and policy centre in Australia working to end modern slavery. Since 2003, our team has been providing pro bono legal and migration services to people who have experienced or are at-risk of modern slavery in Australia; engaging in research and advocacy grounded in the firsthand experience of survivors; and delivering training on modern slavery to frontline service providers, government, community, law enforcement, students and educators.

3. Modern Slavery

In Australia, the *Modern Slavery Act 2018* (Cth) has defined 'modern slavery' to mean human trafficking; slavery; servitude; forced labour; debt bondage; deceptive recruitment for labour or services; forced marriage; and the worst forms of child labour.¹ These are all crimes and grave human rights abuses.

It is incredibly difficult to estimate the numbers of people in modern slavery. However, globally, it is estimated that over 40.3 million people are either in forced labour or forced marriages, and that 73 million children are in the worst forms of child labour.² In Australia,

¹*Modern Slavery Act 2018* (Cth) s 4.

² International Labour Organisation and Walk Free Foundation, *Global Estimates of Modern Slavery* (2017); International Labour Organisation, *Global Estimates of Child Labour* (2017).

the Australian Institute of Criminology estimates that up to 1,900 people may be in modern slavery and that only 1 in 5 victims is ever detected.³ This year, Anti-Slavery Australia has already worked with over 400 people experiencing modern slavery in Australia.

Globally, the majority of people in forced labour work in economic activities such as agriculture, construction, and manufacturing.⁴ This includes work within the supply chains of businesses that we, as consumers and organisations, procure goods and services from. Governments, civil society, businesses and the public all have a role to play in combating modern slavery. There are increasing expectations from the international community, governments and the public, that businesses have a role to play in ensuring that human rights are respected within business operations and supply chains. This includes ensuring that businesses do not have people working in conditions of modern slavery, either directly for the business or in their supply chains.

To this end, around the world, there are an increasing number of laws that are aimed at increasing disclosure around human rights issues that may occur in businesses and their supply chains. In Australia, this has meant the establishment of the *Modern Slavery Act 2018* (Cth), which requires certain entities to report on what they are doing to assess and address the risks of modern slavery in their operations and supply chains through the publication of an annual Modern Slavery Statement that:

1. Identifies the reporting entity
2. Describes the reporting entity's structure, operations and supply chains
3. Describes the risks of modern slavery practices in the operations and supply chains of the reporting entity and any entities it owns or
4. Describes the actions taken by the reporting entity and any entities it owns or controls to assess and address these risks, including due diligence and remediation processes
5. Describes how the reporting entity assesses the effectiveness of these actions
6. Describes the process of consultation with any entities the reporting entity owns or controls (a joint statement must also describe consultation with the entity giving the statement)

³ Australian Institute of Criminology, *Estimating the dark figure of human trafficking and slavery victimisation in Australia* (2019).

⁴ International Labour Organisation and Walk Free Foundation, *Global Estimates of Modern Slavery* (2017) 29.

7. Provides any other relevant information.⁵

To assist entities with their obligations under the *Modern Slavery Act 2018* (Cth), the Commonwealth Government has published *Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities* (Commonwealth Guidance) which draws from the United Nations Guiding Principles on Business and Human Rights (UNGPs) and recommends that entities collaborate with suppliers, civil society and other entities that are required to report under the *Modern Slavery Act 2018* (Cth). In order to address modern slavery, there will need to be collaboration across and among stakeholders.

4. Collaboration

The UNGPs are highly influential in the context of global corporate responsibility, and were unanimously endorsed by the United Nations Human Rights Council. Part of their function is to clarify corporate responsibility in a human rights context.⁶ The 30th Guiding Principle of the UNGPs involves multi-stakeholder and other collaborative initiatives. Collaborative initiatives are endorsed as a means to address violations of human rights standards, including the presence of modern slavery in businesses and their supply chains. The Commonwealth Guidance specifically outlines that, in addressing modern slavery, collaboration among entities can help entities to exchange information and enhance their leverage in order to effect change.⁷ Collaborative initiatives can also be meaningful if they provide stakeholders with effective grievance mechanisms.⁸

Example: Cleaning Accountability Framework

The Cleaning Accountability Framework (CAF) is an example of a multi-stakeholder initiative made up of diverse stakeholders, working to address the exploitation of cleaners using a whole-of-industry approach. The commercial cleaning industry in Australia is considered a sector high in risk for exploitation and modern slavery. Often, property owners of large buildings and their tenants outsource work to cleaning companies. Some of these cleaning companies may further outsource the work to smaller cleaning companies. To improve transparency and accountability, CAF works with stakeholders across the cleaning supply

⁵ *Modern Slavery Act 2018* (Cth) s 12.

⁶ Rose Ireland, 'Rights and Modern Slavery: The Obligations of States and Corporations in Relation to Forced Labour in Global Supply Chains' (2017) 6 *UCL Journal of Law and Jurisprudence* 100 at 101.

⁷ Australian Border Force, *Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities* 51, 87.

⁸ John Gerard Ruggie 2011, *United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, guidelines, United Nations Office of the High Commissioner for Human Rights, Geneva at 32.

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chain, from property investors, owners and managers; to tenants, cleaning companies, unions and workers themselves. CAF has developed a set of standards that apply to cleaning practices throughout a supply chain, and recognises companies that are taking steps to meet these standards through 3 Star CAF Certification.⁹

Example: Property Council

The Property Council of Australia has collaborated with Informed 365 (a corporate social responsibility tech platform) to develop a customised online platform that allows Property Council members to engage with suppliers on what they are doing to manage modern slavery risks through an online questionnaire. Rather than completing online questionnaires multiple times for different clients, through the collaborative platform, each supplier is required to complete the relevant information only once. The questionnaire enables participating Property Council members to collect, compare and share data.¹⁰

Contact

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Acknowledgments

Alexi Abel and Siobhan Rooney, Anti-Slavery Australia.

⁹ Cleaning Accountability Framework, About the Cleaning Accountability Framework (Cleaning Accountability Framework, 2021): <https://www.cleaningaccountability.org.au/about-us/>

¹⁰ Adrien Moffatt, Sustainability Roundtable roundup (Property Council of Australia, 2020): <https://info.propertycouncil.com.au/property-australia-blog/sustainability-roundtable-roundup>