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# No slave to fashion

K&L Gates' **Monica Lillas** explains what new slavery laws means for the fashion industry.



**E**THICAL SOURCING AND supply chain management in the fashion industry has come under intense public scrutiny in recent years. As brands compete to produce high volumes of affordable clothing, with clothing ranges changing every season, it can be increasingly difficult for businesses to monitor their suppliers and prevent exploitation in complex multi-national supply chains.

## What is modern slavery?

Modern slavery exists in many forms and includes forced labour, wage exploitation, involuntary servitude, debt bondage, human trafficking and child labour, both in Australia and globally.

In Australia, supply chain management and transparency has largely been monitored by not-for-profit organisations. Baptist World Aid Australia publishes an Ethical Fashion Report which sets out what the industry and individual companies are doing to address modern slavery. The 2017 report showed that the industry is proactively seeking to improve its supply chains and that 67% of companies are already making efforts to ensure that suppliers, buyers and factory managers understand human trafficking, child labour and forced labour risks. Nonetheless, estimates suggest that over 45 million people across the globe are currently subject to some form of modern slavery.

In 2017 the Federal Government established a Committee to conduct an enquiry into the establishment of a Modern Slavery Act in Australia. Key players within the fashion industry, including the Adidas group, made submissions to the inquiry broadly supporting the establishment of a Modern Slavery Act in Australia. They provided examples of how each of their businesses worked to

mitigate risks of modern slavery within their supply chains and ensure their business practices were compatible with upholding human rights.

The final report of the Committee was published in late 2017 and recommended the Federal Government enact a Modern Slavery Act in Australia, including a supply chain reporting regime requiring certain businesses to publish a Modern Slavery Statement annually. The Government has indicated that it broadly supports the recommendation of the committee and is likely to introduce draft legislation in 2018.

## Modern Slavery Statement

The current proposal would require that any business with annual revenue over the threshold, likely to be \$50 million, to publish a Modern Slavery Statement on their website at the end of each financial year.

The Committee has recommended that businesses report against the following criteria

- Part A The organisation's structure, its business and its supply chains
- Part B Its policies in relation to slavery and human trafficking
- Part C Its due diligence processes in relation to slavery and human trafficking in its business and supply chains
- Part D The parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk
- Part E Its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate
- Part F The training about slavery and hu-

man trafficking available to its staff

In addition to mandatory reporting requirements, businesses below the \$50 million threshold may be able to voluntarily opt in to the reporting regime. Businesses that do not comply with reporting requirements will face penalties for non-compliance.

In theory, the Modern Slavery Statement is likely to only require businesses to report against the criteria set out above and will not require businesses to take proactive steps to combat modern slavery. However, it is expected that given potential reputational risk, most businesses will make improvements to their supply chains as a result of the reporting requirements.

## What next?

The government is currently developing detailed guidance on the operation and expectations of the supply chain reporting requirement and it is expected that draft legislation will be introduced in 2018.

It is important for the fashion business to learn about this area and have detailed systems, processes and resources in place to identify modern slavery in supply chains and take steps to reduce that risk. Fashion businesses should start to review their supply chains and look out for further developments when legislation is introduced later this year. ■

*For more information please contact Monica Lillas at K&L Gates (Monica.Lillas@klgates.com). This article is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.*