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Workplace Relations and Safety Policy  
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## **A LEGISLATIVE RESPONSE TO MODERN SLAVERY AND WORKER EXPLOITATION**

### **VECTOR SUBMISSION TO MBIE**

#### **Overview of submission**

1. Vector agrees that Modern Slavery and Worker Exploitation is a major global challenge to be solved and welcomes the opportunity to consult on this discussion document.
2. Vector's international customers, especially in Australia, are increasingly requiring active engagement in reducing modern slavery as a key requirement for business. Implementing Modern Slavery legislation in New Zealand will provide Vector with further credibility when interacting in the international market.
3. There are some key issues that will have to be worked through to ensure that the legislation is effective and can be efficiently resourced. In particular we address:
  - Alignment of existing regulations to the new modern slavery legislation.
  - Alignment of New Zealand modern slavery legislation to international requirements, in respect of proposed due diligence.
  - Importance of working together to address modern slavery, rather than as individual companies.
  - Tools that can be used to monitor compliance of modern slavery legislation.
  - Reparations.
  - Timing of the legislation and its phased approach.

#### **Regulatory Alignment**

4. Vector has noted that there is no mention of the Commerce Commission, or wording related to regulatory alignment in the discussion document. The Commerce Commission is responsible for enforcing the competition and consumer laws to our regulated businesses. In terms of supply chain, this requires regulated entities to purchase the most cost-competitive product without incorporating due diligence about Modern Slavery. Other matters such as energy efficiency have been taken into

account through amendments to the Commerce Act 1986. If modern slavery is not included within the Commerce Commissions mandate there is a risk that Vector's regulated businesses will be caught between ambitious policy directions, and misaligned regulations, including allowed revenues which would not include the additional costs of procuring in accordance with the proposed modern slavery legislations.

5. Taking decarbonisation as an example. The Climate Change Response (Zero Carbon) Amendment Act 2019 sets clear objectives towards Aotearoa's national decarbonisation plan, and also allows regulators to take decarbonisation into account. Whilst the Commerce Commission has acknowledged this provision allows them to consider the 2050 target, they state their ability to do so is 'limited' – due to its interaction with provisions in the Commerce Act 1986 – which do not reference decarbonisation.
6. Vector stresses that failure to correctly align regulations can cause a risk whereby Vector, in bearing the increased costs borne by meeting the legislative requirements, are penalised by regulations, that expect Vector to buy the cheapest product, regardless of its slavery or worker exploitation risks, impacts, or the increased costs in seeking to reduce / eliminate it.
7. Vector recommends that a clear government policy statement on this is provided, to the Commerce Commission to enable the Commerce Commission to fully take into account Modern Slavery and Worker Exploitation costs, risks, factors and impacts.

### **Alignment with overseas approaches - due diligence requirements**

8. Vector sees the benefit in having consistent modern slavery legislation in the region, particularly concerning the proposed due diligence requirements. Vector notes that compliance with the mandatory due diligence requirements currently proposed will be practically challenging, even for larger entities like Vector which are already working with international supply chains and committing resources to establishing robust supplier codes of conduct. We are also concerned that prescriptive due diligence could cause compliance complications, including unanticipated breaches, particularly when the legislation is in its naissance and entities are still developing their due diligence processes.
9. One option could be to move the focus of the proposed legislation away from prescriptive due diligence requirements, and instead require prescriptive modern slavery statements. That would allow entities, in their own sector with their own expertise, to determine then explain how they have assessed and managed risks from modern slavery in their global supply chains.

### **Breaking through silos with a Kotahitanga based approach**

10. The consultation paper proposes that the legislation requires individual companies to address modern slavery within their own supply chain across all tiers. While this is ambitious, it will also be very difficult and resource intensive to initiate (indeed, supply chains often involve complicated supply chains with several sub-contractors which are not always static) and then continue delivering results. There is concern that the complexity of a siloed approach runs the risk of not meeting the goals of reducing modern slavery and worker exploitation.
11. To highlight this issue, we use two practical examples:

- Big supplier issue: Vector’s solar business consists of a small team of around 20 people. There are numerous other solar companies in New Zealand of a similar size. Globally, 70% of solar panels are manufactured in China. When Vector, or Vector’s solar company contacts the Chinese solar supplier (second largest solar supplier globally), to investigate modern slavery risks, the difference in scale between the large Chinese supplier, and our small local business undermines the effectiveness of this work. If however a New Zealand – Australian coalition were to run a due-diligence study (paid for through a central fund), suddenly the scales become more balanced, and the large Chinese solar companies would come under increasing pressure to comply, clarify or address any concerns raised; or risk a significant loss of market share.
  - Small supplier issue: Vector’s electricity business is one of 27 electricity distributors across Aotearoa that share common suppliers. Each distributor would run their own modern slavery due diligence for their supply-chain which would be resource intensive for both Vector, and its 2168 tier 1 suppliers. On the other hand, a centralised certification scheme (see paragraph 18) would save time for both the electricity distributors, and the suppliers from being over surveyed, whilst correctly leveraging the combined interests and buying power of 27 electricity distributors to drive change and reduce/eliminate modern slavery and worker exploitation risks and occurrences. In this example, the electricity distributors can rely on the supplier’s certification for compliance, rather than running resource intensive due diligence.
12. These two examples highlight the effectiveness of using a collaborative approach to combat modern slavery, rather than adopting a siloed approach with its associated inefficiencies.
  13. There is an opportunity for the New Zealand Government, or the MBIE to coordinate such coalitions, or create a certification system to improve the efficiency of this process and enable more focussed targeting of global modern slavery.
  14. This centralised coordination becomes especially important when targeting deeper supply chain tiers (and sub-contractors within each tier), or when seeking answers from those regions, or large overseas companies who consider these ethical issues of no direct concern.

## Reparations

15. Vector stresses that if reparations are to be introduced in this bill, that significant care and consideration is first undertaken to determine the effectiveness of reparations. In particular we raise concerns:
  - That a recent study of compensation cases in Europe found that while roughly two-thirds of the trafficking cases studied resulted in compensation awards, only 1 in 10 cases resulted in actual pay-outs<sup>1</sup>.
  - That the crimes were done illegally, which may have limited physical proof or written evidence. Without this information, it will be difficult for New Zealand businesses to assess the validity of claims and make fair reparations. It could also expose them to the risk of costly false or unsubstantiated claims.
  - That victims of modern slavery can sit underneath complex criminal networks. There is a risk that the reparations may not necessarily reach the victim/s, and

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<sup>1</sup> [https://www.fastinitiative.org/resources/insight\\_8/](https://www.fastinitiative.org/resources/insight_8/)

there is no ability for organisations like Vector to acquire transparency into the workings of such criminal networks.

16. As New Zealand is in its early stages of introducing modern slavery legislation, it may be best to keep reparations within a voluntary scheme to be handled on a case by case basis. Reparations should be considered at a later date, informed by international best practices, and experience gained through the implementation of the proposed legislation in New Zealand.

### **Tools for compliance**

17. Especially in the early days of the modern slavery legislation, it would be valuable to have a centralised list of tools or systems that entities can use or follow to comply with the legislation. Examples of tools may include:
  - Curated supply chain questionnaires; standardised questionnaires do not just support the reporting company, but enable businesses that serve as suppliers to other NZ companies to use the same responses for multiple enquiries, particularly helpful for SMEs with little resources for these requests.
  - Risk rating profiles between different countries and their industries; and/or guidance on mapping and triaging suppliers by risk.
  - National whistle-blower lines for suppliers.
  - National training on Modern Slavery for businesses.
  - Centralised repository of international suppliers marked as 'non-compliant', or 'certified low-risk' – see paragraph 18.
18. The legislation currently discusses penalties. However there is an opportunity to also set up a benefit or certificate. For example, could the New Zealand government, or third-party certifier provide New Zealand businesses with a badge/kitemark? This not only simplifies the local procurement process, but also gives certified New Zealand businesses a competitive edge when selling to countries with Modern Slavery legislation.

### **Timing and phased approach**

19. Vector agrees with the proposal of a phased approach in the legislation. We recommend that clear times are given for when phases of the legislation should be met so that capability can be built accordingly.
20. Vector suggests that enforcement is also phased, with a grace period to enable organisational structures, and sector-based coordination to be developed, as there may be both considerable costs to be met, and personnel skills gaps to be addressed, both initially and ongoing thereafter.
21. To highlight some of the timing constraints, Vector's database of suppliers with spend over the past 3 years comes to 2168 suppliers. Vector will need to develop new tools, evolve its current systems, digital insights, and processes to manage such a large supplier base. Other companies of Vector's size (and indeed all sizes -some with lesser resources) may also be facing similar challenges.
22. As highlighted in Paragraph 11, this will directly impact all suppliers who may also need time to set up supplier compliance to address tier 2 - 4 (including sub-contractor) requirements from Vector and the Vector group of companies, further highlighting the importance of tools as discussed in Paragraph 17 – 19.

**Concluding Comment**

23. Vector thanks the MBIE for the opportunity to submit on this discussion document.

Yours sincerely

For and on behalf of Vector Limited



**Mark Toner**

Chief Public Policy, Regulatory Officer