



1 September 2025

Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
BARTON ACT 2600

Submitted online via: consultations.ag.gov.au/crime/modern-slavery-act/

To the Attorney-General's Department

Re: Strengthening the *Modern Slavery Act 2018* (Cth)

Thank you for the opportunity to provide a submission to the Strengthening the *Modern Slavery Act 2018* (Cth) (MSA) consultation.

Scarlet Alliance is Australia's national peak sex worker organisation. Formed in 1989, our membership includes state and territory-based and national sex worker organisations and individual sex workers across unceded Australia.

Scarlet Alliance advocates for equality, justice and the highest level of health for past and present workers in Australia's sex industry. We achieve our objectives through best practices including peer education, community development and community engagement. Through our work and the work of our member organisations, we have more contact with sex workers and sex industry workplaces than any other organisation in Australia. Many of our member organisations also employ multilingual outreach workers who engage with migrant sex workers across a range of workplaces.

For over three decades, we have provided expertise on sex work, trafficking, slavery and slavery-like practices in a variety of government, research, service provision, and civil society arenas. We convene the Asian Migrant Sex Worker Advisory Group (AMSWAG) to guide Scarlet Alliance's work and to ensure that migrant voices are centred in policy and legislation that directly affects them. Scarlet Alliance sits on the National Roundtable on Human Trafficking and Slavery, and we are a partner organisation for the [Additional Referral Pathway](#) to the Support for Trafficked People Program (STPP).

Our unique expertise allows us to assess the effectiveness of Australia's response to trafficking, slavery and slavery-like practices. This response includes the MSA, which creates legal obligations for large corporate entities to report on how they assess and address modern slavery risks within their supply chains.

Yours faithfully,

Mish Pony
Chief Executive Officer

Executive Summary

Scarlet Alliance is broadly supportive of reforms to strengthen the *Modern Slavery Act 2018 (Cth)* (MSA), but remains concerned that reporting entities continue to conflate consensual sex work with modern slavery. This misunderstanding has led to discriminatory practices such as debanking, denial of accommodation, and surveillance of sex workers – all of which directly undermine Australia’s human rights and anti-discrimination obligations.

Sex work is a lawful occupation in most Australian states and territories. Mischaracterising it as an inherent slavery risk not only distracts from addressing genuine cases of trafficking and exploitation but also places migrant and sex worker communities at greater risk of harm.

Scarlet Alliance recommends that the proposed reforms be accompanied by clear guidance materials developed in consultation with Scarlet Alliance and the Asian Migrant Sex Worker Advisory Group (AMSWAG).

These materials must explicitly state that consensual sex work is not a modern slavery risk, and remind reporting entities of their obligations under state/territory anti-discrimination law. By embedding these protections, the Act can continue its focus on genuine slavery-like practices while ensuring that human rights are upheld and that sex workers do not become the collateral damage of poorly-informed compliance measures.

Scarlet Alliance Submission

Scarlet Alliance, is broadly supportive of the proposed changes to the *Modern Slavery Act 2018 (Cth)* (MSA). However, these changes must be accompanied by robust, evidence-based guidance materials to ensure reporting entities understand and accurately describe modern slavery risks without conflating them with lawful and consensual sex work.

Scarlet Alliance is concerned that reporting entities, particularly those largely based in the United States, will continue to misunderstand the MSA’s reporting criteria. This leads to entities implementing policies and practices that conflate lawful and consensual sex work with modern slavery. In the Australian context, this:

- creates confusion about what modern slavery actually looks like;
- drives workplace exploitation in all industries further underground, making it harder to detect; and
- generates stigma and discrimination towards sex workers, undermining our ability to conduct legitimate businesses and participate fully in our communities.¹

Australian legislation and implementation must comply with international human rights frameworks, including:

¹ See Nadine Gloss et al., 'Visibilizing the economic oppression of sex workers and the imperative of donor support' (2025) 81 *International Journal of Law, Crime and Justice*, <https://doi.org/10.1016/j.ijlci.2025.100743>.



- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- relevant ILO conventions on migrant workers, forced labour and decent work, and
- the UN Guiding Principles on Business and Human Rights (UNGPs).

Australian modern slavery responses should also avoid conflict with state and territory anti-discrimination laws that protect sex workers' rights to participate in the economy, access housing, and be free from discrimination.

Recent MSA statements by Apple (2022), HSBC (2022) and Bank of America (2023) demonstrate this problem. Scarlet Alliance has provided detailed case studies of two entities where lawful, consensual sex work was misrepresented as slavery. These examples highlight the urgent need for clear guidance and correction.

Scarlet Alliance broadly supports efforts to strengthen the MSA. However, without clear guidance, reforms risk entrenching stigma, weakening anti-discrimination protections, and misdirecting resources away from genuine slavery-like practices.

We have provided two detailed case studies of recent MSA statements where reporting entities conflate consensual sex work with modern slavery risks, and explain the impacts of these statements for sex workers in Australia. These case studies highlight the need for comprehensive guidance materials that emphasise that consensual sex work should not be conceptualised as an inherent modern slavery risk in the Australian context.

Recommendations

To ensure the MSA operates consistently with Australia's human-rights obligations and domestic anti-discrimination frameworks, Scarlet Alliance recommends that the Attorney-General's Department:

1. Issue explicit guidance materials for reporting entities clarifying that:
 - Consensual sex work is lawful in most Australian jurisdictions, and should not be treated as an inherent slavery risk. Conflating sex work with modern slavery undermines genuine detection and fuels discrimination. This approach aligns with international guidance such as CEDAW General **Recommendation No. 38**.²
 - Entities' actions to assess and address modern slavery risks should comply with state and territory anti-discrimination law. In practice, targeting lawful sex work through "risk" frameworks (e.g., debanking, denial of hotel stays, restrictions on advertising or rideshare use) may amount to unlawful discrimination. and has been recognised as unlawful in several jurisdictions.

² United Nations, *Guidelines on CEDAW General Recommendation No. 38 on trafficking in women and girls in the context of global migration* (10 January 2023), <https://www.ohchr.org/en/documents/tools-and-resources/guidelines-cedaw-general-recommendation-no-38-trafficking-women-and>.



2. Guidance materials should be **co-designed** with affected communities, including Scarlet Alliance and the Asian Migrant Sex Worker Advisory Group (AMSWAG), to ensure accuracy, proportionality and cultural safety.

Case study 1 - National Australia Bank (NAB) Modern Slavery and Human Trafficking Statement 2024

In its 2024 MSA statement, NAB reported:

Our financial crime exits team identified a trend in relation to customers transacting with merchants known for providing online advertising platforms for sexual services. These merchants were previously highlighted through investigations as potential indicators for illegal brothel and sexual exploitation typologies. The NAB investigations team established a set of behavioural and transactional indicators and reviewed data to understand NAB exposure and potential risk. NAB was able to differentiate between sex workers and facilitators through the investigation findings and took steps to respond to the issue. NAB prepared an internal intelligence report for internal stakeholders and the Fintel Alliance highlighting an emerging trend/typology.

*In February 2022, Fintel Alliance published an industry-wide indicators paper, *Detecting and Stopping Forced Sexual Servitude in Australia*, with the indicators section largely based on NAB's initial findings.³*

The published 'indicators' based on NAB's advice were:

- using online platforms dedicated to adult content (e.g. advertising websites or streaming services)
- payments to hotels and short-stay accommodation providers
- receiving ATM cash deposits
- receiving domestic transfers as payment for sexual services
- outgoing transactions relating to adult stores, beauty products, lingerie or clothes
- over 15 outgoing transactions per month to rideshare companies
- regular orders of takeaway food for multiple people.⁴

Neither NAB nor Fintel Alliance consulted with Scarlet Alliance or our member organisations to check the accuracy or viability of these 'indicators.' In actuality, these 'indicators' reflect the everyday transaction activity of lawful sex work businesses, individual sole trader sex workers, and even non-sex worker adults with an active social life. Publication of these 'indicators' by a national regulator has led to many sex workers reporting that they have experienced surveillance, inappropriate questioning and financial discrimination from financial service providers based on their normal transaction activity.⁵

³ National Australia Bank, *Modern Slavery and Human Trafficking Statement 2024* 11, <https://modernslaveryregister.gov.au/statements/22099/>.

⁴ Fintel Alliance, *Detecting and Stopping Forced Sexual Servitude in Australia* (Report, February 2022) 10-12, <https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/detecting-and-stopping-forced-sexual-servitude-australia>.

⁵ The paper also mentions an 'indicator' of 'shared ethnicities, common regions include South East Asia', meaning that these impacts are likely disproportionately experienced by Asian migrant sex workers: *ibid* 14.



Financial discrimination and debanking are significant issues for sex workers, even in jurisdictions where sex work is decriminalised.⁶ Financial discrimination and debanking not only reduces the efficacy of Australia's anti-money laundering/counterterrorism financing framework,⁷ but also *increases* sex workers' vulnerability to exploitation by hindering our ability to operate independently and transparently.⁸ In 2024, discrimination against sex workers by financial service providers was found to breach Victorian anti-discrimination law.⁹ NAB's continued endorsement of discriminatory surveillance and debanking of sex workers shows a lack of understanding of MSA reporting criteria, as well as a clear disregard for their obligations under state/territory anti-discrimination legislation.

Case study 2 - Accor Pacific

Accor Pacific is part of a global accommodation conglomerate operating over 5,000 hotels in 110 countries, with brands including the Sofitel, Pullman, Peppers, Novotel, Mercure and Ibis hotel chains. In its 2023 MSA statement, Accor Pacific identifies one of its modern slavery risks as 'prostitution, pandering and human trafficking' and commits to ensuring that 'no businesses or premises are used for organised prostitution.'¹⁰

Sex workers across Australia have reported to Scarlet Alliance that excerpts from Accor's MSA statement referencing 'prostitution' are frequently displayed in hotel common areas (e.g. elevators) as well as in in-room collateral.

It is explicitly unlawful for accommodation providers (including hotel and motel operators) to discriminate against sex workers in the Northern Territory,¹¹ Queensland,¹² and Victoria,¹³ and to a lesser extent in

⁶ Tony Jacques, 'Banks as moral arbiters? Not even their own review supports that idea', *Crikey* (13 December 2021) <https://www.crikey.com.au/2021/12/13/banks-moral-arbiters-industry-review/>;

Emily McPherson, 'Sex Workers Say They're Being Debanked in an Increasingly Cashless Society', *9 News* (13 December 2023)

<https://www.9news.com.au/national/sex-workers-say-theyre-being-debanked-in-an-increasingly-cashless-society/02366307-bdd1-4ee6-9a08-b818fc90539f>;

Nina Cheles-McLean, 'Sex, Money and the Law, Financial Discrimination Against Sex Workers' (2024) 45(2) *Adelaide Law Review* 273, https://law.adelaide.edu.au/ua/media/3139/alr_45-2_04_cheles-mclean_0.pdf.

⁷ Mike Callaghan AM PSM, *Independent Review of the Banking Code of Practice 2021* (Final Report, 26 November 2021) 101,

<https://bankingcodereview.com.au/wp-content/uploads/2021/12/Final-Report-Banking-Code-of-Practice-Review-2021.pdf>;

AUSTRAC, 'Financial services for customers that financial institutions assess to be higher risk' (Web Page, updated 31 March 2025)

<https://www.austrac.gov.au/business/core-guidance/financial-services-customers-financial-institutions-assess-be-higher-risk>.

⁸ See Scarlet Alliance, Submission on Consultation on Draft Guidance: Providing financial services to customers that financial institutions assess to be higher-risk (13 January 2023), <https://scarletalliance.org.au/library/5769/>.

⁹ Emilia Terzon, 'Sex Worker Takes On Financial Sector "Debanking", with Outcome Hailed as Transformative for Adult Industry', *ABC News* (30 May 2024)

<https://www.abc.net.au/news/2024-05-30/sex-worker-takes-on-financial-sector-debanking/103908678>.

¹⁰ Accor Pacific, *Modern Slavery Statement 2023* 13, <https://modernslaveryregister.gov.au/statements/18061/>.

¹¹ *Anti-Discrimination Act 1992* (NT) s 19(1)(ec).

¹² *Anti-Discrimination Act 1991* (Qld) s 7(l).

¹³ Victorian Equal Opportunity and Human Rights Commission, 'Profession, Trade or Occupation' (Web Page, 2023)

<https://www.humanrights.vic.gov.au/for-individuals/profession-trade-occupation/>.



Tasmania,¹⁴ and the ACT.¹⁵ By using terms such as 'prostitution and pandering' and 'organised prostitution' in its MSA statement and related policies, Accor Pacific encourages frontline hotel staff to discriminate against sex workers, exceptionalising them from the thousands of other workers and businesses who use short-stay accommodation for business purposes. These policies inhibit sex workers from implementing vital safety strategies such as travelling in pairs or small groups, and may act as barriers to reporting crime and accessing health and other support services.¹⁶

¹⁴ *Anti-Discrimination Act 1998* (Tas) s 16(d).

¹⁵ *Discrimination Act 1991* (ACT) s 7(1)(p).

¹⁶ See e.g., Kahlia McCausland et al., "It is stigma that makes my work dangerous": experiences and consequences of disclosure, stigma and discrimination among sex workers in Western Australia' (2020) 24(2) *Culture, Health & Sexuality* 180, <https://doi.org/10.1080/13691058.2020.1825813>.

