

Final Statement

Complaint submitted by an individual concerning Australian multinational enterprises in the human health and retail trade sectors and the administrative and support services sector

26 June 2026

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Executive summary

1. In October 2025, the Australian National Contact Point for Responsible Business Conduct (**AusNCP**) received a complaint from an individual (**the notifier**) in the Philippines regarding the actions of multiple multinational enterprises based in Australia (**the enterprises**). These parties are known to each other, but do not need to be identified for the purposes of this public AusNCP Final Statement.
2. The complaint concerns the notifier's employment and work arrangements in the Philippines, including related decisions or directions from Australia, which the notifier alleges were inconsistent with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (**OECD Guidelines**).¹ The allegations primarily relate to the OECD Guidelines' expectations on employment and industrial relations, as well as the cross-border implications for responsible business conduct.
3. An Initial Assessment undertaken by an AusNCP Independent Examiner found that the notifier's complaint met some of the OECD Guidelines' admissibility criteria. The notifier had a relevant interest, some of the identified issues were 'material and substantiated' within the meaning of the AusNCP complaint procedures,² and the enterprises were covered by the OECD Guidelines and linked to some of the issues raised. However, the Independent Examiner decided not to accept the complaint for further consideration. The two significant factors in this decision are these:
 - 3.1. the extensive parallel proceedings commenced by the notifier in both Australia and the Philippines, which are better placed to address the substantive employment and regulatory concerns that are at the heart of the complaint
 - 3.2. the unlikelihood that accepting the complaint would contribute to the purposes and effectiveness of the OECD Guidelines. This is particularly due to the breadth, inconsistency, and evolving nature of the complaint; the timing of the issues raised under the OECD Guidelines; and the notifier's pursuit of these issues across many forums simultaneously.
4. The AusNCP notes that this outcome is not a determination on the merits of the claims presented, nor is it a finding that the enterprises' actions are consistent with the OECD Guidelines.
5. This statement is available on the AusNCP website at www.ausncp.gov.au.

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¹ Organisation for Economic Co-operation and Development (**OECD**), *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*, OECD Publishing, 8 June 2023, doi:[10.1787/81f92357-en](https://doi.org/10.1787/81f92357-en) (**OECD Guidelines**).

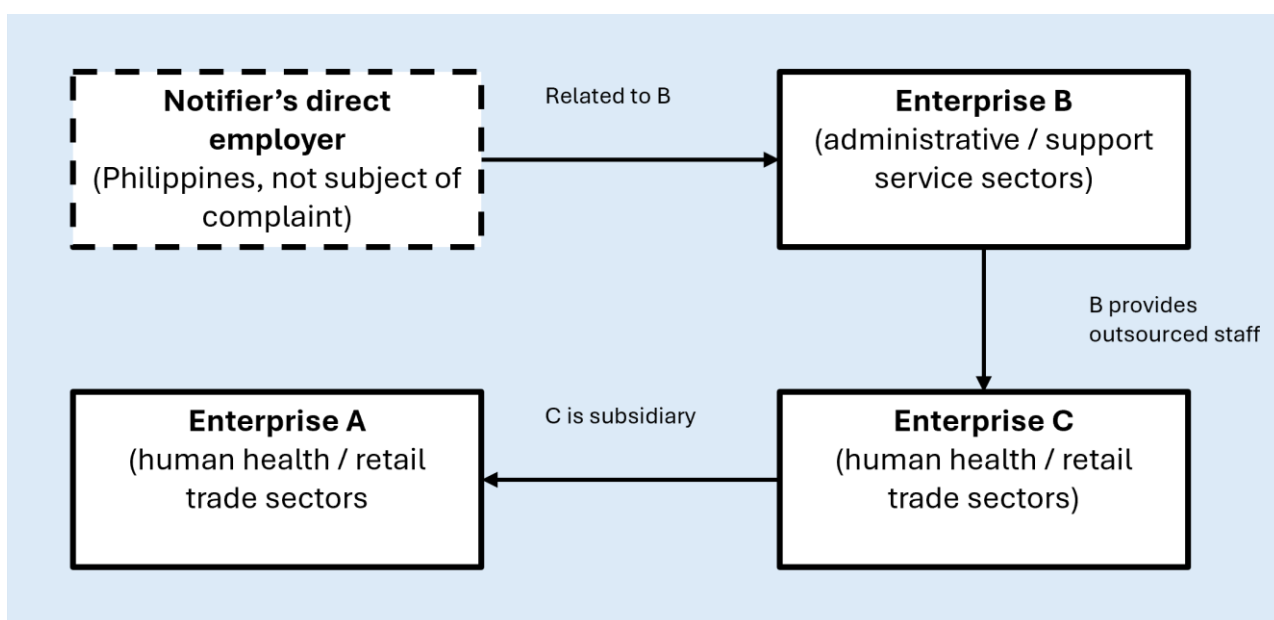
² Australian National Contact Point for Responsible Business Conduct (**AusNCP**), *AusNCP complaint procedures*, April 2024, p 8 para [31] (**AusNCP complaint procedures**).

Final Statement

Parties

- On 28 October 2025, the AusNCP received a complaint from an individual in the Philippines, alleging that various enterprises had acted inconsistently with the OECD Guidelines. The notifier identified himself to the AusNCP as a 'Former Country Head' of a 'Manila Delivery Center', and as having worked for a regional headquarters in the Philippines that provided remote outsourcing services to other businesses.
- Three Australian-registered enterprises (Enterprises A, B and C) are subject to this complaint, and their relevant relationships are indicated in the diagram below:

Figure 1: Flowchart of the notifier's employer and relationship to the enterprises



- The notifier worked for a Philippines-registered business related to Enterprise B. The notifier's work provided services that ultimately benefited Enterprise C through various contractual and corporate structures. The notifier's employment was terminated in July 2025.
- Enterprise B provides outsourced staff through its Philippines-registered regional headquarters to perform work remotely for Australian and international businesses under service arrangements. In this context, Enterprise B supplied offshore information technology (IT) and business support services personnel to Enterprise C, pursuant to a commercial services agreement with another subsidiary of Enterprise A. Enterprise B operates in the administrative and support services sectors.
- Enterprise A, whose subsidiaries include Enterprise C, is also the subject of this complaint. Enterprise A and its subsidiary businesses operate in the human health and retail trade sectors.

8. Having considered the OECD Guidelines' Implementation Procedures and the AusNCP complaint procedures,³ the Independent Examiner has decided to anonymise the parties' identities in this Final Statement in consultation with the notifier and the enterprises. The complaint has not been accepted for further examination, and that can be sufficiently explained without naming the parties involved.⁴ While there are other proceedings between the parties about the issues and events alleged by the notifier, the Independent Examiner is not aware of the details of this complaint being in the public domain.

Complaint and outcomes sought by the notifier

9. The notifier's various submissions and materials provided to the AusNCP primarily concern allegations that the enterprises acted inconsistently with Philippine legal requirements governing labour and business arrangements under a regional headquarters structure, and that the notifier's employment was terminated because he allegedly made bona fide reports about these practices.
10. Specifically, the notifier's original complaint of 28 October 2025 alleged that part of Enterprise C's business operated and employed Filipino staff, including the notifier, through a regional headquarters structure in the Philippines, which the notifier contended was not permitted under Philippine law. The original complaint further contended that, in doing so, Enterprise C and its ultimate holding company, Enterprise A, created a sham employment arrangement that was intended to avoid legal and tax obligations in both Australia and the Philippines. The notifier alleged to the AusNCP that his '*[w]histleblowing about this structure*' resulted in retaliation and the termination of his employment. In subsequent communications with the AusNCP, the notifier identified and confirmed that he also intended Enterprise B to be subject to his complaint, in addition to Enterprises A and C.
11. In the original complaint, the notifier indicated that he did not wish to participate in dispute resolution (or 'good offices', as it is referred to under the OECD Guidelines) with the enterprises. Rather, he sought '*[r]ecognition of breaches under the OECD Guidelines and public accountability through AusNCP findings*', and that his '*objective [wa]s to compel the enterprises to address the offshore misrepresentation and retaliation, or face public disclosure of non-cooperation*'.
 - 11.1. In response to the relevant section of the AusNCP complaint form that concerned the actions the notifier sought from the enterprises, the notifier specified that they should:
 - disclose the true nature of their offshore employment structure to relevant regulators
 - cease the use of regional headquarter structures to avoid legal obligations

³ OECD Guidelines, *I. Commentary on the Procedures for NCPs*, p 71 para [40]; AusNCP complaint procedures, para [34].

⁴ The AusNCP complaint procedures require that '*[i]f AusNCP does not accept a complaint at [an] [I]nitial [A]ssessment, the [F]inal [S]tatement will include the [I]nitial [A]ssessment statement and the reasons why the complaint was not accepted*': AusNCP complaint procedures, para [58]. The OECD expects that an Initial Assessment decision not to accept a complaint should '*at a minimum describe the issues raised and the reasons for the NCP's decision [and] explain their decision to accept a submission according to the criteria included in the Procedural Guidance*': OECD, *Guide for National Contact Points on the Initial Assessment of Specific Instances*, OECD Publishing, 31 January 2019, doi: 10.1787/c8d7f80a-en, p 14 (**OECD Initial Assessment Guide**).

- provide remedies for whistleblower retaliation and structural misrepresentation
 - implement compliance and transparency measures aligned with the OECD Guidelines.
- 11.2. On 16 February 2026, the notifier clarified his position regarding dispute resolution, stating that it *'relates to procedural sequencing while jurisdictional issues remain active elsewhere'*, and that *'[i]t does not reflect unwillingness to engage constructively'*.
12. In addition to this complaint to the AusNCP, the notifier has also raised concerns or commenced proceedings regarding the same events in many different forums in:
- 12.1. **the Philippines**, including with its Department of Labor and Employment, the National Privacy Commission, the Philippine Competition Commission, the Philippine Economic Zone Authority, its Securities and Exchange Commission, and its Bureau of Internal Revenue
- 12.2. **Australia**, including with the Fair Work Commission, the Department of Employment and Workplace Relations, WorkSafe Victoria, Victoria's Independent Broad-Based Anti-corruption Commission, the Australian Securities and Investments Commission, the Commonwealth Ombudsman, the Office of the Australian Information Commissioner, and the Australian Taxation Office.

Relevant OECD Guidelines

13. The notifier's original complaint, submitted on 28 October 2025, claimed that the enterprises' conduct contravened *'Chapters II (General Policies), III (Disclosure), IV (Human Rights), and XI (Taxation)'* of the OECD Guidelines.⁵ On 11 November 2025, the AusNCP requested that the notifier identify the specific paragraphs within those chapters that the enterprises were allegedly inconsistent with, and explain how his allegations related to those paragraphs and how the enterprises were linked to them.
14. The notifier responded promptly the same day, providing brief, one-line statements linking various parts of the OECD Guidelines (General Policies, paragraphs 10–12; Human Rights, paragraphs 1–3; Combating Bribery and Other Forms of Corruption, paragraph 2; and Taxation, paragraphs 1–5) to the issues raised. Some of these linkages were new or referred to sections of the OECD Guidelines that were either not relevant or did not exist. For example, the Taxation chapter of the OECD Guidelines contains only two paragraphs, yet the notifier identified paragraphs 1 through to 5. The notifier also initially ceased to identify the Disclosure chapter as relevant to the issues, although this position later changed when the notifier re-engaged that chapter.
15. Following further inquiry from the AusNCP, the notifier responded that he had *'adjusted [his] OECD clause mapping to ensure accuracy and alignment with the [OECD] Guidelines'* and *'corrected linkages between the conduct [he] reported and the relevant OECD [Guidelines] provisions'*. In this email, the notifier identified different parts of the General Policies chapter (paragraphs 2, 6 and 14) and the Human Rights chapter (paragraphs 1 and 5), and for the first time also identified

⁵ or *'breach[es] the OECD Guidelines on responsible business conduct, transparency, human rights, and taxation'*.

the Employment and Industrial Relations chapter (paragraphs 1, 2, 4 and 6) and the Consumer Interests chapter (paragraph 5) as relevant to the issues raised.

16. The Independent Examiner explained to the notifier via email that the OECD Guidelines focus on expectations for responsible business conduct by multinational enterprises, rather than on matters of domestic law compliance and enforcement, which form the basis for several of his concerns (for example, what a regional headquarters in the Philippines may legally do). The Independent Examiner also outlined the AusNCP Initial Assessment process and the six admissibility criteria, and invited the notifier to provide any additional material or relevant information that he wished to have considered in relation to those criteria.
17. The notifier responded the same day, providing further context on how the paragraphs of the OECD Guidelines that he had specified related to the issues raised, and indicating the following as the core issues he wanted the AusNCP and the Independent Examiner to assess:

1. Retaliation and adverse impacts resulting from raising protected concerns (General Policies, paragraphs 2 and 14; Human Rights, paragraphs 1 and 5; and Employment and Industrial Relations, paragraphs 1, 4 and 6)

The notifier asserted that *'actions taken against [him] following [his] internal disclosures [allegedly] resulted in retaliation, obstruction of grievance pathways, psychological harm, and the loss of access to remedy'*.

2. Misrepresentation and concealment of the offshore operating structure (General Policies, paragraph 6; and Employment and Industrial Relations, paragraph 2)

The notifier stated that the offshore arrangement *'did not reflect the legal employer structure actually controlling labour, data, and decision-making'*, consistent with his claim in the original complaint that Enterprise C was *'the true employer from day one'*, which had the effect of *'conceal[ing] relevant information from workers, prevent[ing] meaningful negotiation, and create[ing] unsafe and ungoverned systems of work'*.

3. Suppression of whistleblowing and unsafe systems of work (Human Rights, paragraphs 1 and 5; and Employment and Industrial Relations, paragraphs 4 and 6)

The notifier contended that his *'[i]nternal complaints were ignored, escalations were blocked, and critical employment and safety concerns were suppressed'*, which allegedly *'exposed [him] and other personnel to unsafe workplace arrangements and denied [them] access to appropriate channels of remedy'*.

4. Denial of consultation, exclusion from proper governance processes, and lack of transparency (General Policies, paragraph 14; and Employment and Industrial Relations, paragraphs 1, 2 and 6)

The notifier alleged that *'[e]mployment governance and decision-making processes were concealed from offshore workers, including matters materially affecting their roles and safety'*, and that *'[t]his prevented consultation, undermined due process, and directly contributed to the adverse impacts suffered'*.

5. Unauthorised access and disclosure of the notifier's personal information (Consumer Interests, paragraph 5)

The notifier alleged that his *'personal data was accessed and used without authority, including after [his] employment termination, in ways that contributed to the retaliation and adverse impacts'* he has alleged.

Enterprises' response to the allegations

18. The AusNCP confirmed with the notifier the OECD Guidelines issues he was raising and that his allegations and supporting information could be shared with the enterprises for a preliminary response. The AusNCP then provided the notifier's materials to the enterprises and invited a preliminary response, particularly in relation to the Initial Assessment admissibility criteria. The main points raised by the enterprises, which were subsequently provided to the notifier with the enterprises' consent, included that:

The notifier's employment *'was terminated ... at the conclusion of his contractual 180 day probationary period ... because he was not able to meet the required performance standards'* [Enterprise B's response]. The notifier *'is aggrieved by this'* [Enterprises A and C's response].

In addition to his complaint to the AusNCP, the notifier has *'filed complaints / proceedings about [the regional headquarters that employed him] and / or [Enterprise B] with [14] agencies or bodies, in both the Philippines and Australia'*, which raises *'concerns about [his] approach to this matter and ... the genuineness of his complaints'* [Enterprise B's response].

The notifier noted *'in his original complaint ... that he is not willing to engage in [dispute resolution]'*, and *'[w]hile no issue is taken with [the notifier] raising genuine and good faith complaints, his unwillingness to mediat[e] indicates that his intention in filing the complaint with the AusNCP is ... to ventilate his grievance in yet another forum'* [Enterprise B's response].

The AusNCP should not accept the notifier's complaint because *'[c]onsidering [the complaint] would not advance the purposes and effectiveness of the OECD Guidelines'*, as *'[t]his is a private employment grievance that lacks any broader relevance to the objectives of the ... [OECD] Guidelines'*, which *'are not designed to operate as an additional forum or parallel pathway for resolving contested employment issues'* [Enterprises A and C's response].

Assessment Criteria

19. In deciding whether to accept a complaint, an Independent Examiner is required under the AusNCP complaint procedures to determine whether a complaint is made in 'good faith', relates to the implementation of the OECD Guidelines, and otherwise merits further consideration, having regard to the following six admissibility criteria:⁶
- the identity of the party concerned and its interest in the matter

⁶ AusNCP complaint procedures, para [30].

- whether the issue is ‘material’ and ‘substantiated’
 - whether the enterprise is covered by the OECD Guidelines
 - whether there seems to be a link between the enterprise’s activities and the issue raised
 - the extent to which applicable law and/or parallel proceedings limit the AusNCP’s ability to contribute to the resolution of the issue and/or the implementation of the OECD Guidelines
 - whether consideration of the issue would contribute to the purposes and effectiveness of the OECD Guidelines.
20. The admissibility criteria are interrelated and necessitate examination as a whole.⁷ This statement addresses each of the admissibility criteria, with references to relevant National Contact Point (NCP) decisions as appropriate. While other NCP statements are not binding precedents, they remain relevant when considering the Initial Assessment criteria, particularly:
- 20.1. as the OECD Guidelines’ emphasise that NCPs can ‘*take into account practice among other NCPs*’ when assessing limitations created by parallel proceedings⁸
- 20.2. in determining whether consideration of a specific issue would contribute to the stated purposes of the OECD Guidelines, as well as what is meant by their effectiveness.⁹

Criterion 1: Notifier’s identity and interest in the matter

21. The first criterion to consider is the identity of the notifier and their interest in the matters raised.¹⁰
22. The notifier’s identity is clear to all parties. He was employed by Enterprise B, who performed work benefitting Enterprise C, and claimed that Enterprise C was his true employer. The notifier was allegedly subject to the employment decisions and workplace arrangements described in this complaint and has a direct personal interest in those matters.
23. The notifier’s employment with Enterprise B commenced on 22 January 2025. The notifier asserts that his employment was terminated in retaliation for making internal disclosures about issues he allegedly observed. Materials supplied by the notifier to the AusNCP suggest that he wrote to representatives of Enterprises A and C on 14 July 2025 and 16 July 2025 respectively, regarding the alleged disclosures. As set out at paragraph 12.2 of this statement, Enterprise B advised the AusNCP that it terminated the notifier’s employment at the end of his contractual 180-day probationary period due to unsatisfactory performance, and Enterprises A and C indicated to the AusNCP that this was also their understanding of the circumstances in which the notifier’s employment ceased.
24. The Independent Examiner asked the notifier whether he had raised any concerns about issues under the OECD Guidelines before he learnt that his employment was not continuing, and if so, to provide this information, noting its potential relevance to the Initial Assessment. The notifier did

⁷ OECD Initial Assessment Guide, p 6.

⁸ OECD Guidelines, *I. Commentary on the Procedures for NCPs*, para [35].

⁹ OECD Initial Assessment Guide, p 10.

¹⁰ OECD Initial Assessment Guide, p 6.

not provide such material, but instead emphasised the chapters of the OECD Guidelines that he considered to be engaged in connection with his allegations, among other things.

25. The notifier's complaint was lodged with the AusNCP in October 2025, approximately three months after his employment ceased. While this timing does not preclude a valid complaint, the sequence of events provides relevant context for assessing the notifier's interest in the issues he has raised.
26. The scope of the complaint is also relevant in assessing the notifier's interest. The complaint is framed at a high level of generality in several respects, asserting systemic governance failures, cross-border structural misalignment, and broader responsible business conduct concerns that allegedly extend to around 1,900 other staff in the Philippines. While these systemic framings may raise issues under the OECD Guidelines, the notifier's direct and demonstrable interest is confined to his own employment situation. The extent to which he can advance concerns on behalf of other workers, or in relation to matters beyond his own employment, was not evident.
27. Criterion 1 is satisfied in respect of those issues under the OECD Guidelines that directly concern the notifier's own employment experience, including the alleged handling of his internal disclosures, his termination, and his personal data. It is not satisfied in relation to the broader systemic allegations that extend beyond his personal experience. While it is not necessary for a notifier to have been directly and personally affected by the broader systemic allegations raised, in this case, there is a question as to whether the broader allegations are substantiated (see Criterion 2), given the lack of detail around the notifier's interests and the wrongdoing he alleged.

Criterion 2: Issues material and substantiated

28. In determining whether an issue is 'material and substantiated' for the purposes of an AusNCP Initial Assessment, the AusNCP complaint procedures explain that:¹¹
 - 28.1. 'material' will be taken to mean that *'the issues are plausible and related to the application of the OECD Guidelines'*
 - 28.2. 'substantiated' will be taken to mean that *'there is a plausible link between the enterprise and the issues raised'*.
29. In an NCP process, the materiality of any issues raised should be assessed against the recommendations and standards of the OECD Guidelines, rather than in relation to domestic legal frameworks.¹² This is pertinent to the Initial Assessment of this complaint, particularly the numerous issues alleged by the notifier to be in breach of Australian and Philippine law, and his revisions regarding the relevant OECD Guidelines.
30. Assessment of this criterion therefore requires clarity about the OECD Guidelines issues at stake in this complaint. In this context, four broad issues appear to arise from the complaint materials provided by the notifier for the Independent Examiner's Initial Assessment:
 - 30.1. **issues directly concerning the notifier's own employment:** these include the response following the notifier's internal communications, the termination process, his data and

¹¹ AusNCP complaint procedures, para [31]. See also Glossary definition of 'material and substantiated', p 20.

¹² As per OECD Initial Assessments Guide, pp 20-21.

identity handling, and status of grievance mechanisms. The notifier has provided material in support of his claims, including documents filed in the Australian Fair Work Commission. The Independent Examiner considers these issues to be ‘material’ and ‘substantiated’ within the meaning of the AusNCP complaint procedures, but notes that the relevant paragraphs of the OECD Guidelines may not be those identified by the notifier.¹³ This assessment – that some issues are ‘material’ and ‘substantiated’ – is not a factual finding or determination by the AusNCP. Rather, it is the Independent Examiner’s decision that the material provided by the parties demonstrates that some issues raised by the notifier are sufficiently plausible and relate to matters covered by the OECD Guidelines.

- 30.2. **issues concerning governance, the legality of the corporate and employment structures, and the transparency and accountability of the enterprises’ operations:** the notifier alleges that Enterprise B’s regional headquarters in the Philippines was used to employ and compensate local workers who ultimately serviced Enterprises A and C, in circumstances where the regional headquarters allegedly could not lawfully operate as an employer. The notifier also queried whether this *‘cross-border operational model, as structured and implemented, aligns with the OECD Guidelines ..., including principles relating to transparency, accountability, and oversight’*. To the extent that these issues concern whether the enterprises have complied with domestic law in the Philippines or Australia, that is a matter for domestic authorities, rather than the AusNCP. These issues are not considered ‘material’ within the meaning of the AusNCP complaint procedures.
 - 30.3. **broader systemic issues relating to labour conditions in the Philippines:** these matters include the provision of relevant information to workers, occupational health and safety concerns, access to grievance or remedy mechanisms, and the disclosure of governance and decision-making processes that may affect offshore workers. The notifier alleges that, in these areas, the enterprises should have undertaken due diligence and disclosed responsible business conduct information relevant to those workers. The notifier made brief assertions regarding these alleged improprieties, but did not explain or substantiate them in relation to other workers.
 - 30.4. **other issues raised but not pursued by the notifier:** these include alleged breaches of the Combating Bribery and Other Forms of Corruption and the Taxation chapters of the OECD Guidelines. Those issues are neither ‘material’ nor ‘substantiated’.
31. The Independent Examiner notes that other NCP complaints involving personal employment disputes have not been accepted where they did not demonstrate a plausible link between the issues raised, the activities of the enterprise, and the relevant paragraphs of the OECD Guidelines.¹⁴
 32. Enterprise A raised a concern about the Independent Examiner deciding, in this Initial Assessment, that issues raised in the notifier’s complaint were ‘substantiated’. However, as explained at paragraph 28.2 of this Final Statement, a decision that issues are ‘substantiated’ in the context of an AusNCP Initial Assessment only indicates that there is a plausible link between the relevant

¹³ For example, OECD Guidelines, *General Policies*, pp 14-15 paras [A.9], [A.10] and [A.12] may be relevant to this complaint.

¹⁴ See, e.g., Netherlands National Contact Point (NCP), *Initial Assessment: Former employee of Philips Lighting vs. Philips Lighting*, 25 October 2017, p 4.

enterprise(s) and the issue(s) raised for the purposes of the OECD Guidelines. It does not constitute a finding that should have legal significance in other forums, nor a finding that the enterprises acted inconsistently with the OECD Guidelines. The focus of an Initial Assessment is on determining whether there is merit in accepting a complaint for further consideration and dispute resolution (or ‘good offices’) under an NCP process. While findings at the later stages of the NCP process may have relevance in other forums, as discussed under Criterion 5 below, this is not the case for Initial Assessments.

33. For Criterion 2, the issues concerning the notifier’s own employment are ‘material’ and ‘substantiated’ within the meaning of the AusNCP complaint procedures. The other issues raised in the complaint are not.

Criterion 3: Enterprises covered by the OECD Guidelines

34. The OECD Guidelines apply the term ‘multinational enterprise’ broadly and are addressed to all entities within an ownership structure, including parent companies and local entities,¹⁵ as well as outlining expectations regarding supply chains and business relationships.¹⁶
35. Without identifying the enterprises, the Independent Examiner notes that:
 - 35.1. Enterprises A and C conduct business and operate stores both in Australia and overseas.
 - 35.2. Enterprise B described itself to the AusNCP as an Australian entity that is related to the Philippines-registered business at which the notifier was employed, and that through an arrangement with this regional headquarters, Enterprise B is able to provide Philippines-based staff to its clients in Australia as part of a labour hire arrangement.
 - 35.3. The Independent Examiner has also sighted a scanned copy of the regional headquarters’ licence to transact business in the Philippines. This licence certifies that the regional headquarters was established by a multinational company organised and existing under the laws of Australia.
36. Given this, the Independent Examiner considers that Enterprise A, including its subsidiary Enterprise C, and Enterprise B are multinational enterprises within the meaning of the OECD Guidelines, satisfying Criterion 3.

Criterion 4: Link between the enterprises’ activities and the issues raised

37. For this criterion to be satisfied, there must be a sufficient connection between an enterprise’s activities and the issues raised by a notifier in a manner that is covered by the OECD Guidelines, which recognises three types of links: impacts that an enterprise has allegedly ‘caused’, those it has ‘contributed to’, and those ‘directly linked’ to its operations, products, or services.¹⁷
38. While the notifier has not specifically identified one or more of these potential links in his complaint, the language he has used is consistent with alleged adverse impacts being ‘caused’ or

¹⁵ OECD Guidelines, *I. Concepts and Principles*, para [4].

¹⁶ See, e.g., OECD Guidelines, *II. General Policies*, para [A.13].

¹⁷ OECD Initial Assessments Guide, p 7.

‘contributed to’ by the enterprises, or ‘directly linked’ to them. In addition, the fact that the notifier’s employment was arranged through a commercial relationship between the enterprises, their subsidiaries, and related entities is a relevant link between their activities and some of the issues raised. The notifier’s termination of employment, the handling of his internal disclosures, the management of his grievances, and the processing of his personal data, all occurred within the context of that relationship, and each of the enterprises could be ‘directly linked’ to some of the alleged adverse impacts by virtue of the business relationship they had for labour hire services.

39. As part of their submission to the AusNCP, Enterprises A and C argued that this labour hire structure distanced them from the notifier’s employment at Enterprise B’s regional headquarters.
 - 39.1. The Independent Examiner understands that corporate structures and contractual arrangements have relevance for certain domestic law purposes. However, the OECD Guidelines make clear that expectations to prevent and mitigate alleged adverse impacts extend through an enterprise’s supply chain and other business relationships, meaning they are not confined to direct legal relationships.¹⁸
 - 39.2. The Independent Examiner has also sighted filings that indicate personnel of Enterprise C had asked that the notifier be replaced or removed from its account, which Enterprise C claimed was unrelated to any complaints made by the notifier, was in accordance with an existing services contract, and was not a reflection on whether Enterprise B should continue his employment more generally.
 - 39.3. One or more of the enterprises also appear to have operational oversight of the Philippines-registered business and have benefitted commercially from those services. The OECD Guidelines are engaged regardless of the contractual mechanism through which those arrangements operated. A nexus between the enterprises’ activities and the relevant issues under the OECD Guidelines is apparent.
40. As noted earlier, several broader systemic assertions raised in the complaint concerned matters that either fell outside the scope of the OECD Guidelines or were insufficiently substantiated (see Criterion 2). These assertions included allegations relating to governance architecture and impacts on approximately 1,900 Philippines-based employees.
41. Criterion 4 is satisfied with respect to the notifier’s direct employment experience, but is not clearly or evidently satisfied for his broader systemic allegations.

Criterion 5: Applicable law and/or parallel proceedings?

42. The OECD Guidelines and the AusNCP complaint procedures require consideration of the extent to which applicable law and/or parallel proceedings would limit the AusNCP’s ability to contribute to the resolution of the issues in a complaint and/or the implementation of the OECD Guidelines.¹⁹

¹⁸ Under the OECD Guidelines, ‘business relationships’ includes many different relationships. Relevantly, the term includes ‘*entities in the supply chain which supply products or services that contribute to the enterprise’s own operations, products or services*’: OECD Guidelines, p 18, para [17].

¹⁹ AusNCP complaint procedures, para [30].

43. The AusNCP's ability to facilitate engagement on issues arising under the OECD Guidelines (specifically, by accepting a complaint) is not precluded solely because parallel proceedings have been conducted, are underway, or are available to the parties.²⁰ The key consideration is whether offering dispute resolution (or 'good offices') *'could make a positive contribution to the resolution of the issues raised and/or the implementation of the [OECD] Guidelines going forward'*, and *'would not create serious prejudice for either of the parties involved in ... other proceedings or cause a contempt of court situation'*.²¹
44. Additionally, the Independent Examiner considers the parallel proceedings in this matter to be extensive and directly material.
- 44.1. As outlined in paragraph 12.212 of this statement, the notifier has commenced proceedings or lodged complaints with at least 14 other agencies, commissions, and tribunals in the Philippines and Australia, separate from this AusNCP complaint.
- 44.2. The parties each referred to, and provided the AusNCP with documents and submissions filed in, the notifier's Fair Work Commission proceedings in Australia, which appears to be directly concerned with the circumstances of the notifier's employment termination, the legal determination of his employer, and related employment law questions. Those proceedings will likely involve formal evidentiary processes and the determination of disputed factual and legal issues.
45. This means that the substantive factual matters underlying the OECD Guidelines issues, including the identity of the notifier's former employer,²² the reasons for his termination, and the corporate actions associated with that termination, are already subject to pending proceedings with relevant evidentiary procedures. As a result, there is a risk that an AusNCP complaints process could duplicate or pre-empt those proceedings, or produce inconsistent outcomes.
46. Taken together, the existence of these other proceedings and the domestic law issues which predominate this complaint to the AusNCP, suggest that the notifier is primarily interested in a domestic legal or regulatory resolution. In these circumstances, an AusNCP complaints process would provide limited additional value beyond what other engaged forums are able to address in relation to the notifier's concerns. This view accords with the Norwegian NCP's handling of an individual workplace complaint from 2025, in which it decided not to accept the matter for further consideration, as *'the issues raised in the submission [we]re more appropriately handled in industrial relations arbitration or by ... labour authorities'*.²³
47. In a prior Initial Assessment, the German NCP noted that while an NCP may accept a complaint in the context of parallel proceedings, *'it can only do so if it thinks ... it could provide added value for the [p]arties ... through a forward-looking mediation procedure to better implement the*

²⁰ OECD Initial Assessment Guide, pp 9-10; Per AusNCP complaint procedures, the *'AusNCP can consider complaints even if the same complaint is being considered in other proceedings. This includes judicial or non-judicial proceedings'*, para [22].

²¹ OECD Guidelines, I. Commentary on the Procedures for NCPs, p 70, para [35].

²² e.g. Enterprise B or its regional headquarters in the Philippines, or Enterprise C.

²³ Norwegian NCP, *Individual vs. Crayon Group Holding ASA*, 15 May 2025, p 4.

[OECD] Guidelines going forward'.²⁴ Such a value-add, often described as the 'positive contribution' that an NCP can make, does not appear likely in this complaint.

48. The Independent Examiner therefore finds that Criterion 5 weighs significantly against proceeding with this complaint. The positive contribution that AusNCP-facilitated dispute resolution or further consideration of the complaint could make to resolving the issues raised is likely to be minimal and may risk prejudicing other proceedings initiated by the notifier that also involve the enterprises.

Criterion 6: Contribution to the OECD Guidelines' purposes and effectiveness?

49. Criterion 6 is broad and requires consideration of whether an NCP process can promote the purposes and effectiveness of the OECD Guidelines in the context of a specific complaint. The purposes of the OECD Guidelines are to encourage the positive contributions that multinational enterprises can make to sustainable development and to economic, environmental, and social progress.²⁵ In contrast, the question of effectiveness concerns whether an NCP can support or encourage the resolution of issues raised in a particular complaint by providing dispute resolution and facilitating an exchange between the relevant parties, including to:²⁶

- clarify issues and expectations under the OECD Guidelines
- support dialogue about possible resolution
- develop meaningful recommendations regarding the relevant conduct of the enterprise(s).

50. Central to these considerations is the nature of the NCP complaints process, as summarised in the OECD Guidelines, which is to '*serv[e] as a non-judicial grievance mechanism*' and to '*contribut[e] to the resolution of issues that ... relat[e] to the implementation of the [OECD] Guidelines*' and arise in specific instances.²⁷ The Independent Examiner has carefully considered the material and submissions presented by the notifier. These contained numerous ambiguities, explained in the following paragraphs, and, in those circumstances, the Independent Examiner finds that accepting the notifier's complaint for further consideration would not contribute to the:

50.1. purposes of the OECD Guidelines, as the issues raised primarily concern matters of domestic employment and corporate law, rather than sustainable development or the positive contribution of multinational enterprises to economic, environmental, and social progress

50.2. effectiveness of the OECD Guidelines, as the risk of prejudice to other proceedings that are more appropriately suited to making findings and resolving the alleged issues means that the AusNCP could make little positive contribution to this complaint.

51. The notifier's complaint contained numerous broad assertions. It covered employment law, corporate governance, data privacy, human rights, bribery, taxation, and regulatory compliance,

²⁴ German NCP, *Indian Association of 263 former workers of an Indian company v Anonymous Indian affiliate of a German company*, 4 February 2025, para [39].

²⁵ OECD Initial Assessment Guide, pp 10 and 12.

²⁶ OECD Initial Assessment Guide, p 12.

²⁷ OECD Guidelines, *I. National Contact Points for Responsible Business Conduct*, p 59.

often without clearly distinguishing between the issues or events that were the notifier's personal experience. The cumulative effect of the notifier's submissions across multiple emails, including supplementary material raising new points, created significant analytical challenges and placed substantial demands on the AusNCP in identifying the relevant OECD Guidelines issues allegedly arising. That clarity is essential for any NCP to: (1) afford the relevant enterprise(s) a proper opportunity to respond; and (2) to undertake an Initial Assessment process.

52. During the Initial Assessment process, the Independent Examiner relayed pertinent sections of the enterprises' AusNCP submissions to the notifier and invited him to provide any further response or material, with particular emphasis on Criterion 6.
 - 52.1. In response, the notifier identified issues of governance, cross-border operational oversight, and transparency within a multinational corporate group – issues he considered fell within the scope of the OECD Guidelines. He further alleged that, in the context of his own employment, all substantive employer functions were undertaken in Australia, with Enterprises A and C exercising operational control, issuing employer decisions, accessing and processing data, directing cross-border activities, and controlling the corporate structure in a manner that prevented remediation in this specific instance. He alleged that these arrangements enabled Enterprises A and C to avoid direct employer obligations, and thereby exposed Enterprise B to direct legal liability.
 - 52.2. He also contended that further consideration of his AusNCP complaint would not duplicate his other proceedings, on the basis that an AusNCP complaints process would assess whether the enterprises' allegedly illegal *'cross-border structuring aligned with [the] OECD [Guidelines'] expectations concerning responsible business conduct and governance transparency'*, rather than statutory employment questions.
53. The notifier's response reinforced that his main focus was on the legality of corporate structures in the Philippines, in addition to the specific employment issues he has raised (see paragraph 12.2 of this statement). These are issues that, by their nature, are subject to domestic legal regimes in the Philippines or Australia. His detailed submissions about regulatory requirements in the Philippines, including the legally permissible functions of a regional headquarters, the registration status of entities with Philippine authorities, and employment entitlements under Philippine legislation, are matters for Philippine regulatory processes to consider, rather than an NCP process.
 - 53.1. If the notifier has concerns about non-compliance with Philippine law, the appropriate pathway for those concerns is through the relevant Philippine government bodies, which he has previously approached.
 - 53.2. In addition, the notifier has asked the Fair Work Commission in Australia to address the circumstances of his termination, which will likely involve questions about the identity of his employer, and whether Australian employment laws were adhered to.
54. Further, while the complaint characterises numerous allegations as broad and systemic issues, many of the claims are contested and arise from an individual employment-related dispute. In two recent matters involving comparable circumstances, the Norwegian NCP concluded that further examination of *'a potential legal dispute between an individual employee and the[ir] employer'*

would not 'contribute to resolv[ing] the issue nor fulfil[ing] the purposes and effectiveness of the [OECD] Guidelines'.²⁸

55. Accordingly, the Independent Examiner finds that accepting this complaint for further consideration would not contribute to the purposes and effectiveness of the OECD Guidelines.

Further observations

56. As previously noted, this complaint evolved over time through communications with the notifier, which is not unusual. However, some material provided by the notifier contained errors regarding sections of the OECD Guidelines that were identified as relevant to the complaint. In addition, some responses to the Independent Examiner's inquiries comprised complex and extended analysis that was provided within short timeframes and transmitted in circumstances that may have limited the notifier's ability to carefully review the material before it was submitted. Taken together, these matters indicate that some responses from the notifier, including submissions and emails, may have been prepared using Generative Artificial Intelligence (**GenAI**) tools, without the accuracy or relevance of the material always being verified before it was provided to the AusNCP.
57. There is no inherent problem with parties using GenAI. These tools can improve accessibility for individuals facing language or resource barriers, including people living with disability, by providing overviews of key issues, assisting with translation, and supporting proofreading and editing. However, there is a problem where a complaints mechanism is asked to act on material that is inaccurate, irrelevant, or insufficiently considered. There are risks associated with the use of GenAI in NCP Initial Assessment processes, subsequent dispute resolution ('good offices') processes, and complaints mechanisms more broadly. GenAI programs generate text that is statistically plausible based on patterns in their training data. They cannot ensure that the information they generate is accurate, cannot access non-public or case-specific information unless it is provided, and do not necessarily reflect the actual knowledge of a person (e.g. a notifier) when generating a response.
58. The Independent Examiner is familiar with the complexities that GenAI can introduce into dispute resolution processes more broadly, and makes further observations on this in the NCP context at [Annex B](#) to this statement.
59. After reviewing a draft of this statement, the notifier explained that he had used technological and drafting assistance tools to help organise information, improve clarity, and overcome language and resource limitations. The Independent Examiner emphasises that no finding is made here regarding the use of GenAI, nor that it influenced this Initial Assessment decision. The Independent Examiner also does not consider that the notifier lacked 'good faith' in his dealings with the AusNCP.

Conclusion

60. The Independent Examiner finds that the first four of the six Initial Assessment admissibility criteria for a complaint to be accepted for further consideration by the AusNCP have been satisfied or

²⁸ Norwegian NCP, *Individual vs. Orkla Snacks AS / SIA Orkla Biscuit Production (Latvia)*, 21 November 2025, p 3; Norwegian NCP, *Individual vs. Telenor ASA / Telenor Pakistan*, 7 November 2025, p 4.

partially satisfied. However, the final two criteria have not been satisfied, and the Independent Examiner has decided that the complaint will not be accepted.

60.1. This Independent Examiner's decision does not preclude the notifier from pursuing his concerns through other proceedings that he has commenced.

60.2. The AusNCP complaint procedures specify that acceptance or rejection of a complaint is not an assessment of whether an enterprise's actions are consistent with the OECD Guidelines.²⁹

61. In preparing this Final Statement, the Independent Examiner considered all submissions made by the parties and consulted with the AusNCP Board. The Independent Examiner also provided a draft version of this statement to the parties for comment and took their subsequent views into account in finalising this statement.

62. This statement is available on the AusNCP website at www.ausncp.gov.au.

John Southalan

Independent Examiner

Australian National Contact Point for Responsible Business Conduct

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²⁹ AusNCP complaint procedures, p 9 para [36].

Annexes

Annex A: Schedule of events

Submission	Date
<ul style="list-style-type: none"> • Notifier emailed enquiry to the AusNCP Secretariat 	20 October 2025
<ul style="list-style-type: none"> • AusNCP Secretariat requested the notifier to use the AusNCP website complaint webform 	28 October 2025
<ul style="list-style-type: none"> • Notifier submitted complaint through the AusNCP website 	28 October 2025
<ul style="list-style-type: none"> • AusNCP emailed notifier acknowledging receipt of complaint 	4 November 2025
<ul style="list-style-type: none"> • AusNCP requested further details on the complaint under paragraph 20.1 of the AusNCP complaint procedures 	11 November 2025
<ul style="list-style-type: none"> • Notifier provided further details on his complaint to the AusNCP 	11 November 2025
<ul style="list-style-type: none"> • AusNCP Secretariat sought further clarification on the notifier's submissions 	19 November 2025
<ul style="list-style-type: none"> • Notifier provided additional details on the relevant chapters and paragraphs of the OECD Guidelines pertaining to the complaint 	19 November 2025
<ul style="list-style-type: none"> • AusNCP Board notified about the complaint by the AusNCP Secretariat 	26 November 2025
<ul style="list-style-type: none"> • Independent Examiner (Mr John Southalan) emailed the notifier to advise that he had been assigned to assess the complaint 	28 November 2025
<ul style="list-style-type: none"> • Notifier acknowledged that the Independent Examiner had been assigned 	28 November 2025
<ul style="list-style-type: none"> • Notifier provided an addendum to his submission via email to the Independent Examiner 	4 December 2025
<ul style="list-style-type: none"> • Notifier provided a further addendum to his submission via email to the Independent Examiner without the referenced attachment 	5 December 2025
<ul style="list-style-type: none"> • AusNCP Secretariat requested that the notifier re-send the further addendum with the referenced attachment 	8 December 2025
<ul style="list-style-type: none"> • Notifier re-sent further addendum with the attachment 	8 December 2025
<ul style="list-style-type: none"> • Independent Examiner acknowledged receipt of the material provided by the notifier and requested: (1) any additional material related to the Initial Assessment criteria to be sent by 18 December 2025; (2) confirmation of the enterprises; and (3) consent to share the complaint information with the relevant enterprises 	11 December 2025
<ul style="list-style-type: none"> • Notifier provided additional details for his complaint and confirmed consent for the Independent Examiner to share the complaint information with the relevant enterprises 	11 December 2025
<ul style="list-style-type: none"> • Notifier provided further additional details for his complaint 	11 December 2025
<ul style="list-style-type: none"> • Independent Examiner confirmed receipt of both emails dated 11 December 2025 and requested that the notifier confirm his understanding of the enterprises subject to the complaint 	12 December 2025

<ul style="list-style-type: none"> • Notifier confirmed the identity of the relevant enterprises and provided additional information for the Initial Assessment of his complaint 	12 December 2025
<ul style="list-style-type: none"> • Notifier provided additional information related to his complaint 	14 December 2025
<ul style="list-style-type: none"> • Independent Examiner confirmed receipt of the additional information and confirmation of the relevant enterprises, and his understanding that he has the notifier's consent to provide all relevant information to those enterprises 	16 December 2025
<ul style="list-style-type: none"> • Notifier confirmed receipt and provided consent for relevant information to be sent to the enterprises 	16 December 2025
<ul style="list-style-type: none"> • Independent Examiner notified the enterprises of the complaint and informed them of the issues raised and the Initial Assessment process 	9 January 2026
<ul style="list-style-type: none"> • Enterprises A and C provided a response to the Independent Examiner 	28 January 2026
<ul style="list-style-type: none"> • Independent Examiner emailed Enterprises A and C to acknowledge receipt of their submission and to request clarification 	2 February 2026
<ul style="list-style-type: none"> • Enterprise B provided a response to the Independent Examiner 	5 February 2026
<ul style="list-style-type: none"> • Independent Examiner emailed the enterprises seeking consent to share relevant information from their responses with the notifier 	11 February 2026
<ul style="list-style-type: none"> • Enterprises A and C confirmed consent to share information with the notifier 	12 February 2026
<ul style="list-style-type: none"> • Enterprise B confirmed consent to share information with the notifier 	13 February 2026
<ul style="list-style-type: none"> • Independent Examiner provided the notifier with information from the enterprises' submissions 	16 February 2026
<ul style="list-style-type: none"> • Notifier responded to the enterprises' submissions in three emails 	16 February 2026
<ul style="list-style-type: none"> • Independent Examiner emailed the notifier acknowledging receipt of his emails and seeking clarification regarding two of the three emails that appeared to be substantially similar 	17 February 2026
<ul style="list-style-type: none"> • Notifier responded to the Independent Examiner 	17 February 2026
<ul style="list-style-type: none"> • Draft Final Statement provided to the AusNCP Board for consideration 	16 April 2026
<ul style="list-style-type: none"> • Draft Final Statement provided to the parties for comment 	15 May 2026
<ul style="list-style-type: none"> • Notifier's response with feedback on the draft Final Statement received by the AusNCP 	15 May 2026
<ul style="list-style-type: none"> • Enterprises A and C provide feedback on the draft Final Statement to the AusNCP 	21 May 2026
<ul style="list-style-type: none"> • Embargoed copy of the Final Statement is provided to the parties 	12 June 2026
<ul style="list-style-type: none"> • Embargoed copy of the Final Statement is provided to the AusNCP Board 	12 June 2026
<ul style="list-style-type: none"> • Final Statement published on www.ausncp.gov.au and reported to the OECD 	26 June 2026

Annex B: Artificial Intelligence and NCP cases

1. The following observations address the use of Generative Artificial Intelligence (**GenAI**) in NCP ‘specific instance’ proceedings. These are the Independent Examiner’s observations, provided to assist broader understanding of issues which may arise and to assist NCPs and any parties considering GenAI use. Publication here does not necessarily represent the endorsement of the parties to this complaint, the AusNCP, nor the members of the AusNCP Board.
2. These observations reference the core effectiveness criteria of the NCP system,³⁰ particularly accessibility, transparency, and predictability, while recognising that GenAI tools are increasingly being used by parties in dispute resolution processes and can, in some circumstances, be helpful. The observations below draw on existing guidance regarding responsible use of GenAI in dispute resolution and legal processes, as developed by courts,³¹ legal professional bodies,³² and others.³³
3. GenAI includes online programs that predict the next word in a sentence based on having been trained on vast quantities of text. Common examples include ChatGPT, Claude, and Gemini. These programs produce text that is statistically plausible based on patterns in their training data, but they do not verify factual accuracy, cannot access non-public information unless provided by the user, and do not reflect any individual’s actual knowledge or experience. Material generated by such programs may appear authoritative, while still containing significant errors.
4. The *Recommendation of the OECD Council on Artificial Intelligence*, amended in 2024, recognises that AI ‘has the potential to improve the welfare and well-being of people’ and to ‘contribute to positive sustainable global economic activity’, but also that AI ‘transformations may have disparate effects within, and between societies and economies, notably regarding ... implications for democracy and human rights, privacy and data protection, and digital security’.³⁴ The benefits and risks associated with AI have similarly been recognised in other international organisations,³⁵

³⁰ OECD Guidelines, *I. Commentary on the Procedures for NCPs*, p 64 para [10].

³¹ See e.g. Singapore Courts, *Guide on the use of Generative Artificial Intelligence Tools by Court Users*, 1 October 2024; Courts of New Zealand, *Guidelines for use of generative artificial intelligence in Courts and Tribunals*, 7 December 2023; Courts and Tribunals Judiciary, *Artificial Intelligence (AI) – Judicial Guidance*, 31 October 2025; Caribbean Court of Justice, *The Use of Generative Artificial Intelligence Tools in Court Proceedings*, 14 February 2025; Federal Court of Australia, *General Practice Note: Use of Generative Artificial Intelligence*, 16 April 2026, accessed 4 May 2026.

³² See e.g. Technology, Cyber and Privacy Laws Committee, *The Risks and Precautions in Using Generative Artificial Intelligence in the Legal Profession, Specifically ChatGPT*, Bar Council Malaysia, 24 November 2024; Law Institute of Victoria, *Ethical and Responsible Use of Artificial Intelligence*, 14 August 2025; Canadian Judicial Council, *Guidelines for the Use of Artificial Intelligence in Canadian Courts*, 24 October 2024.

³³ See e.g. Victorian Law Reform Commission, *Artificial Intelligence in Victoria’s Courts and Tribunals: Report*, Parliament of Victoria, 3 February 2026; Satterthwaite, M, *Report of the Special Rapporteur on the independence of judges and lawyers*, United Nations, 16 July 2025; Gutiérrez, JD, *Guidelines for the use of AI systems in courts and tribunals*, United Nations Educational, Scientific and Cultural Organization, 3 December 2025.

³⁴ OECD, *Recommendation of the Council on Artificial Intelligence*, OECD/LEGAL/0449, 3 May 2024.

³⁵ See, e.g., United Nations, *Seizing the opportunities of safe, secure and trustworthy artificial intelligence systems for sustainable development*, GA Res 78/265, UN Doc A/RES/78/265, 1 April 2024, adopted 21 March 2024; United Nations Educational, Scientific and Cultural Organisation (**UNESCO**), *Recommendation on the Ethics of Artificial Intelligence*, 23 November 2021; Thomson Reuters Foundation & UNESCO, *Responsible AI in practice*, 13 April 2026.

as well as in the *AI Ethics Principles* of the Australian Government.³⁶ Recently, the Federal Court of Australia noted ‘*the beneficial use of technology in proceedings*’, recognising that GenAI ‘*has the potential to facilitate the just resolution of disputes by increasing [litigation efficiency], reducing legal costs, enhancing access to justice and the quality of the administration of justice*’.³⁷ These observations also apply to the NCP process.

5. GenAI is transforming dispute resolution processes globally. These tools are increasingly used by parties to analyse documents, draft submissions, and conduct legal research, and they offer real benefits, particularly for parties with limited resources. However, they also carry well-documented risks, including fabricated case references, invented regulatory provisions, and inaccurate summaries of documents. This is a fast-moving area, and many dispute resolution bodies are publishing dedicated guidance on the use of GenAI in their processes. Courts and legal professional bodies in many countries are now issuing guidance to provide appropriate safeguards.
6. The dynamics described above apply equally to ‘specific instances’ handled by NCPs under the OECD Guidelines. The core effectiveness criteria for NCPs (requiring them to be visible, accessible, transparent, accountable, impartial and equitable, predictable, and compatible with the OECD Guidelines) provide the normative framework within which any use of GenAI should occur. The ‘good faith’ expectations of the OECD Guidelines are also important, as they emphasise that parties must refrain from misrepresenting the issues and the process, and must genuinely engage in the NCP proceedings, with a view to finding a solution compatible with the OECD Guidelines.³⁸
7. GenAI can produce markedly different responses based on small changes to the instructions given, illustrating the need for care in NCP proceedings. For example, submitting the following two requests to a GenAI tool (emphasis added here to show the only difference between them) would produce, within seconds, two cogent and well-argued documents that point to very different ends:

Search the internet for all information about [*insert short description of event in one sentence*]. Write short submissions explaining how [*insert relevant company name*] acted consistently with the OECD Guidelines, referencing relevant chapters and paragraphs of the OECD Guidelines and publicly available documents.

Search the internet for all information about [*insert short description of event in one sentence*]. Write short submissions explaining how [*insert relevant company name*] acted inconsistently with the OECD Guidelines, referencing relevant chapters and paragraphs of the OECD Guidelines and publicly available documents.

8. Submitting either response to an NCP, in the form provided by GenAI, will not assist an NCP’s assessment, nor will it contribute to the OECD Guidelines’ purposes and effectiveness. Submitting such material without verification may misrepresent the issues and risks incorporating fabricated quotations or presenting incorrect analyses of the OECD Guidelines as authoritative. This conduct is at odds with the ‘good faith’ expectations of the OECD Guidelines and several of the

³⁶ Department of Industry, Science and Resources (DISR), *Australia’s AI Ethics Principles*, 2 December 2025: ‘AI systems designed for legitimate internal business purposes, like increasing efficiency, can have broader impacts on individual, social and environmental wellbeing. Those impacts, both positive and negative, should be accounted for throughout the AI system’s lifecycle, including impacts outside the organisation.’

³⁷ Federal Court of Australia, 2026.

³⁸ OECD Guidelines, *I. Commentary on the Procedures for NCPs*, p 68, para [26].

core effectiveness criteria. In addition, uploading non-public or sensitive complaint materials to GenAI systems may constitute disclosure to a third party, breaching confidentiality expectations.

9. The following ideas are organised under some (not all) of the core effectiveness criteria for NCPs. They are consistent with those criteria and with the OECD Guidelines' expectations of 'good faith' engagement.

(a) Visible

10. NCPs should publish clear and accessible information on their websites about the use of GenAI in 'specific instance' (or NCP complaint) proceedings. Publishing clear expectations regarding the use of GenAI supports the visibility criterion by ensuring that all potential parties understand the NCP's approach before providing documents to the NCP or to other parties.

(b) Accessible

11. Easy access to the NCP process is important for its effective functioning.³⁹ GenAI tools can improve accessibility for notifiers in different circumstances (for example, those who face language or resource barriers or who live with disability) by assisting in the preparation of their submissions. Such tools can help identify relevant paragraphs of the OECD Guidelines, improve text clarity, assist with translation, or check spelling and grammar. This is a positive development for accessibility.
12. However, using GenAI to prepare and produce the substantive content of NCP submissions may be inappropriate, due to its predictive text methodology. Substantive content includes factual accounts of events, descriptions of an enterprise's internal practices or policies, and direct quotations from documents. Submissions must contain the genuine knowledge, evidence, and views of the party submitting them, both to avoid misrepresenting the issues and to demonstrate genuine engagement with the NCP process, in line with the OECD Guidelines' expectations of 'good faith' engagement.⁴⁰

(c) Transparent

13. Parties must not upload documents, evidence, or information that is non-public, confidential, or sensitive to GenAI systems, unless the consent of all relevant parties has been obtained and the system does not retain or use the information for training purposes. This requirement respects the prohibition in the OECD Guidelines' Implementation Procedures on disclosing – publicly or to a third party – facts or arguments shared by other parties or an NCP during an NCP's proceedings.⁴¹
14. The risk of inadvertent disclosure may be reduced where parties use GenAI tools operating in closed or controlled environments that do not retain or use inputs for training or model development. However, parties using such tools should still ensure that the integrity and confidentiality of NCP proceedings is preserved, and should not assume that the use of a closed environment is a substitute for considering whether the information may properly be entered into a GenAI tool at all.

³⁹ OECD Guidelines, *I. Commentary on the Procedures for NCPs*, p 65.

⁴⁰ OECD Guidelines, *I. Commentary on the Procedures for NCPs*, p 68 para [26]. For 'good faith' engagement in the AusNCP context, see AusNCP complaint procedures, Glossary definition of 'good faith', p 19.

⁴¹ OECD Guidelines, *I. National Contact Points for Responsible Business Conduct*, p 60, para [7].

(f) Predictable

15. Under the OECD Guidelines, NCPs should *'provide clear and publicly available information on their role and the procedures they follow in fulfilling their responsibilities, particularly in the resolution of specific instances'*.⁴² This extends to communicating expectations regarding parties' conduct, including 'good faith' engagement and confidentiality. Given the relationship between the use of GenAI and these expectations, any guidance on its use should be clear and publicly available in order to meet the requirement that NCPs act in a predictable manner.
16. To support predictability in how NCPs expect parties to use GenAI during an NCP process, NCPs could require parties submitting materials to confirm their understanding of these expectations. To ensure that any submissions or documents provided to an NCP do not include inappropriate use of GenAI, the following acknowledgement (or a variation of it) may be a useful requirement for a notifier (and where relevant, an enterprise) to complete, when providing materials to an NCP:

- [to be ticked, signed and dated] *I have read, and understand the following points regarding Generative Artificial Intelligence (GenAI)*
- *GenAI includes online programs which predict the next best word in a sentence, having been trained on enormous quantities of text. Common examples of GenAI include ChatGPT, Claude, Microsoft Copilot, DeepSeek, Gemini, Grok, Meta AI and Perplexity AI.*
 - *GenAI can quickly produce text that appears authoritative while containing significant errors.*
 - *I have checked every word in the attached submissions or material that I am providing to the NCP, and believe it to be true. In particular, I have checked: (1) that every reference to a chapter or paragraph of the OECD Guidelines is correct; and (2) the accuracy of every quote/extract, by comparing it with the original document from which it was sourced.*
 - *I understand that, if the submitted material contains multiple or significant errors in either of the above (i.e. paragraphs of the OECD Guidelines or quotations/extracts):*
 - *the NCP may consider the material was created by GenAI and that I did not check it as I had indicated*
 - *the NCP may then ask me to provide a short explanation (less than two written pages, and in a format which can be provided to the other party) regarding the identified errors*
 - *depending on the nature of the errors and my explanation, the NCP may determine that I have not acted in 'good faith' and proceed in accordance with its procedures for situations involving a lack of 'good faith' engagement.*

(g) Compatible with the OECD Guidelines

17. NCPs may use GenAI tools in their internal processes, such as to assist with case management, translation, or drafting. In doing so, NCPs should ensure that such use is consistent with the values

⁴² OECD Guidelines, *I. Commentary on the Procedures for NCPs*, p 66.

embedded in the OECD Guidelines and the *Recommendation of the OECD Council on Artificial Intelligence*. This includes ensuring that any GenAI systems used by NCPs are human-centred, transparent in their operation, and supported by robust safeguards. NCPs should carefully consider the risk that GenAI may affect the impartiality of their processes or compromise the confidentiality of party communications.⁴³

18. Consistent with the *Recommendation of the OECD Council on Artificial Intelligence* and guidance issued by courts and legal professional bodies, GenAI output used in NCP proceedings, whether by parties or NCPs themselves, should be subject to meaningful human review. GenAI tools do not verify factual accuracy, cannot access non-public information, and do not reflect any individual's actual knowledge or experience. Further, they can perpetuate historical inequities and reproduce discriminatory patterns.⁴⁴ The human submitting or relying upon GenAI-assisted material retains full responsibility for ensuring its accuracy, appropriateness, and consistency with the OECD Guidelines.

Summary

19. Appropriate uses of GenAI in an NCP process may include:
 - analysing publicly available documents (provided the resulting analysis or summary is verified against the original source)
 - identifying relevant paragraphs of the OECD Guidelines for an individual to review and consider
 - translation and editing (for example, improving self-drafted text or checking spelling and grammar).
20. Inappropriate uses of GenAI in an NCP process may include:
 - uploading non-public documents containing sensitive or confidential information to a GenAI system for analysis, unless all relevant parties have consented and the system does not store the document
 - generating submissions that are intended to reflect the author's knowledge (because NCP submissions should rely on a person's own positions, viewpoints, and experience)
 - relying on GenAI to generate the evidentiary basis of a submission, including factual narratives of specific events, overviews of an enterprise's policies, or legal and regulatory analysis.
21. The Independent Examiner recommends that this matter be brought to the attention of the *OECD Working Party on Responsible Business Conduct* and its three institutional stakeholders: *Business at OECD*, the *Trade Union Advisory Committee*, and *OECD Watch*. NCPs should consider the implications of parties using GenAI during their handling of specific instances.

⁴³ OECD 2026, pp 8-9.

⁴⁴ Thomson Reuters Foundation & UNESCO 2026, p 56.

Annex C: Publications

Australian National Contact Point for Responsible Business Conduct, 'AusNCP complaint procedures', Department of the Treasury, Australian Government, Canberra, April 2024, accessed November 2025. <https://ausncp.gov.au/sites/default/files/2024-04/ausncp-complaint-procedures.pdf>

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Annex D: Institutional arrangements

- The Australian Government is committed to promoting the use of the OECD Guidelines and implementing them effectively and consistently. Through business cooperation and support, the OECD Guidelines can positively influence business conduct and ultimately economic, environmental and social progress.
- The OECD Guidelines are recommendations on responsible business conduct addressed by governments, including Australia, to multinational enterprises. They provide voluntary principles and standards for responsible business conduct consistent with applicable laws and internationally recognised standards. Enterprises operating in Australia and Australian enterprises operating overseas are expected to act in accordance with the principles set out in the OECD Guidelines and to perform to the standards they recommend. In countries where domestic laws and regulations conflict with the principles and standards of the OECD Guidelines, enterprises should seek ways to honour such principles and standards to the fullest extent, which does not place them in violation of domestic law.
- The OECD Guidelines represent international standards of behaviour, which in some areas, may impose higher standards than Australian law. Importantly however, while Australia is an adhering country to the OECD Guidelines and the OECD Guidelines have been endorsed within the OECD international forum, they are not a substitute for, nor do they override, Australian or international law.
- The OECD Guidelines can be seen as:
 - A useful aid to business in developing their own code of conduct. They are not aimed at replacing or preventing enterprises from developing their own codes.
 - Complementary to other business, national and international initiatives on corporate responsibility, including domestic and international law in specific areas such as human rights and bribery. For example, the human rights chapter in the OECD Guidelines as well as other key concepts align with the [United Nations Guiding Principles on Business and Human Rights](#).
 - Providing an informal structure for resolving issues that may arise in relation to implementation of the OECD Guidelines in complaints.

Annex E: Governance

- Governments adhering to the OECD Guidelines have flexibility in organising their NCPs, which are expected to meet core effectiveness criteria, by operating in a manner that is visible, accessible, transparent, accountable, impartial and equitable, predictable, and compatible with the OECD Guidelines. NCPs are also expected to seek the active support of social partners, other stakeholders and relevant government agencies.
- Accordingly, the OECD Guidelines stipulate that:
 - NCPs will be composed, organised and sufficiently resourced to provide an effective basis for dealing with the broad range of issues covered by the OECD Guidelines, have access to expertise on all relevant aspects of the NCP mandate, and operate in an impartial manner and maintain an adequate level of accountability to the adhering government.
 - NCPs can use different forms of organisation to meet the effectiveness criteria and maintain stakeholder confidence.
 - Governments are encouraged to include representatives of the business community, worker organisations, civil society and other non-governmental organisations in advisory or oversight bodies to assist the NCP in its tasks and contribute to the effectiveness of the OECD Guidelines.
- The [AusNCP Board](#) includes representatives from Australian Government agencies, business, civil society and unions. The AusNCP Board provides independent expert advice and assistance to the AusNCP and the Independent Examiners on complaints handling. Board members use their networks, events and publications to promote responsible business conduct standards under the OECD Guidelines and the AusNCP services. The AusNCP Board is consulted on all AusNCP statements.
- The AusNCP Board helps to ensure that the AusNCP meets the effectiveness criteria of the OECD Guidelines. AusNCP Board Members may be called on to conduct procedural reviews of AusNCP complaints and may be consulted on various operational and administrative matters as needed.