

From: [Simon Pryor](#)
To: [Corporate Crime](#)
Subject: Comments on TOR
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The Business Council wishes to comment on the draft terms of reference for the upcoming ALRC review into Australia's corporate criminal responsibility regime.

The ALRC review will consider whether, and if so what, reforms are necessary or desirable to improve Australia's corporate criminal liability regime.

The draft terms of reference are not, however, limited to corporate criminal accountability, as they specify that the ALRC should review 'mechanisms which could be used to hold individuals (e.g. senior corporate office holders) liable for corporate misconduct'. The draft terms of reference go on to state that the ALRC should consider 'whether Part 2.5 of the Code needs to incorporate provisions enabling senior corporate officers to be held liable for misconduct by corporations'.

Any consideration of the liability of individuals for corporate misconduct should take account of the various avenues pursuant to which individuals might be personally liable for corporate misconduct under the law as it stands. This would include consideration of directors' duties under the Corporations Act and at common law and considerations of accessory liability.

The Business Council therefore proposes that the terms of reference be amended to require the ALRC, when reviewing liability of individuals, to take into consideration existing directors' and officers' duties under the Corporations Act and common law.

Thank you for the opportunity to comment.

Simon Pryor

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