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An Ethical Reading of the UK Modern Slavery Act and its Implications for Firms

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Introduction

This paper is an initial analysis of some of the implications of the UK Modern Slavery Act 2015 (which will be referred to in the paper as the Act). The paper addresses implications of the Act for firms in particular.

The analysis is incomplete; further work is required on the arguments used and on the full range of issues arising from the Act. The paper may also be seen as part of a wider attempt to work out how best to engage in an ethical analysis of a firm’s activities.

Ethical and legal readings of the Act

The Act has implications for all parties that are affected by, or that have an interest in, the problems arising from modern slavery and human trafficking, including firms. A useful distinction can be made between a legal reading and an ethical reading of the Act.

A legal reading sets out what the Act requires of parties, including firms, as a matter of law. These parties will seek to clarify what the legal position requires. Firms will seek a clear statement from legal advisors on the implications of the Act. This will form the basis for implementing the new legal requirements by the firm, and may require changes to aspects of the firm’s activities including policies, processes and operations. This paper is not a legal reading of the Act.

An ethical reading considers the ethical claims in the Act. This paper addresses some of the implications of these ethical claims for firms; for example, ethical claims may have implications for the responsibilities of firms. An ethical reading is based on the text of the Act, but does not provide a legal interpretation of this text. In this sense, the analysis in this paper is similar to the analysis of any citizen who is seeking to understand the Act, but is not attempting a legal reading of the Act.

An ethical reading of the Act may identify some of the ethical claims that the legal claims in the Act appealed to as these legal claims were formulated. The extent to which these are in fact the claims that were appealed to is in part an empirical question about the intentions of the Act’s authors. An ethical reading identifies implications of the Act that were intended, partially intended, or unintended by the authors. As a shorthand, we can refer to the intentions of the authors of the Act as (simply) the intentions of the Act. Where the intentions of particular groups of authors are considered, these groups can be specified insofar as this specification is possible.

An ethical reading also draws out the wider ethical implications that follow from the requirements of the Act. For example, the current Act may have implications for the

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1 The UK Modern Slavery Act which received Royal Assent on 26th March 2015, http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted
2 Thanks to Steve New for comments and discussion about this paper, the Act, and related issues
responsibilities that firms assume for their supply chains. Some of these implications may be far reaching.

It is useful to distinguish between the intentions of the Act, the meaning of the text of the Act, and the range of short, medium and long term consequences of the Act. Although these three categories overlap the distinction between the categories is useful. More than one category is likely to be required for an ethical analysis of any part of the Act. It is possible that a consideration of the meaning of part of the text requires an analysis of the intention behind the inclusion of this particular text in the Act, and of the consequences of this text for firms.

As an example, the text of the Act requires that firms produce a particular public statement (about the firm’s actions across the supply chain), but does not appear to require substantive action on the contents of the statement; although this is of course subject to a legal reading of the Act. This suggest a possible intention that the consequences of this requirement will include public pressure on firms to in fact take action to reduce slavery and human trafficking. This pressure may originate from customers, investors, campaigning groups, or from within firm, or from firms across the supply chain. On this view, the Act seeks a substantive change in the actions and outcomes of firms through an indirect route. The change may be identified as an overall intention of this part of the Act and builds on an analysis of the intention of specific elements of the Act’s text.

**An ethical reading and legal facts**

The relevance or use of an ethical reading may be disputed on the basis that the Act presents an instance of positive law that confronts firms (and other parties) as a legal fact. There are a various dimensions to this view including the following.

Firms must act within the requirements of the Act based on the principle of the rule of law. On one view the rule of law is an ethical principle and appeals to further ethical claims. The firm acts within the requirements of the Act on the basis of the rule of law, rather than on the basis of any particular ethical claim identified within the Act. An ethical reading is the Act may not be necessary for an understanding of the requirements of the Act.

In addition, firms may act within the requirements of the Act as a matter of prudence. It is in the interests of the firms to avoid acting illegally under the terms of the Act, and to risk suffering the sanctions and the material and reputational damage following from any subsequent prosecution under these terms. On this view an ethical reading the Act is not necessary as it does not add further understanding of the firm’s prudential reasons for acting within the requirements of the Act.

In general, it may be argued that an ethical reading does not add further understanding or clarification of the requirements of the Act on the grounds that such understanding and clarification is a matter of legal interpretation based on a legal reading. This may be supported by the further argument that the ethical content of the Act is fully exhausted by an appeal to the rule of law. Even if an ethical reading appears to add to the understanding of the Act, this reading is irrelevant because it is the legal reading of the Act that will have substantive consequences for firms. On this view, an ethical
reading at best *shadows* a legal reading, but does not add useful content to the legal reading.

This paper draws on the view that an ethical reading of the Act is at least *possible*, and that this reading considers ethical claims that may be intended, suggested or implied by the Act, or that have implications for the parties (in this case, firms) on the basis of the Act. On this view, these ethical claims are not be fully exhausted by a legal reading of the Act, and may extend beyond the legal implications of the Act, although they are likely to be consistent with the overall legal position set out in the Act (based on a legal interpretation of the Act’s requirements).

**A legal reading and the implementation of the Act**

A legal reading of the Act is likely to be based primarily on the text of the Act as published. The Act came into force on 31st July 2015. There may be amendments to the Act over time. These may involve relatively minor clarifications, or major changes to the content of the Act that have legal implications for firms.

Further measures and regulations are likely to be issued over time that clarify or develop the requirements of the Act. For example, on 31st July 2015 the Home Office announced the turnover threshold for firms required to issue a statement on slavery and human trafficking (this is also the date when the Act came into force). The statement on slavery and human trafficking referred to in the Act will be referred to as the Statement in this paper.

All amendments to the Act and further measures and regulations will require a further legal reading of the Act.

The Act will be interpreted by multiple parties. Firms are likely to take these interpretations into account when considering the requirements of the Act. This will include legal advice provided to each firm by internal or external advisors, and publicly available legal advice and comment that is external to the firm.

The legal advice on the requirements of the Act may be refined on the basis of the practical experience of the implementation of the Act by firms. This may apply in particular to the publication of the Statements as required by the Act. Statements published by firms will, in turn, be subject to further legal analysis to assess compliance with the Act. In parallel it is likely that examples, and in some cases exemplars, of Statements will become available that are considered best practice within, or in some cases beyond, the requirements of Act.

Firms will be subject to public scrutiny for compliance with the Act, in particular by citizens and other parties with a wider concern about modern slavery and human trafficking as addressed in the Act.

Over time the Act may be used as the basis for the prosecution of individuals and firms. This will apply to all aspects of the Act including to the specific requirements

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4 Ibid
for firms. The outcomes of the any prosecutions will supplement and complement the legal reading of the Act, and will suggest further legal interpretation of the Act’s implications for firms, and may establish legal precedents that require legal analysis.

An ethical reading and public reasoning

A consideration of the implications of the Act for firms may be described as an example of public reasoning on a matter of public concern. The wide matter of public concern is the existence of modern slavery and human trafficking. One particular matter of public concern is the existence of slavery and human trafficking in the operations of firms and across the supply chains of firms.

An ethical reading of the Act can be described as an aspect of public reasoning. Public reasoning incorporates an account of the wider principle of the rule of law. Firms are required to operate within the requirements of the Act on the basis of the principle of the rule of law; and this may be combined with prudential reasons for acting legally. Any outcomes of public reasoning about the Act, including any outcomes from an ethical reading, can be described as outcomes within the principle of the rule of law, even if these outcomes suggest implications for firms that exceed the legal requirements of the Act.

Slavery and human trafficking: definitions

The Act provides a definition of ‘Slavery, servitude and forced or compulsory labour’ in Section 1, and a definition of ‘Human trafficking’ in Section 2. These definitions are referenced in subsequent sections of the Act.

Elements of these definitions, and the definitions as a whole, may be disputed by researchers, campaigners, citizens, firms, and others working in this field or with an interest in these issues of public concern. The definitions may also differ from the definitions used in jurisdictions other than the UK, and in relevant international articles of various kinds. A research question will be the extent to which the definitions used in the Act are consistent with or differ from other versions of the definitions.

In parallel to the analysis of the definitions in Sections 1 and 2, it is also possible that these definitions will provide a useful and authoritative basis for the wider discussion of these issues, or at least as a starting point for this discussion. This appeals both to the specific use of these definitions in the Act, and to the wider view that the definitions can be seen as the outcome of a considered analysis of the issues undertaken in order to arrive at the text of the Act.

Implications for firms

The Act appears have at least two broad implications for firms.

A first implication concerns the offences of slavery and human trafficking. These offences are set out in Sections 1 and 2 and cover ‘Slavery, servitude and forced or

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5 The UK Modern Slavery Act 2015, Part 1, Sections 1-2

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compulsory labour’ and ‘Human trafficking’. The offences may be committed by any person; and this appears to include any person employed by, linked to, or working on behalf of a firm. The ethical claims involved can be explored by an ethical reading of the definitions in Sections 1 and 2.

An ethical implication for firms in the light of the two definitions in Part 1 is a requirement to consider the actions of all individuals who are linked are to the firm. These individuals may be acting directly on behalf of the firm (for example as employees), or acting on behalf of other organisations to which the firm has a relationship (for example through the firm’s supply chain).

The firm may be concerned about the extent to which these individuals, and the organisations of which they are a part, are acting to prevent slavery and human trafficking. These actions can be analysed further and are likely to extend along a spectrum from minimum concern (for example direct compliance with the Act) to maximum concern (for example supporting and promoting community and industry wide actions to prevent slavery and human trafficking).

Ethical implication of this kind follow directly from the ethical claims suggested by the two definitions of the offences in the Act.

We can add two further dimensions to these ethical implications at this stage.

First, a firm may in fact benefit from the outcome of activities that involve offences as described by the Act, even in the firm is unaware or only partially aware that the offences are occurring. This may be one of the reasons for the inclusion of the Statement as a requirement of the Act, and further analysis may reveal this to be the main reason for its inclusion. If this is the case, firms will need to arrive at a robust ethical position to overcome a possible tendency to relax vigilance on these issues as a result of the benefits to the firm of activities that involve offences.

Second, many firms will have significant authority, resources and power to prevent the offences described in the Act. Each of these elements will require further analysis, but this can be described as a countervailing dimension to the potential benefits described. On this basis, firms have the means to act on the serious ethical concerns raised by the offences described in the Act. This suggests that firms may be in a position to take on ethical responsibilities to prevent these offences, in collaboration with regulatory, judicial and other legal authorities.

A legal reading will be required to understand the legal implications for the firm where any individual is found to have committed an offence under the terms of the Act. This will include a clarification of the range of relevant relationships between the an individual and a firm that result in the creation of a firm’s legal responsibility for these actions. This may be a narrower set of relationships than those described by an ethical reading of the Act, but is likely to constitute a subset of these relationships.

Much of the text of the Act appears to provide details about the legal position following the commitment of the offences in Sections 1 and 2. This includes penalties and sentencing, slavery and trafficking prevention orders, maritime enforcement, and protection of victims, among other issues.
A *second implication* for firms concerns a specific requirement for firms to demonstrate transparency in supply chains, and in particular to prepare a slavery and human trafficking statement for each financial year, as set out in Part 6 (the Statement).

An *ethical* implication for firms is a requirement to accept at least some responsibility for slavery and human trafficking both within the firm’s own operations and across the firm’s supply chain. Aspects of this responsibility may already form part of the legal boundaries within which a firm operates. In addition, this may already form part of a responsibility that the firm accepts based on ethical claims in addition to legal claims.

A *legal* reading will be required to understand how firms can meet the specific requirements of the Act as set out in Part 6.

In addition, the creation of an Independent Anti-slavery Commissioner may constitute a *third, and possibly indirect, implication* for firms and for other parties. This is set out in Part 4 of the Act.⁶

**Transparency in supply chains**

Part 6 of the Act sets out a series of requirements for, ‘Transparency in supply chains etc.’. This includes the requirement that, ‘A commercial organisation….must prepare a slavery and human trafficking statement for each financial year of the organisation’.⁷ The Act sets out the types of commercial organisation and the outline contents of the Statement to be prepared.

The Act limits this requirement to firms with, ‘a total turnover of not less than an amount prescribed by regulations made by the Secretary of State’⁸. The Home Office announced on 31st July 2015 that, ‘The turnover threshold for businesses who must declare what steps they are taking to tackle modern slavery has been set at £36m.’⁹ This level includes medium sized firms and emerging medium sized firms.

The Act sets out the purpose of the statement as follows:

‘A slavery and human trafficking statement for a financial year is—
(a) a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place—
(i) in any of its supply chains, and
(ii) in any part of its own business, or
(b) a statement that the organisation has taken no such steps.’¹⁰

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⁶ Ibid, Part 4
⁷ Ibid, Part 6, Section 54, Paragraph 1
⁸ Ibid, Part 6, Section 53, Paragraph 3
¹⁰ The UK Modern Slavery Act 2015, Part 6, Section 54, Paragraph 4
The requirement to include in the Statement that ‘no such steps’ have been taken is similar to requirements in the California Supply Chain Act.\textsuperscript{11}

The Act does not appear to require firms to in fact take steps to prevent slavery and human trafficking in the firm’s supply chain.

The Act uses an idea of ‘transparency’. The key transparency requirement is that firms must provide public information on the steps taken to ensure that slavery and human trafficking is not taking place within its operations or across its supply chain. This includes publishing the Statement on the firm’s website (if the firm has a website) or making the Statement available to the public on request.

On an ethical reading, this can be described as part of the public justification for a firm’s actions and outcomes, including actions and outcomes across the supply chain. Although this may not require the firm to take any particular actions or to ensure any particular outcomes, it does require the firm to provide an explanation of what it has done in the area, including taking no action.

The Act does establish an extension of the responsibilities of firms in the following way: the firm is required to prepare and publish a Statement about slavery and human trafficking when previously this was not a requirement.

As this is a change in the law, the firm’s responsibilities continue to be bounded by a legal principle, in addition to a financial principle. The Act does not change the idea of the firm in the sense that the firm’s actions and outcomes continue to be bounded by the legal principle.

**The content of the Statement**

An outline of the content of the Statement is as follows:

‘An organisation’s slavery and human trafficking statement may include information about—

(a) the organisation’s structure, its business and its supply chains;
(b) its policies in relation to slavery and human trafficking;
(c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
(d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
(e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
(f) the training about slavery and human trafficking available to its staff.”\textsuperscript{12}

This list suggests the elements of the contents of the Statement, but does not describe the detailed structure and format of the Statement required. In addition, the Act does

\textsuperscript{11} [http://www.state.gov/documents/organization/164934.pdf](http://www.state.gov/documents/organization/164934.pdf)

\textsuperscript{12} The UK Modern Slavery Act 2015, Part 6, Section 54, Paragraph 5
not appear to specify the extent and depth of the actions required to gather the
information required in the Statement, or the rigour of the investigation necessary to
meet the requirements of the Statement.

These details may be published at a later point as part of the following guidance:

‘The Secretary of State—
  (a) may issue guidance about the duties imposed on commercial
      organisations by this section;
  (b) must publish any such guidance in a way the Secretary of State
      considers appropriate.
The guidance may in particular include further provision about the kind of
information which may be included in a slavery and human trafficking
statement.’

The Act does make the requirement to publish a Statement clear, as in the following:

‘The duties imposed on commercial organisations by this section are
enforceable by the Secretary of State bringing civil proceedings in the High
Court for an injunction or, in Scotland, for specific performance of a statutory
duty under section 45 of the Court of Session Act 1988.’

Some firms may have already accepted a responsibility to publish information of the
kind required by the Statement prior to, and independently of, the Act. A research
question is the extent to which some firms already publish a statement that covers the
same or similar information, and an investigation of the depth, rigour and validity of
this information. This can be compared with the information required by the Act.

Firms may have taken on this responsibility for various reasons, and in some cases for
multiple reasons. Possible reasons will include the following.

The firm may have accepted a direct responsibility to publish this information as an
extended responsibility based on the prevention of slavery and human trafficking as
ethical claims and beyond any legal requirement.

The firm may be responding to a customer or investor demand to make this
information available (or a demand from another key stakeholder in the firm’s
activities, although these stakeholders may not have a direct financial relationship
with the firm). This demand may have been prompted by a concern about some
aspects of the firm’s activities, or a concern about the industry sector within which the
firm operates, or a more general concern about issues across all sectors, or a
combination of these concerns.

This demand may be described as prudential insofar as it is based on a concern about
the impact of slavery or human trafficking on the performance of the firm, for
example through reputational damage. The impact may either result from the firm’s
activities, or activities across the firm’s supply chain, or some other aspect of the

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13 Ibid, Part 6, Section 54, Paragraphs 10-11
14 Ibid, Part 6, Section 54, Paragraphs 12
environment in which the firm operates. Prudential reasons may in turn be based indirectly on ethical claims, in particular where the customer or investor demand itself appeals to ethical claims directly.

The response of the firm may then be based on a direct recognition of these claims as ethical claims, or on a prudential concern for reputational damage, or other implications for the firm; the recognition of ethical claims suggests that the firm accepts an extended responsibility to publish this information.

A firm responding to a customer or investor demand suggests that although publishing information similar to the Statement has not previously been a formal requirement of the law (based on appeal to a legal principle), it has been an informal requirement for maintaining the financial success of the firm for example through establishing and maintaining a reputational advantage (based on appeal to a financial principle).

The firm may also have anticipated a change in the law similar to that created by the Act. This is a further example of a prudential reason and may overlap with the reasons suggested about. In this case the firm may have sought to mitigate in advance the costs involved in making an abrupt switch to working within new legal requirements, rather than incurring these costs at the point when these requirements come into force.

**Information and transparency**

The Act does not appear to require firms to take any particular action on the matters addressed by the Statement beyond publishing the Statement itself. This appeals to a claim about the need for public information in an area of significant public concern. This may be described as a transparency claim on the basis that the term transparency is often used to describe the desirability of, and in some cases requirement for, information of this kind (including the requirement in the Act).

The process of publishing the Statement will require a series of actions. The research and investigation involved in addressing the outline content of the Statement suggests the nature of these actions, but does not establish this in detail.

Firms will need to work out the actions to be taken in order meet the requirements of the Statement as part of the Act. This is subject to a range of interpretations. The actions may be established on the basis of a legal reading of at least the following: the text of the Act; subsequent guidance published by the Secretary of Stage; examples of Statements published by firms over time; and, potential prosecutions on the basis of the Act (relating to the Statement, but also to other aspects of the Act).

An ethical reading suggests a maximal and minimal view of the requirements of the Statement. A maximal view involves the firm engaging in extensive research and investigation of the current steps taken by the firm to prevent slavery and human trafficking across the supply chain, combined with in depth research into the extent of slavery and human trafficking across the whole supply chain and in the wider environment of the supply chain. Aspects of this research may extend beyond the research that is required by the Act, although this is subject to a legal reading of the Act.
A firm may proceed with research of this kind based on a view about the firm’s responsibilities to prevent slavery and human trafficking. One aspect on these responsibilities includes claims about the Statement itself. A firm may develop a view about what a reasonable Statement ought to include if it is to provide a public statement on a matter of ethical significance and public concern. The statement may be seen as an aspect of the firm’s public justification for its activities within a view about public reasoning. These claims form a maximal view of the requirements of the Act, including a view about the intentions of the Act and of the Statement in particular.

A minimal view of the requirements of the Act involves the firm publishing a Statement based on the minimum research required, and including the minimum content based on the outline from the Act. Arriving at a view about the minimum requirement will also be subject to a legal reading of the Act. Firms may adopt a position that is somewhere between the maximal and minimal view suggested here.

The position of a firm may be more complicated where the firm’s view of compliance with the Act can be separated from a firm’s view of slavery and human trafficking. For example, a firm may seek to meet the minimal requirements of the Act in order to fulfil its legal obligations in the short term, but also seek to fulfil an extended responsibility for slavery and human trafficking based on the ethical claims involved (that are closer to a maximal view of the requirements of the Act).

The firm may argue that actions that meet the minimal requirements of the Act are not fully consistent with the intention of the Statement as currently understood, although they do meet at least the minimal requirements of the Act. Where a distinction of this kind is made it is possible (and perhaps likely) that action based on these two views will converge over time; as the requirements of the Statement (and other aspects of the Act) are worked out more fully, the activities of firms in this area will become more consistent with these requirements.

The Statement as a prompt to action

A firm will need to investigate the steps it has taken to prevent slavery and human trafficking in its operations and across its supply chain in order to publish a Statement (even on a minimal legal reading of the Act). A maximal view of the Act will extend the depth of this investigation.

The information gathered may identify offences that will require action by the firm in order to prevent illegal activity. The offences will be based on the slavery and human trafficking offences as defined in the Act, and may also be based on the content of other relevant legislation.

Activities that even suggest the incidence of slavery or human trafficking are likely be offences if these actions occur within the firm’s operations, either in the UK or in other jurisdictions. This may require action by the firm to prevent these offences.

An area for research will be to track whether a more detailed legal reading of the Act suggests action that may in fact be required by firms as a result researching and publishing the Statement. This may apply to the identification of offences within the
firm’s operations and within the UK, and to offences identified beyond the firm’s operations, and beyond the UK as a jurisdiction.

**Supply chain responsibility**

The requirement to publish a Statement about slavery and human trafficking across a firm’s supply chain appeals to the claim that firms have at least some responsibility for the actions and outcomes of organisations in the firm’s supply chain.

The creation of a *legal* requirement to prepare a Statement extends the *legal* responsibilities of firms to this extent. This requirement is based on the ethical significance of preventing slavery and human trafficking. The *suggests*, but does not appear to *require*, an extension of the responsibilities of the firm to prevent slavery and human trafficking. One intention for requiring a Statement in the Act may be based on the establishing and encouraging this extended *ethical* responsibility.

The legal principle establishes the legal basis for the responsibilities of the firm. If the legal boundary of these responsibilities is limited to an individual firm as a legal entity, the firm would not then have a responsibility for the actions and outcomes of its supply chain. A definition of the firm as a legal entity will also form part of the content of the other relevant legislation (and based on a legal principle).

A firm will benefit from actions and outcomes across the supply chain. The central benefit is that the supply chain provides the basis for the firm to make a financial return within the law. This is based on the claim that the firm is bounded by a financial principle and by a legal principle. The two principles appeal to a series of ethical claims.

One basis for requiring a firm to publish the Statement is the argument that the *benefit* that the firm derives from the supply chain creates some responsibility for that supply chain. A firm may form part of a series of actions and outcomes carried out by other organisations that enable the firm to benefit from these actions and outcomes. Each of these organisations can be described as a legal entity with legal responsibilities, and this applies to firms at all stages or levels in the supply chain. The content of the legal responsibilities for the organisations in the supply chain may differ (in part because supply chains cross jurisdictions), but each organisation will have *some* set of legal responsibilities.

One view of supply chain responsibility appeals to this division of legal responsibilities; any firm in the supply chain is responsible for its own actions and outcomes as a legal entity, and is not responsible for the actions and outcomes of other organisations as legal entities that form the supply chain. This may be based on at least two further arguments: an appeal to the limits of supply chain *knowledge*, and an appeal to the limits of *practical action*.

On knowledge, it may be argued that a firm can only have limited knowledge of the actions and outcomes across the supply chain, and in particular: within the operations of organisations that are legal entities (and so may not be required or willing to provide full information); and, across supply chains comprising, for example, multiple, small, geographically dispersed, and geographically distant organisations. If
the limits to knowledge are reasonable, this may suggest reasonable limits to the firm’s responsibility for the actions and outcomes of these organisations.

On practical action, it may be argued that a particular firm is in position to take practical action within its operations, but is in a weaker position to take practical action beyond its own operations. For example, a firm may be able to influence and take action on the activities of close or first tier supplies, but that this becomes more difficult as the organisations in the supply chain becomes more distant. In addition, all firms in the supply chain will encounter a similar limitation to the scope for their own potential for practical action.

A combination of the limits to knowledge and to practical action forms a basis for one account of the limits to responsibilities of firms. On this view, reasonable limits to the former provide a basis for reasonable limits to the latter.

The argument from benefit suggests that limits to knowledge and practical action may not be a sufficient to limit a firm’s responsibility. Where it is possible to show that a firm benefits from the actions and outcomes of the supply chain, the firm may also have some responsibility for these action and outcomes. So, if knowledge of the supply chain is sufficient to show a benefit to the firm, then this knowledge is also sufficient as a basis for responsibility, even where this knowledge is limited.

There is some limit to this argument based on the definition of the supply chain. Organisations that are very distant from a firm may mark a limit to the firm’s supply chain (although an analysis of the whole supply chain will extend further than this limit). In addition, the supply chain may be limited to organisations so, for example, the actions of individuals beyond their actions as part of, or employed by, organisations in the supply chain may be considered beyond the supply chain. These boundaries require further definition, but suggest grounds for some limit to the extent of the relevant supply chain for an individual firm.

Where a boundary is agreed it is likely to be disputed and subject to change, including extension beyond organisations, and extension in both directions along the supply chain to include customers and others individuals and communities affected by the actions and outcomes of the firm (this suggest that the idea of a supply network may better capture these aspects of the supply chain).

The argument from benefit may be based on the boundary of the firm’s supply chain (recognising that this boundary may change), and appeal to benefits from the supply chain as defined within this boundary. However the argument from benefit may be based a definition of the wider supply chain. One feature of the wider supply chain is that it may extend beyond what is known by a particular firm. If the argument from benefit is based on the boundary of the wider supply chain, this then suggests a further responsibility for firms to ensure that their knowledge of the supply chain is at least as extensive as this wider boundary.

**Supply chain responsibility and supply chain management**

Firms will take some action to manage their supply chain. The extent to which this action is taken by particular firms or by all firms is an empirical issue. It is reasonable
to suggest that many large multinational firms engage in extensive supply chain management of various kinds, and that this activity is increasing (this suggestion is also subject to empirical analysis).

Supply chain management is likely to be based, in part at least, on the benefit of this management activity to the firm, which is in turn based on the benefit a firm derives from the supply chain. This supports that argument that firms may realise a greater financial return through combining actions within their own operations with actions beyond these operations across the supply chain.

The extent to which a firm engages in supply chain management may be based on a combination of the benefit of the management activity, knowledge of the supply chain, and the capacity to take practical action in the supply chain. On this basis, it may be argued that supply chain responsibility extends at least as far as the scope of supply chain management. On this view, the firm has recognised the benefit derived from the supply chain, has established sufficient knowledge of the supply chain to act to increase this benefit, and has established a basis for practical action to increase this benefit based on supply chain knowledge.

A limitation of this argument is that it suggests that the ethical responsibility is determined by, and varies with, the actions of firms rather than establishing the nature of the firm’s responsibility for these actions based on direct ethical claims. It suggests that these claims (and the principles that these claims may appeal to) are contingent on the actions of firms.

**Supply chain responsibility and the Statement**

The Act suggests a view of supply chain responsibility. The legal requirement to prepare a slavery and human trafficking statement suggests that a firm has some responsibility for actions and outcomes across the firm’s supply chain.

The Act combines clarity about the offences of slavery and human trafficking with the requirement to prepare the slavery and human trafficking statement. This may provide one resolution to the concern that, on some views, ethical responsibility appears to vary with a firm’s actions. The offences establish the nature of the responsibilities involved and that these responsibilities are independent of the view taken by a firm. The Statement requires the firm to set out explicitly the steps it is taking in its supply chain to discharge these responsibilities (including no such steps).

This approach suggests that the offences are not contingent on the actions of the firm, but that the actions taken in the supply chain to prevent the offences from occurring are (in this sense) contingent on the firm.

This view of supply chain responsibility draws on a distinction between the legal responsibilities of the firm and the further ethical responsibilities of the firm. There may be other legal responsibilities in the Act. This analysis is an ethical reading of the Act, and not a legal reading. The legal responsibilities appear to be defined primarily by the offences and the Statement.
The offences set out the legal responsibilities of any party, including firms. It is likely that these responsibilities will apply to the operations of the firm, but may also apply beyond these operations to some extent at least, including across parts of the firm’s supply chain (in particular, this may involve parts of the supply chain close to the firm). A legal reading of the Act will determine which responsibilities are generated by the offences. The legal reading will continue to develop as the Act is interpreted and is used as the basis for prosecutions.

It may be argued that the addition of the legal requirement to prepare a Statement (including a Statement that the firm has taken no steps in the firm’s supply chain) supports the view that the Act suggests a particular distinction between the firm’s direct responsibility for the offences, in common with any party covered by the Act, and the responsibilities of the firm more widely across the firm’s supply chain.