

Red Files Inc. Submission re the Online Safety Bill 2021

1 March 2021

Dear Committee Secretary

Thank you for the opportunity to submit feedback on the *Online Safety Bill 2021*.

Red Files Inc. is a non-for-profit charity that aims to prevent violence against and exploitation of sex workers in Australia. Currently, 750 sex workers access our services via our website.

In Australia, the most common type of sex work is private sex work, where self-employed sex workers advertise and organise their appointments with clients themselves. Private sex workers rely heavily on social media services, hosting services, designated internet services, and internet search engines to run their businesses.

With increased internet and social media use, these tech savvy private sex workers rely on uploading nude/pornographic images and content as an integral element of their business operations. Almost all of the 750 sex workers who utilise Red Files' services are these private sex workers who advertise and upload nude/pornographic content online.

The Red Files website infrastructure was created in 2015; our organisation become a registered charity in 2019. Red Files is now one of only two registered national sex worker charities.

Our submission will focus on Part 9 of the Bill as this part relates to the safety of online sex workers in Australia.

If you have further questions related to our submission, please do not hesitate to contact the Red Files Inc. secretary Estelle Lucas on info@redfiles.org.au

Part 9 of The Bill inadvertently contravenes its primary goals and purpose of protecting Australians from harmful online content. This is because Part 9 relates to, amongst other things, online pornography depicting consenting adults. Red Files fears Part 9 will result in a chain of unintended consequences that will do more harm than good – namely the removal of porn from all social media platforms or even blocking Australian users from internet services.

Part 9 is inconsistent with the rest of The Bill, which relates to cyber bullying, revenge porn, cyber abuse material and online material that promotes violence, and as such should be removed entirely.

Australia's existing content classification system is now woefully out of date and fails to distinguish between depictions of consensual sexual activity and objectively harmful content. For example, the film and publication classification "RC Refused Classification" incorporates both fetish porn (consensual adult activity) with harmful content such as bestiality, child sexual abuse, rape and the promotion of crime. It is inappropriate to conflate violent, abusive and harmful online content with consensual, lawful sex work. There is a need to review and update the classification system itself, before any overhaul of the Online Content Scheme. This bill is not the place to be overhauling the Online Content Scheme. Any amendment to the Online Content Scheme should occur via the Review of Australian Classification Regulation² (1), not the Online Safety Bill 2021.

Social Media as a Safety Mechanism for Sex Workers Who Advertise Online

Many Australian sex workers advertise their services on both websites and via social media accounts. These social media accounts are also used by sex workers to share safety information and advice, and for many, this is their only source of safety information used to prevent violence in the workplace.

Unintended Consequences – FOSTA/SESTA as a Comparable Case Study

In 2018, a set of new laws passed in the USA referred to as FOSTA/SESTA (Fight Online Sex Trafficking Act and Stop Enabling Sex Traffickers Act) (2). These laws, designed to prevent human trafficking and sex slavery, were worded to include consensual adult sex work as well as human trafficking crimes. The FOSTA/SESTA laws impose penalties on tech companies which facilitate human trafficking or consensual adult sex work on their websites. The unintended consequence of this law was that many online advertising and safety websites used by sex workers in the USA and beyond (including Australia) were shut down without notice. In the USA, this led to an increase of street-based sex work, as indoor workers who had been advertising online had no choice but to move onto the street³. Thousands of sex workers had their lives upended and negatively impacted as their ability to safety and securely advertise online was compromised as a result of the FOSTA/SESTA legislation.

Part 9 of the Online Safety Bill and FOSTA/SESTA targets both harmful online content/activities and consensual adult sexual activity. By targeting depictions of consensual adult sexual activities, The Bill creates the real risk of serious unintended consequences. Sex workers risk being excluded on mass from social media platforms as social media companies attempt to minimise their risk of falling foul of Part 9. Rather than monitor every image of every sex worker, social media companies may choose the more efficient path of imposing blanket bans on content produced by all sex workers based in Australia.

² The Department of Infrastructure, Regional Development and Communications, Review of Australian classification regulation (19 February, 2020) The Department of Infrastructure, Regional Development and Communications
<<https://www.communications.gov.au/have-your-say/review-australian-classification-regulation>>

³ Lura Chamberlain, 'FOSTA: A Hostile Law with a Human Cost' (2019) 87(5) Fordham Law Review 2171, 2171.

Protecting Children from Accessing Online Pornography

There are already mechanisms available to parents to prevent their children from accessing harmful or pornographic content online. Such mechanisms include government funded education campaigns and various online parental control programs (such as Netnanny⁴). It may be worth considering creating a subsidy for families to afford such technology/programs and to empower individuals to protect their children as they deem fit.

Recommendation

Remove Part 9 of the *Online Safety Bill 2021*.

Regards

Estelle Lucas
Secretary, Red Files Inc.
info@redfiles.org.au
<https://redfiles.org.au>

⁴ <https://www.netnanny.com/alt/>