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Dr Claire Noone
Director, Consumer Affairs Victoria
Level 17, 121 Exhibition St
Melbourne
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Dear Dr Noone,

Sexual slavery signs in Victorian brothels

Thank you for your letter seeking our comments on the Consumer Affairs Victoria assessment into signage regulations in Victorian brothels. We note that sex workers are the *key stakeholders* in this assessment process.

Scarlet Alliance, the Australian Sex Workers Association, is the peak national sex worker organisation in Australia. Formed in 1989 the organisation represents a membership of individual sex workers and sex worker organisations. Scarlet Alliance member organisations and projects have the highest level of contact with sex workers, including contract workers, in Australia of any agency, government or non-government. Through our project work and the work of our membership we have high levels of access to sex industry workplaces in the major cities and many regional areas of Australia. Many of our sex worker organisations and projects within Australia have CALD (culturally and linguistically diverse) projects employing bi-lingual project workers. These project workers provide information, education and support to women who may be working under contract in Australia or who may be experiencing exploitation or trafficking-like conditions.

The Scarlet Alliance Migration Project, staffed and managed entirely by migrant sex workers, aims to fill the evidence gap ensuring that policy responses to trafficking issues represent the actual experiences of migrant sex workers in Australia. The project works to support evidence based policy development, capacity development of sex worker peer educators in delivering services to migrant sex workers, and produce translated information for distribution to sex workers of Thai, Chinese and Korean language backgrounds.

It is these experiences and the high level of contact and support provided by our membership to CALD communities within the sex industry, including women who have entered Australia under contract, which informs our feedback.

Scarlet Alliance has a number of concerns about the content and effectiveness of the sexual slavery signs as required by the *Sex Work Act 1994* since December 2010. We believe the signs are unnecessary in that they do not improve the lives or working conditions of sex workers, instead stigmatising, and perpetuating a criminal justice response to labour exploitation that ultimately hurts sex workers. Scarlet

Alliance has received negative feedback from sex workers in relation to the signs and does not support the continuation. However, if the signs were to continue, this assessment provides an opportunity to change the text of the signs in a way that could vastly improve the rights, autonomy, health, safety and working conditions of migrant sex workers in Victoria.

The signs are unnecessary and ineffective

The Sex Industry is not the only industry where potential exploitation or trafficking can occur.

The singling out of the sex industry for ineffective approaches like this add to the stigmatisation of sex workers, particularly CALD and migrant sex workers – with no gain. If such signs are produced, they should be generally targeted and placed in all workplaces in Victoria, not just sex work workplaces.

The signs do not improve the lives or working conditions of migrant or CALD sex workers

The sexual slavery signs have not been effective in identifying trafficking victims and have not improved the lives or working conditions of migrant sex workers. Terms such as ‘sexual slavery’ are unlikely to have currency or meaning to sex workers who may need assistance but do not identify themselves as a slave. This terminology will alienate the same people the signs seek to assist.

The signs fail to recognise that migrant and CALD sex workers often fear police

The signs refer sex workers to police, who are inappropriate regulators of the sex industry. Demonstrated high levels of corruption, entrapment, and practices of police using condoms as evidence to arrest sex workers, mean that sex workers are unlikely to approach police in the event of a crime, or identify police as the agency to go to for support or help. One of the major motivators for decriminalisation of sex work in NSW was the findings of the Wood Royal Commission showing ‘a clear nexus between police corruption [in the NSW Police Force] and the operation of brothels.’¹ For a sex worker in a vulnerable situation or with poor working conditions, issues around their own migration or legal status may deter them from seeking police assistance for fear of arrest or deportation. Their experience with police in their home country, and the role of Police as regulators/raiders of the sex industry in Australia, can be active deterrents to migrant and CALD sex workers trusting police.

The signs perpetuate a criminal justice response to labour exploitation

Australia’s heavy investment in a criminal justice approach has been demonstrated to curtail the human rights of migrant sex workers, and increase stigma and marginalisation. Raid and rescue operations, and harassment and detention of Asian sex workers have driven migrant sex workers underground, and created barriers to accessing justice, outreach, peer education, industrial rights and occupational health and safety, thereby increasing migrant sex workers’ risk of harm and exploitation. Studies with migrant sex workers found that in the early 2000’s anti-trafficking responses in Australia were causing an increase in private, escort and lower-profile work to avoid raid activity in brothels.² Research shows that criminal justice approaches create barriers to migrant sex workers accessing essential services,

¹ New South Wales Government (1997), Royal Commission into the NSW Police Service: Final Report – Corruption, 13.

² Elena Jeffreys, ‘Migrant Sex Workers Research in Australia’, above n1 at 8; Jeffrey Dabhadatta et al., ‘Changes in Migration Status and Work Patterns in Asian Sex Workers attending a Sexual Health Centre’, 2008, 43; Scarlet Alliance, *Submission to Commonwealth Attorney General’s Department*, 2004, 4.

undermine opportunities to negotiate suitable workplace conditions, and impede access to outreach and community service providers, who have far more difficulty gaining their trust.³

Labour exploitation is better addressed within an industrial rights framework

Currently, migrant sex workers who experience poor working conditions often do not have access to industrial rights mechanisms for fear of prosecution or deportation. The Fair Work Ombudsman provides remedies regardless of a persons' citizenship status but are obliged to report any illegalities, including irregular migration status. Migrant sex workers need equitable access to Australian justice mechanisms, arbitration processes, and industrial rights protections, akin to Australian citizens, without fear of arrest or deportation.

Signs should ensure that sex workers are aware of their rights at work, and the range of options for addressing breaches. Contract law, migration law, employment law, occupational health and safety law, fair work law, and criminal law already cover offences such as sexual assault, unpaid wages, breach of contract, false imprisonment, fraud, falsification of documents, usury (lending money at exorbitant rates), minimum wage, underage sex work, underage marriage, sham marriages, domestic violence, and allowing a non-citizen working in breach of a visa. Under these laws existing remedies are available which involve less court time, less cost, and better outcomes, for victims and Government.

If the signs were to continue they must be improved

Signs could improve sex worker access to visas, working rights and conditions

If the signs were to continue, they should be oriented around providing positive rights for migrant and CALD sex workers and ensuring migrant and CALD sex workers' access to appropriate visas. The signs should take a holistic approach to sex worker health, rights, and safety, to ensure migrant sex workers have access to correct and translated visa information, and information on working rights and conditions, access to industrial rights mechanisms without fear of deportation or arrest, and awareness of occupational health and safety rights at work. The Scarlet Alliance website offers such information.

Signs should emphasise confidentiality and anonymity

It would be far more useful to provide avenues for confidential support and advice in signs that advertise anonymity and discretion. This has been a successful approach for uptake of sexual health services in Australia and would be a key factor in engagement on industrial issues too.

Translated languages

The key language groups in Australia's current sex worker community are Chinese, Korean Thai, Malaysian and Tagalog. There is no evidence of a substantial Russian sex worker population to necessitate translation to Russian. There is also no record of Russian sex workers as a key group receiving support through the Red Cross Trafficking Support Program. Translation to Russian is unnecessary and unfounded.

³ Elaine Pearson, *Collateral Damage, Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights Around the World*, Global Alliance Against Traffic in Women, October 2007 at 52.

Opportunity for rights-based and sex-worker driven approach to combat labour exploitation

The most successful approaches to labour exploitation prioritise the needs, agency and self-determination of sex workers over criminal prosecutions and increased surveillance. They address labour exploitation through a focus on prevention, industrial rights, occupational health and safety, civil remedies, statutory compensation, and equitable access to visas, migration channels, industrial relations mechanisms, and support.

This assessment process creates an opportunity to reconsider the effectiveness and necessity of sexual slavery signage in Victoria. It provides a space to consider sex-worker driven approaches that improve the rights, autonomy, options, support, health and safety of migrant and CALD sex workers in Victoria.

Regards,

A handwritten signature in black ink that reads "K Matthews". The signature is written in a cursive style and is underlined with a single horizontal line.

Kane Matthews
President
Scarlet Alliance