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To the Select Committee on Social Media and Online Safety,

Thank you for the opportunity to submit to your inquiry on Social Media and Online Safety. We are pleased that the inquiry has re-opened for submissions. We were unable to provide a submission in the first round due to the short window for submissions, which can be challenging for small community organisations to respond in. We believe that we have a unique perspective on 'online safety' that has not yet been addressed in the current submissions or hearings, and would greatly appreciate attention to these in the Committee's report. In order to demonstrate a rigorous, full-spectrum understanding of how the Australian community experiences online safety, sex worker perspectives must be included.

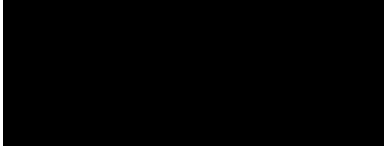
Scarlet Alliance, Australian Sex Workers Association, is the national peak sex worker organisation in Australia, formed in 1989. Our membership includes state and territory-based and national sex worker organisations and individual sex workers. Scarlet Alliance uses a multifaceted health promotion approach to strive for equality, justice and the highest level of health for past and present workers in the sex industry. We achieve our goals and objectives by using best practices including peer education, community development, community engagement and advocacy. Through our work and that of our members, we have the highest level of contact with sex workers in Australia of any other agency, organisation or group.

In 2021 we advocated strongly against aspects of the *Online Safety Act 2021* that posed a threat to sex worker livelihoods and safety; provided input to the eSafety Commission's actions to implement the Act's new measures, including age verification for online pornography and the restricted access system declaration; and engaged in advocacy to ensure the inclusion of sex workers as the government seeks to better regulate the tech sector and 'protect' Australians online.

The scope of our submission is limited to sex workers' experiences of online harm due to deplatforming. We also provide a complete list of our submissions and media relating to the *Online Safety Act 2021* and its implementation, which provide in-depth information about our uses of technology and experiences of online harm. While being unable to submit in the first round precluded us from consideration as participants in the hearings, we would greatly appreciate being considered for any future inquiry hearings, as again we believe that our experiences of online harm are unique among the Australian community.

Please do not hesitate to contact National Programs Manager Gala Vanting at npm@scarletalliance.org.au with any questions or further invitations for input on this or any other matter relating to the online safety of the sex worker community.

Regards,



Jules Kim
Chief Executive Officer
Scarlet Alliance, Australian Sex Workers Association

Introduction

Sex workers are part of the Australian community, online and offline. Sex workers in Australia operate in a range of regulatory environments, from jurisdictions that have decriminalised sex work to those that criminalise some or all aspects of sex work. The move towards decriminalised models in a number of jurisdictions has improved sex workers' access to justice, health, and human rights, and sex workers continue to advocate for this best-practice legislative model that regulates sex work as work, subject to the same laws and policies that regulate other industries.

Regardless of the laws regulating our work in each jurisdiction, many sex workers across Australia, and indeed across the globe, have used online tools and platforms to improve our experiences of our work. They have allowed us greater control over our work environments and hours, workplace health and safety, access to health promotion and harm reduction information, and connections to peers. For many, equitable access to online tools can be the difference between working and not working, or working under the control of a manager or business owner and working independently or in co-operative structures with other sex workers. Like other workers, sex workers must be able to expect access to the same tools and services used by workers in other industries.

Over the last decade, and particularly over the last 5 years, sex workers have experienced loss of access to these tools and services at exponential rates. This has largely been a result of law and policy seeking to hold the tech sector responsible for what governments envisions as online and real-world harms¹, and the tech sector's responses to those changes. Largely, these laws have incentivised strict moderation of sex worker content in order to avoid a wide scope of legal liability for failing to 'combat trafficking' or 'protect children'. The result is a set of crude content moderation practices that result in the deplatforming of sex workers, and the loss of the digital tools we use in the course of conducting business.

As a stigmatised, marginalised, and often criminalised community, sex workers have found few allies in government or in the tech sector as we have worked to resist the legislative trend that frames sex workers, the content we create, and the actions we take online as inherently 'harmful'. When we are

¹ This legislation includes FOSTA-SESTA (USA), The Digital Economy Act (UK), and the Online Safety Act (AUS).

viewed as perpetrators of online harm, or people from whom other internet users need to be 'protected', we have little recourse to reject these laws or appeal against the policies and practices that tech companies use to respond to them. Little attention has been paid to the harms that sex workers experience, online and offline, as a result of deplatforming. In this submission, we urge the Select Committee to include the loss of livelihoods, assets, community connections and access to safety that results from the deplatforming of sex workers within its framework for 'online harm'. Without this inclusion, sex workers will continue to be left out of and harmed by further measures to legislate and regulate towards 'online safety' for all Australians.

Deplatforming as online harm

'Deplatforming' describes the 'trend of banning, shadowbanning and demonetizing sexual content on social media'.² It is one of the most prominent concerns for sex workers when it comes to online harm. Assessing the impact, ethics and politics of deplatforming is contextual, and while deplatforming can be a mode of preventing or addressing harm, it can also be a way of perpetrating it. This submission aims to contextualise the deplatforming of sex workers as a form of online harm perpetrated by platforms and aided and abetted by governments.

While sex workers share many of the same experiences with online harm as other marginalised people, including the sharing of NCII, stalking, harassment, and trolling, we also have a unique set of digital vulnerabilities as a highly stigmatised and often-criminalised community. We strongly believe that the failure to conceptualise deplatforming as a form of online harm has failed and will continue to fail sex workers, who become collateral damage in platforms' efforts to comply with regulation that fails to legitimise our labour, human and digital rights.

Sex worker experiences of deplatforming

Deplatforming is a common experience among sex workers who use digital tools for work, or who are happen to be sex workers but are using digital tools for other purposes including work in other industries and personal use. We assert that deplatforming is a form of structural violence and online harm that violates sex worker human rights, precludes our digital citizenship, pushes us to the margins of or completely erases us from the online arena, and cuts off our access to essential tools we need for our workplace health and safety, peer education, and community connections. Sex workers who experience deplatforming commonly report feeling isolated; fearing income loss impacting access to housing, food and medicine; experiencing negative mental health impacts; being unable to access harm reduction and safety resources; and lacking vital connection to sex worker peers.

Widespread access to online tools brought sex workers an unprecedented level of control over the terms and conditions of our labour, supporting us to work independently (rather than having our work controlled or gatekept by a third party), connect with other sex workers, share safety strategies,

² Katrin Tiidenberg, 'Sex, power and platform governance', 2021, *Porn Studies*, 8:4, 381-393.

leverage digital tools for instant communication with those supporting our safety at work, and exercise control over our advertising, work hours and work locations. This self-determination reduces vulnerability to exploitation, increases our sense of safety, and strengthens our ability to support one another. Sex workers also use online tools and platforms to organise for better working conditions, warn one other about bad clients or managers, and build strong and resilient communities - a necessity for a criminalised community who experience high levels of stigma in all aspects of our lives.

Many sex workers also engage in online forms of sex work as we navigate an increasingly complex labour environment and need to diversify our income streams. Sex workers do a variety of types of online work, including live webcam, pornography and direct-to-consumer content and service provision. Online work can be flexible for sole traders as it can be performed from home around other commitments including care roles or receiving healthcare and managing disability or chronic illness. During the COVID-19 pandemic, increasing numbers of sex workers turned to online work to avoid losing income, to avoid face-to-face in-person services and to comply with public health directions. In fact, sex workers mobilised during lock-down to create national COVID-safe templates, harm reduction resources and guides for new workers commencing online work. Sex workers must be able to choose and access online sex work without unnecessary barriers.

We are currently seeing a world-wide removal of these tools from our hands as sex workers are deplatformed from social media services, accommodation platforms like AirBnb, fintech services, and many more. With these go our access to a wide range of formal and informal safety, harm-reduction and support services that we have come to rely on in all types of sex work regulatory environments. This is an unacceptable retrogression that directly impacts our safety, incomes, access to community, and digital citizenship. It is, categorically, harmful.

Digital marginalisation leads to real-world harm

To illustrate the cascade of harms that results from experiences of deplatforming, we turn to our community. The prevalence and impact of deplatforming has been documented in a number of ways by sex workers, researchers, and digital rights advocates³. Scarlet Alliance and our member organisations are constantly gathering anecdotal evidence of the impacts of deplatforming shared with us by sex workers in the course of our advocacy and service-delivery work. As in most industries, maintaining a social media presence has become a vital part of doing business as a sex worker. Sex workers report losing accounts with large followings that have been built over many years of investment, being unable to create new accounts on the same platforms, being unable to recover accounts or content, and having no mechanism to appeal the decisions made by platforms. This is often the case even when we work tirelessly to adapt our content to the stringent and ever-changing requirements of 'community standards', illustrating the inaccuracy of algorithmic detection and the stigma built into automated decision-making technologies.

³ There is a strong body of work on this issue in the Journal Porn Studies Journal Volume 8, Issue 4, 'Deplatforming Sex' (2021). There have also been a number of community-led studies undertaken by [Hacking / Hustling, Salty](#), and academics including [Dr Valerie Weber](#).

The recurring themes are income loss, loss of safety tools, and loss of community, which then impact other areas of our lives including housing and food security, ability to pay for healthcare, childcare and medications, lack of capital to invest towards recovering lost business, and profound impacts on mental health. This is devastating for individual sex workers and also for the health of our community as a whole. Deplatforming also impacts the ability of our peer sex worker organisations, many of whom are government-funded to deliver health promotion, harm reduction, prevention and peer education services to sex workers, to operate; our organisational accounts are also frequently faced with suspensions, shadowbans, and censorship of words (including 'sex work' and 'sex worker') or images that prevent us from communicating clearly about our services. This algorithmic suppression and censorship of our content makes it more difficult for us to reach the community we serve, hampering the health promotion, community development and peer education work we are trying to deliver.

In no other industry would it be acceptable to legislate *against* access to workplace health and safety, education and safety information, or the basic tools of trade. While we understand that this is not the stated intention of legislation like the *Online Safety Act 2021*, no meaningful attempts to mitigate these impacts were undertaken, despite extensive advocacy from the sex worker community. This signals that sex worker lives, safety, and human rights are either not a consideration in legislating against online harm, or are framed as a necessary sacrifice in order to achieve this regulatory aim. This approach creates direct, tangible, measurable harm to sex workers, both online and offline. Australian regulation aimed at protecting Australian internet users from online harms perpetrated by individual users and by tech platforms **must**:

1. Identify that the deplatforming of sex workers is a harm worth preventing;
2. Refuse to tolerate tradeoffs between the safety of vulnerable populations;
3. Acknowledge sex work as work and sex workers as part of the Australian community.

Deplatforming as criminalisation

Laws that criminalise any aspect of sex work - including online and offline sex work and adult content production and performance - are a barrier to sex worker safety, access to justice, and health⁴. The full decriminalisation of sex work is the best practice model for regulating sex work, as it allows the same laws, regulations and redress mechanisms that are available to workers in all other industries to apply to sex work. The widespread deplatforming of sex workers, and the laws and policies that informs it, is an extension of the criminalisation of sex work and of punitive approaches to a stigmatised profession.

Australia has some of the most progressive laws relating to sex work in the world, though continues to take a problematic approach to the production of adult media. Sex work is regulated by the Australian jurisdictions, a number of whom have adopted or are in the process of adopting decriminalised models. This move towards decriminalisation as evidence-based policy has been incredibly positive for sex workers and our communities, and while it is only the first of many steps towards combating stigma

⁴ Scarlet Alliance, *Full Decriminalisation of Sex Work in Australia*, Briefing Paper, 2021, <https://scarletalliance.org.au/library/briefing_paper_full_decrim>.

and enabling equitable access to a full suite of human rights for sex workers, it must be the basis from which we understand tech regulation as it pertains to and impacts sex work and sex workers.

We draw attention to the failings of criminalised models for regulating sex work, which exist in various forms across the globe, because they are the models that are informing some of the most impactful pieces of legislation regulating the tech sector. These include *FOSTA-SESTA* in the United States, the *Digital Economy Act* in the UK, and the *Online Safety Act 2021* in Australia. As it moves towards recognising and regulating sex work as work, Australia is in a position to work with sex worker stakeholders to develop an approach to tech regulation that prioritises and protects sex worker online safety.

Private actions with public impact

When advocating against deplatforming of sex workers, we have found a tendency for regulators to shift responsibility for deplatforming to the mostly-private companies that conduct it, refusing to acknowledge their role in incentivising deplatforming, or considering it to be within their remit. What the platforms do, it seems, is their business. This places the discussion in a circular logic: because deplatforming actions themselves are taken by a private company *in response to* an action taken by the government, advocating to either party will often refer us back to the other. Governments tell us that they have no control over the ways that platforms adapt their terms of service and community standards to respond to new regulation, and platforms tell us that they are simply acting to comply with the law.

Tech regulation relating to sex worker and / or 'adult' content is currently moving to pass the burden to platforms, creating incentives to deplatform sex workers. This results in overzealous measures from online services to sanitise and gentrify their services, with the loss of sex worker digital assets viewed as a reasonable sacrifice in order to achieve this. The actions taken are often a combination of shadowbanning, content removal, account removal, loss of assets in cloud services, loss of access to features or functions including messaging, or being barred from creating new accounts on the same platform or from the same device (regardless of what the account is used for). Most of this activity is conducted via automated decision-making and algorithmic flagging of words, images, or users. This often has no transparent process of appeal.

Platform actions generally prioritise a profit bottom line, meaning that they will take the most cost-effective action, generally driven by machine learning-based content detection and automated decision-making. These technologies produce a high volume of inaccurate results, increasing the volume of content flags or removals, loss of account features, or removal of the user from the service. Sex workers and other digital rights advocates call this 'overcapture', and it remains one of our most significant concerns regarding the *Online Safety Act 2021's* 'Online Content Scheme'. Here we advocated to amend the legislation to prevent overcapture, or to provide penalties for errant content removal. The aim of these amendments was to *discourage* the blanket removal of content and accounts belonging to sex workers, so that at least we might remain in possession of our professional and personal digital assets, even if their value to us as small business operators was degraded.

To date, we have seen no moves from the government to require greater transparency around errant content removal, no disincentives for overcapture, no incentives for precision of automated tools nor the transition to ethical engagement of human decision-making, and no penalties for causing damage to sex worker livelihoods and safety. We have also seen no leadership from the government regarding the tradeoff of one 'online harm' for another, or what the government *perceives to be* the interests one vulnerable population (generally under-18s or victim / survivors of human trafficking) at the cost of another (sex workers). We have seen no initiative to complete and action the review of Australia's National Classification Code, low engagement with the root causes of online harms relating to young people and pornography, sex and consent, and media literacy, and no interest in engaging with the available interdisciplinary research on these matters.

We note that workers in other industries in Australia do not report such large-scale experiences of deplatforming, and that the loss of essential digital business infrastructure is not an expectation of workers in other industries. We believe that a stronger response from government would be present, particularly in defence of Australian small business operators, were this occurring in any other industry.

Governments and online tools, services and platforms work together to perpetrate the harm of deplatforming, and must be responsible for preventing this harm and working to prepare for the damage it causes - not simply deferring to one another on challenges to policy and practice. We strongly recommend the engagement of sex worker stakeholders in legislative and regulatory issues as they continue to arise, including the inquiry into age verification for online pornography, the implementation of the *Online Safety Act 2021*, and any further moves towards narrowing Australian internet users' rights to privacy or access to encryption.

Whose 'community standards'?

Platform governance is a central theme in our evolving conversations about digital rights, content moderation, and prevention and redress of online harms. This is an incredible challenge with multinational tech companies operating in global markets attempting to apply a one-size-fits-all approach to key governance and operations questions, and makes 'community standards' an abstract and hollow concept, particularly where it is wildly out of step with local laws. As a case in point, Melbourne-based platform Linktree, who recently conducted a mass deplatforming of sex workers from its service, state that the action was taken to target content that links to the provision of in-person sex work services - services that are largely legal to conduct in Australia⁵. This is in line with countless social media services before it, including (then) Facebook, Instagram, and Tumblr, all in response to the passage of FOSTA-SESTA, which prohibits platforms from allowing content that 'promotes prostitution'. While we fundamentally disagree with both FOSTA-SESTA and with the criminalisation of sex work in the United States, we also disagree that the laws that inform 'community standards' in one jurisdiction can be extrapolated to apply in another.

⁵ Julie Fenwick, 'Australian Sex Workers Have Been Removed From Linktree. What They Are Doing Is Not Illegal', 2022, VICE Online:

<<https://www.vice.com/en/article/wxdg9w/australian-sex-workers-removed-from-linktree-not-illegal>>

Erosion of privacy

We, and many others, note a trend towards the erosion of the right to online privacy in Australian law. As a surveilled, criminalised and marginalised workforce, sex workers have a unique stake in matters of digital privacy and its impact on digital security.

Criminalisation and stigma surrounding sex work have forced sex workers into the margins of Australian culture and society. Many sex workers choose, or are forced by circumstance, to not identify ourselves as sex workers to others, or to exercise careful control over who has access to information about our sex work status. Despite the shift towards decriminalised models in a number of jurisdictions, sex workers still remain largely persecuted, villified, and discriminated against. The inability to live out and proudly as sex workers places us in a position where we place a very high value on privacy, online and offline. Much of our advocacy work concerns itself with protecting sex worker privacy, particularly when engaging with law enforcement, the criminal justice system, and government agencies and services.

For many sex workers, privacy is also necessary component of workplace health and safety measures. Many sex workers separate our personal and professional lives in order to work safely in a stigmatised environment, avoid having our legal details weaponised against, avoid being stalked, harassed or doxxed (particularly as we lack the workplace protections against these actions available to workers in other industries), and protect other aspects of our professional and personal lives that could be negatively impacted by the creation of a link between our legal and sex work personae.

Online privacy is a cornerstone of sex worker safety as most sex workers in Australia use some form of digital communication, including social media, to conduct our work, to seek education, health and harm reduction resources, connect with peers, and access support. Recent interventions into sex worker online privacy from governments and social media companies have already significantly eroded the online safety of sex workers. This includes:

- the introduction of the harmful FOSTA-SESTA legislation in the United States, the mass deplatforming of sex workers that followed its passage which continues today;
- the introduction of the Online Safety Act 2021 in Australia; and
- poor tech policy and regulation in Australia and abroad resulting in the continued narrowing of sex workers' access to the digital tools we use to work safely and gainfully, and to which workers in other industries expect to have unfettered access.

Any legislative or policy intervention that degrades our access to privacy, anonymity and pseudonymity is one we vehemently challenge. The *Social Media (Anti-Trolling) Bill 2021*, *Online Privacy Bill 2021* are part of a suite of privacy- and security-eroding legislation which aims to shift responsibility for technology-facilitated social harms to tech platforms and services, without any attention to the root causes of those harms, or the best way to leverage the tech sector's resources to solve them.

Recommendations

1. Deplatforming must be included in the Committee's framework for and reporting on online harms. The impacts of deplatforming on sex worker organisations and the sex worker community must be documented in the Committee's report, and the minimisation of online and real-world harm to sex workers must be a feature of Commonwealth online law and policy change.
2. Research on Australian sex workers' experiences of online harm, social media, and deplatforming should be funded via the eSafety Commission and conducted in partnership with sex worker peer researchers to enable the government to integrate this knowledge into its regulatory work and improve equity of access to online safety for all Australian users.
3. Legislation aimed at regulating online harm should incentivise platforms to bring their terms of use and community standards into line with the expectations of the country in which they are operating, and to provide a dynamic experience in regards to content moderation that is relevant to the user's experience.

Appendices

Our other submissions on online safety include:

1. Scarlet Alliance [Submission to the Online Safety Legislative Reform: Discussion Paper](#), 2019
2. Scarlet Alliance [Submission to the exposure draft Online Safety Bill 2021](#), February 2021
3. Scarlet Alliance [Submission on the Restricted Access System Declaration](#), September 2021
4. Scarlet Alliance [Submission on the Basic Online Safety Expectations](#) declaration, November 2021
5. Scarlet Alliance Submission on the *Online Safety (Anti-Trolling) Bill 2021*, January 2022 (attached)