



Respect
Inc



ADVERTISING & SEX WORK

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Section 9 of 17 (pp129-136)

from the joint submission responding to the QLRC
'A framework for a decriminalised sex work industry
in Queensland' Consultation Paper WP 80'

CHAPTER 13: ADVERTISING SEX WORK

- Q38** Should there be specific restrictions on the advertising of sex work and sex work businesses? Why or why not?
- Q39** If yes to Q38, what should those restrictions be? In particular, should there be specific requirements about:
- (a) advertising mediums (for example, should advertising sex work through radio or television or by film or video recording continue to be prohibited?);
 - (b) advertising on the internet;
 - (c) advertising employment opportunities for sex workers (for example, should publishing a statement intended or likely to induce a person to seek employment as a sex worker continue to be prohibited?);
 - (d) advertising sex work as massage services;
 - (e) size of advertising;
 - (f) images that may be used;
 - (g) wording that may be used;
 - (h) requirements for particular sex work service businesses; or
 - (i) any other requirements?
- Q40** If there are specific advertising restrictions:
- (a) how should a breach of a restriction be dealt with?
 - (b) who should be responsible for monitoring compliance and enforcing the restrictions?
- Q41** Should there be specific requirements for signage for sex work businesses? If so, how should they be regulated?

No. There should be no specific restrictions on the advertising of sex work and sex work businesses. It is important that sex workers are able to describe their services and use the term 'massage' in advertising so as to be clear about consent, save time in the booking process and stay safe. There are adequate other laws and guidelines to cover advertising in a range of media, including television and signage, to protect community amenity as discussed below.

Current laws

The Prostitution Act 1999 (Subdivision 2 and 3) and Prostitution Regulation 2014 set out extensive restrictions for advertising of sex work in Queensland and give the PLA discretion to decide the approved form. Sex workers in Queensland are not allowed to describe services, use certain images, advertise through television or radio or use specific words. In particular, the word 'massage' is prohibited in sex work advertising.

In the early years of licensing, sex workers were required to submit advertisements to the PLA for approval but, due to the excessive amount of administrative work that was required, this process was stopped following a 2006 review of the legislation by the Crime and Misconduct

Commission.¹²⁹ Unfortunately, while the CMC relieved the PLA of their advertising approval burden, at the same time they increased the complexity of the advertising laws for sex workers by making eight recommendations for new requirements and offences about advertising using the term ‘social escorts’ and another seven recommendations for new offences about advertising generally.

Currently, the PLA publishes advertising guidelines that include approved and prohibited words, and both the PLA and police have powers to issue Penalty Infringement Notices (PINs), including a fine for non-compliant advertising. The guidelines are very confusing and almost impossible to comply with. Of importance to this review is how the advertising guidelines act as a trigger for police attention, entrapment and overreach and often result in other charges as part of the entrapment or raid. Any form of advertising restriction maintained under the decriminalised framework will result in the same cycle of police targeting, entrapment and charges.

Charges have been laid against a sex worker in Queensland for advertising on her website services for a clearly marked tour (work trip) to be undertaken in New South Wales with services that are legal in New South Wales. Multiple sex workers have received PINs in Queensland for what is described to them as an advertising breach; however, as the infringement notice states a general offence and not what is incorrect on the advertisement it is almost impossible for someone to avoid re-offending.

Sex workers should not face sex work-specific criminal or other regulation on advertising. For sex workers, advertising is an essential component of our workplace health and safety strategies. Restrictions on advertising are not based on evidence, nor do they have any demonstrable positive impacts on sex worker occupational health and safety. Advertising restrictions in Queensland cause sex workers difficulty in negotiating with clients and performing their work.

In our recent survey participants were asked how their work lives would improve if they could use the term ‘massage’ and accurately describe their services in their advertising. Participants focused strongly on the positive impacts that this would have, using terms like *immensely*, *massively*, *amazing*, *critical*, *greatly impact*, *so much better*, *a lot*, *hugely* and *excellent* when referring to how their work lives and safety would be impacted if they could accurately describe their services and use the term ‘massage’ in their advertising. The strongest themes to emerge are: (i) the need to clarify the services provided, to (ii) avoid time-wasting in the booking process, and (iii) ensure that the client understands upfront what services are provided, to (iv) obtain consent and avoid boundary pushing and potentially dangerous encounters based on misunderstandings by clients about what services are on offer.

This was repeated again and again in responses, which stressed the importance of clarity in negotiating consent in order to save time and avoid misunderstandings that could lead to boundary pushing, breach consent and decrease safety.

¹²⁹ Crime and Misconduct Commission (CMC). (2006) *Regulating outcall prostitution: Should legal outcall prostitution services be extended to licensed brothels and independent escort agencies?* p. 52.

“It just makes it really hard to convey what type of service you do and don't offer when I can't describe the service. A lot of time gets wasted explaining to the client over the phone or face to face and clients can become angry and violent if they arrive and you say you don't do a particular service.” [Survey participant 22]

“Being able to be clear on boundaries and services with a client is very important so you aren't expected to do things you're not comfortable with. It would save so much time if the information was there on your profile and minimise irrelevant enquiries.” [Survey participant 48]

“Most of all it would simplify my life so much. Explaining all my services to each client takes A LOT of time and energy, time and energy I would rather use for work or for my free time, friends, family and hobbies. Not being able to clearly communicate services can also lead to misunderstandings which are, at best, annoying and a waste of time for me and the client, and at worse, could lead to aggression and violence.” [Survey participant 57]

“I would be able to discuss services in advance to make sure the client and I are on the same page. This reduces risks of violence or aggressive clients, if they know what they're getting in advance. Accurate advertising means more happy customers and less aggression. It also allows communication to be straightforward which saves time and energy.” [Survey participant 83]

“Clients actually knowing what to expect before they call would be a dream come true. It'd both save time and energy in explaining individually, as well as reduce the chances of a client becoming upset/angry due to differing expectations.” [Survey participant 154]

Survey participants expressed their need to clarify services in advertising using phrases like: *accurately describe what I will and will not do, describe in detail, use explicit language, specifically what I do, honestly and thoroughly*. It was stressed that clear and explicit description is essential to *set boundaries* and *obtain consent*.

“Clear consent can only be established when services are advertised. It is a good way to see if someone respects your boundaries.” [Survey participant 115]

“I think I would benefit from being able to state what I am really good at and more so what services I'm not providing.” [Survey participant 23]

“Boundaries would be so much clearer! This means I can accurately describe what is available so there are no misunderstandings.” [Survey participant 28]

“I am better able to set boundaries and establish what I will and will not do.” [Survey participant 32]

“It would be nice to be able to accurately describe my services so clients clearly understand what is provided.” [Survey participant 34]

*“I would simply like to be able to state what services I provide so my clients know.”
[Survey participant 36]*

“Using the correct terms eliminates any room for clients to demand more services, it eliminates confusion, and it allows us to stand firm on what we do and do not accept ... because the advertisement is explicit in terms.” [Survey participant 49]

“Accurate descriptions allow for transparency. Less room for misconception and issues.” [Survey participant 198]

“Clarity of advertising helps to ensure your clients understand what they are getting, which means your clients are happy and less likely to be difficult.” [Survey participant 200]

A very common complaint from survey participants was that not being able to adequately describe services in their advertising meant that clients did not have a clear understanding about what services were and were not being offered prior to contact, leading to frustrating and abusive encounters on the phone/text and potentially violent encounters in person.

“Being able to be clear about the services I'm offering is best practice, and lowers my risk of sexual assault as I'm able to be clear about what I do and don't offer.” [Survey participant 38]

“It means the likelihood of a client raping or assaulting me for not offering a service they want is reduced as they'd know beforehand if it was available.” [Survey participant 37]

“It would cut down the chance of conflict. Clients would know what I provide and would go elsewhere if they are looking for something different. I would also feel safer knowing there was a clear understanding communicated to the client before they contacted me.” [Survey participant 6]

“...reduce the verbal abuse from clients who are shitty you don't do what they want. Or they booked you without checking and now you're there and they're potentially volatile.” [Survey participant 51]

“This means that they may turn up to the booking to find that they aren't getting what they are expecting, which puts me in a position where I have to decide whether to provide a service I don't want to provide so that I don't lose income and / or anger the client, or not provide the service and risk retaliation from the client, whether in person or in the form of negative reviews, harassment over the phone or online, or other forms.” [Survey participant 94]

“Being unable to describe my services accurately has created situations where I've had to negotiate in person with a disappointed client who may try to push my boundaries if they made assumptions that I would do a certain thing that I do not. Specific, accurate advertising enables us to state our boundaries and rates etc from

the start, ensuring we can avoid many conflicts and boundary pushing from the get go.” [Survey participant 202]

Unnecessary administrative burden is also caused when sex workers must engage with many enquiries that are seeking services they do not provide, as a result of not being able to describe services in advertising. Survey participants bemoaned the time wasted having to explain their services to every client and the inability to accurately market their services.

“It would cut out a lot of time wasting and confusion for clients. This is what I offer; this is why you are reaching out/interested in my service. Any other business advertises their services for the same reason.” [Survey participant 148]

“I could clearly communicate my services and rates so that both myself and the client are in clear agreement.” [Survey participant 183]

“I say i offer company and "sleepovers". that is extremely vague and leaves far too much ambiguity... i wouldn't try and sell a loaf of bread just describing it as "baked good". baked goods could mean a lot of different things!” [Survey participant 81]

“Having a detailed description of our services on the websites would make it easier for clients to know what they would be getting with the appointment, reduce frustration, and result in a more satisfactory experience for both client and provider.” [Survey participant 87]

“It just makes it really hard to convey what type of service you do and don't offer when I can't describe the service. A lot of time gets wasted explaining to the client over the phone or face to face.” [Survey participant 22]

“It is onerous and counterproductive to waste my and my client's time having to clarify services with every client. If every restaurant had to remove all menus, and waiters had to each day explain the menu verbally with every diner, then it would be considered absurd (and the cost would put many out of business, or needlessly limit their menu). Why put that absurdity on sex workers?” [Survey participant 40]

Survey participants who provide niche services (such as gfe, submissive, kink, bdsm) argued that it was particularly important for them to be clear and unambiguous in their advertising.

“I also engage in kink services as a submissive. That is incredibly vulnerable. Kink is a very broad term with so many different things people can do - and i guarantee i only do a small selection. It is really important that my advertising can clearly state my services to ensure there is no confusion and misunderstanding.” [Survey participant 160]

“Because I provide BDSM and fetish services and not sexual services, it's so important for me to be able to describe my services so that the client understands the services they are getting, and so that they are not arriving expecting me to provide sexual services.” [Survey participant 94]

A few survey participants mentioned that the advertising laws were even more problematic for diverse sex workers. Transgender sex workers need to clearly describe their services and migrant sex workers who have English as a second language may get caught up in semantics.

“It is also important for trans sex workers I am friends with. Their safety is undermined by the current advertising laws.” [Survey participant 6]

“...would be a big advantage for people who speak English as a second language etc.” [Survey participant 55]

“I feel sorry for people moving to qld or don't speak English well, it is really easy to get caught for a stupid law. I need to be able to boundary set with my clients with safety as the priority not worrying about if I am saying something as benign as the word massage.” [Survey participant 100]

Using the term ‘massage’ in advertising

Sex workers who do erotic massage need to be able to properly describe their services, and any attempt to restrict the use of the word massage will leave them open to police entrapment. Sex workers whose first language isn't English are particularly vulnerable to violating these laws by accident.

“What I do is mainly sensual erotic massages with happy ending and other extras.” [Survey participant 2]

“I do erotic therapeutic massage which would fall under the laws. It means I cannot accurately advertise my services. It would make a huge difference to be able to advertise what I do instead of having to use code words.” [Survey participant 13]

“Why shouldn't we be able to include massage in our services. Sex workers in every state and territory do.” [Survey participant 204]

Many erotic massage providers do not include full service sex work and they felt that not being able to use the term ‘massage’ at all in their advertisements meant they were confused with full service sex workers, and that it could even result in them being pushed into providing full service by a demanding client.

“I mainly offer erotic massage, preventing me to use it in my advertising is definitely a problem for me. Basically it means Im constantly screening full service clients on the phone, which puts a large drain on my work day. All avoidable if I could give a more accurate description of the massage I offer in my advertising.” [Survey participant 18]

“Describing massage services clearly would protect workers who want to make very clear that they do not offer other services. This has put them in positions of danger with clients who ‘expect’ sex since massage can't be said explicitly.” [Survey participant 31]

Maintaining advertising restrictions will leave sex workers open to police entrapment, something that survey participants did not want.

“I believe that sex workers should be able to advertise all of their services provided without fear of being on the wrong side of the law.” [Survey participant 188]

“It would be nice to be able to accurately describe my services so clients clearly understand what is provided. It would also be nice to not fear police charges for accidental making a mistake in my advertising.” [Survey participant 34]

“I would simply like to be able to state what services I provide so my clients know. It would... reduce the risk of being entrapped by police.” [Survey participant 36]

National standards for advertising

Australia already has national standards for commercial advertising. The system of self-regulation is managed independently by ‘Ad Standards’ and an Ad Standards Community Panel¹³⁰ and has been operating since 1998. A code has been adopted by the Australian Association of National Advertisers (AANA) to ensure that advertisers and marketers develop and maintain a high sense of social responsibility in advertising and marketing to children in Australia. Existing advertising codes already regulate sexualised content in marketing to children.¹³¹

Exceptional restrictions on sex work advertising in Queensland would be in contradiction to the existing national system. Decriminalisation should result in sex work advertising being covered only by the same regulations to which other commercial advertising is subject. Laws that place prohibitions on the advertising of sex workers undermine the viability of their businesses. By contrast, New Zealand has removed all prohibitions relating to advertising with the inclusion of adverts being left to the editorial policy of individual publications.¹³²

We further submit that restriction of sex workers’ advertising is a contravention of section 15 of the HRA, which protects the right to recognition and equality before the law and the preservation of a person’s enjoyment of other human rights without discrimination. It also interferes with sex workers’ right to freedom of expression under section 21 of the HRA by significantly restricting the kind of advertisements we are able to publish.

As Australia already has a national standard that applies to all commercial advertising, the restrictions under the Prostitution Act amount to a sex work-specific restriction of advertising and there is therefore a potential for discrimination under the ADA.

Signage

Rules about advertising signage already exist.¹³³ Sex work workplaces in Queensland are already required to be compliant with these rules. Decriminalisation should allow sex industry

¹³⁰ Ad Standards. (Accessed 3 May 2022). <https://adstandards.com.au/about/ad-standards>

¹³¹ Australian Association of National Advertisers. (2017). Code for advertising and marketing communications to children. <http://aana.com.au/content/uploads/2018/03/180316-Code-for-Advertising-and-Marketing-Communications-to-Children.pdf>

¹³² New Zealand Government May 2008 Report of the Prostitution Law Review Committee on the operation of the Prostitution Reform Act 2003, p. 39. <https://prostitutescollective.net/wp-content/uploads/2016/10/report-of-the-nz-prostitution-law-committee-2008.pdf>

¹³³ Links to practical explanations of signage regulations: <https://brandhero.com.au/guide-to-brisbane-city-council-signage-regulations/>
<https://www.lgtoolbox.qld.gov.au/brisbanecitycouncil/topics/other-business/advertising-signs#do-i-need-an-approval>