

OPEN LETTER TO ALL NSW PARLIAMENTARIANS

23rd November 2011

Dear Member of the 55th NSW Parliament,

We write this letter to express our continuing concerns about the potential harms of further ill-informed legislation being drafted for the NSW sex industry. We first wrote to you in August this year¹ wherein we outlined our concerns under the following headings:

- **Decriminalisation of sex industry has positive outcomes in NSW**
- **Licensing is a failed model in Australia**
- **No evidence in support of licensing of brothels**
- **Consultation always required to avoid negative unintended consequences**
- **Absence of guidance leaves Councils behaving badly**
- **Guidance and support is required - not a new licensing regime**

In this letter we address the following additional points:

- **Unsubstantiated and biased media recently painted a misleading picture**
- **Extraordinary sexual health outcomes achieved under self regulation**
- **Evidence of lowest rates of STIs amongst sex workers**
- **An evidence based approach is essential to protect the public health**
- **Be cautious and well-informed before even considering a change to a world leading policy**
- **Important international considerations**

¹ <http://nothing-about-us-without-us.com/open-letter-sent-to-nsw-politicians-and-director-generals-of-government-departments-2nd-august-2011/>

Unsubstantiated and biased media recently painted a misleading picture

We write again now as we are concerned that there has recently been a very one-sided debate occurring in the media and elsewhere about some sex industry matters. Unsubstantiated claims about poor safer sex practices have been reported; with a clear bias towards support of those claims made by some particularly self-interested people. These reports have been published without the benefit of hearing from public health experts or consideration being given to current research.

As before, we take into account the views and experiences of the various sectors of the sex industry and its representative bodies, recent research findings, National HIV and Sexually Transmitted Infections (STI) Strategies and relevant international bodies such as the United Nations (UN) and the World Health Organisation (WHO). We write in the interest of enabling the best possible sexual health outcomes in NSW for sex workers and their clients, and therefore the public health.

In drawing upon the proven successful outcomes of decriminalisation as adopted by bi-partisan agreement in NSW in 1995, we acknowledge the well-identified intentions and benefits of these reforms. These include removing the potential for police corruption and legislating to treat the sex industry as any other business - with the same rights and responsibilities - while optimising the health and safety of sex workers. These reforms have also contributed to the improvement of management practices, given a regulatory role to WorkCover NSW and ensured good amenity and public health outcomes.

The reality is all the above are outstanding regulatory outcomes and they starkly contrast the recent imbalanced and sensationalised media articles.

Extraordinary sexual health outcomes achieved under self regulation

For a better understanding of safer sexual practices and world-leading sexual health outcomes in the NSW sex industry, we offer the following insights.

Prior to the 1995 reforms in NSW prophylactics by themselves could be used as evidence that the premises was in fact a 'disorderly house' and the owner/operators could be charged with living off the earnings of 'prostitution'. Despite this, the use of condoms and sexual health screening by sex workers has been based on a voluntary code of practice since the advent of HIV in Australia in the early 1980s.

Being primary safer sex educators, the vast majority of sex workers know better than to risk their health and livelihood by acquiescing to the demands of an ignorant few clients who seek sex without a condom. Largely, clients are respectful of a sex worker's need to only engage in safer practices in order to protect their sexual health, that of their clients and other sexual partners. Current Australian research indicates that condom use for vaginal and anal sex exceeds 99% amongst both Australian born and overseas born brothel based sex workers in Sydney.²

² Donovan B, Harcourt CL, et al. Improving the health of sex workers in NSW: maintaining success. *NSW Public Health Bulletin* 2010 Vol. 21(3-4)

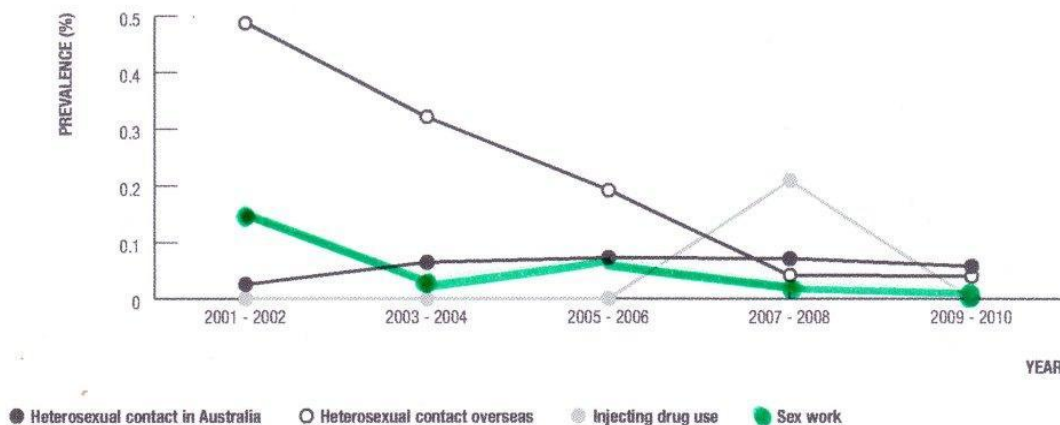
It is a recognised fact that health promotion programs championed by community based sex worker groups such as the Australian Prostitutes Collective NSW (the forerunner of the Sex Workers Outreach Project SWOP) in conjunction with health professionals led to a dramatic increase in condom use by Australian sex workers, from the early 1980s onwards.³

The greater concern today should be the increases in sexually transmissible infections (STIs) amongst the general population of sexually active individuals, as reported recently by the Sydney Sexual Health Clinic and in the latest Australia STI Surveillance Report.

Evidence of lowest rates of STIs amongst sex workers

The latest national results showed that HIV prevalence remained low among heterosexually active women self-identifying as sex workers; with or without a history of injecting drug use. HIV prevalence for sex workers is less than 0.1 % compared with approx 0.1% for all heterosexually active women seen at sexual health clinics – see Figure 34.⁴

Figure 34 HIV prevalence among heterosexually active women seen at sexual health clinics, 2001 – 2010, by year and HIV exposure category



The last statistics also verify that female sex workers have much better sexual health outcomes in respect to Chlamydia - a very common STI within the general population. Chlamydia positivity was highest in the 16 – 19 year age group across the networks of general practice, family planning clinics, Aboriginal community controlled health services and the sexual health services.

In the sexual health services, the positivity rate was highest among Aboriginal and Torres Strait Islander men (20.7%) and women (20.7%) and among young

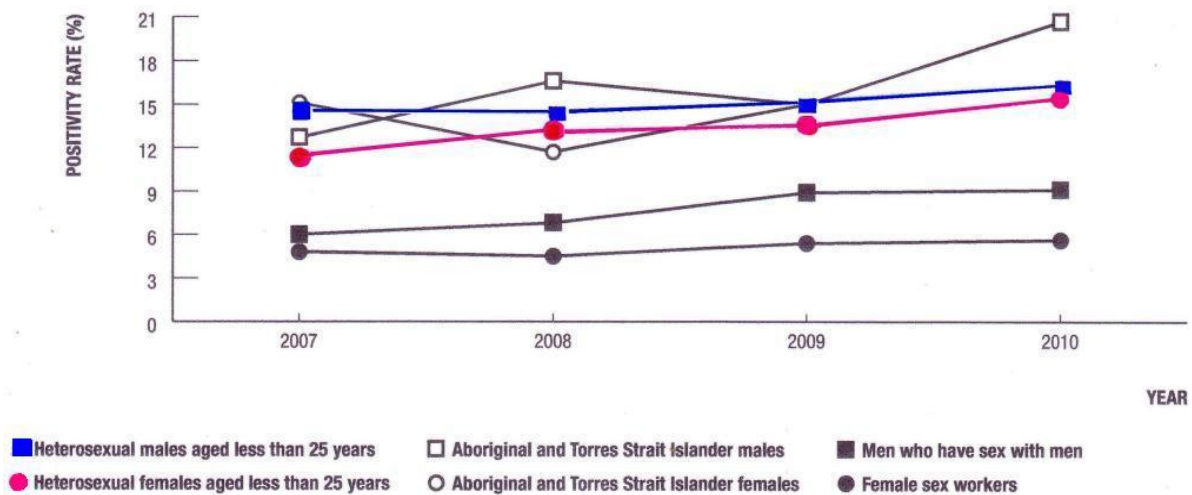
³ Harcourt, 1994; Harcourt & Philpot, 1990

⁴ The Kirby Institute, *HIV, viral hepatitis and sexually transmissible infections in Australia Annual Surveillance Report 2011*, The Kirby Institute, University of New South Wales, Sydney, NSW, p.26

heterosexual men (16.3%) and lowest among female sex workers (5.6%) - see figure 37 below⁵.

Female sex workers also have the highest rate of uptake of Chlamydia testing at approx 98% in 2010, yet the lowest prevalence at 5.6%; further clear evidence of effective self regulation.

Figure 37 Chlamydia positivity rate, 2007 – 2010, by year and chlamydia priority population



These results make it very clear that any further debate around legislating for enforced condom use in sex services premises should be tempered by the evidence.

Legislating to make it an offence to provide an unprotected sexual service in a brothel would clearly be a grossly unreasonable, unnecessary, disproportionate and unjustified policy response.

Creating new offences in this area would not only deny the evidence of the effective role sex workers have and continue to play in the prevention of STIs including HIV; it would also most likely lead to further stigmatisation of sex workers, contrary to the intentions of the 1995 reforms.

An evidence based approach is essential to protect the public health

There is one thing all serious stakeholders in these matters must surely be in agreement with: that nothing should be done to jeopardise the public health. Any future Government response to sex industry legislation must be evidence based.

The recent Law and Sex Worker Health (LASH) Research Project, conducted by Professor Basil Donovan of the Kirby Institute, has confirmed the benefits of the 1995 reforms that decriminalised the NSW sex industry⁶. Remember these hard won

⁵ *ibid*, p.27

⁶ Donovan B, Harcourt CL, et al, Improving the health of sex workers in NSW: maintaining success, *NSW Public Health Bulletin* 2010 Vol. 21, pp.3-4

reforms not only removed the potential for police corruption and reduced the need to associate with criminals; most importantly they enabled peer education programs to facilitate better health and safety outcomes and greater sex worker agency in terms of occupational health and safety.

Greater agency increases the worker's ability to negotiate with clients. Workers now expect management support with those men who can be reluctant to use condoms. Decriminalisation also has given sex workers the ability to report crimes against them; whereas prior to decriminalisation sex workers were unlikely to seek out the protection of the police and/or report a crime committed against them.

Be cautious and well-informed before even considering a change to a world leading policy

The public has an expectation that on their behalf Governments will listen to experts, read the research and consult appropriately as a part of developing a reasonable response to arising complicated policy issues. In regards to the sex industry this essential process of democracy is particularly vital in order to continue protection of the current excellent public health outcomes we have come to expect within the populations of sex workers and their clients in NSW.

Any review of the current legislative and regulatory frameworks for sex work must take into consideration the [6th National HIV Strategy](#) which identifies that "*the potential for an increase in HIV in sex work populations remains. Continuing support of prevention initiatives are therefore required to minimise transmission of HIV.*" The [NSW HIV/STI Strategy](#) 2006-2009 also requires "*efforts to ensure a supportive regulatory environment which supports the health and safety needs of sex workers*"

Important international considerations

Consideration must also be given to commitments Australia has made under various UN and WHO public health and human rights covenants and agreements that are aimed at protecting communities vulnerable to HIV⁷.

This is especially the case as Australia has recently taken a major leading role in encouraging all Commonwealth countries to adopt more just laws to protect marginalised groups vulnerable to HIV from stigma and discrimination. If NSW is seen to move backwards towards a licensing system for brothels, a stink of hypocrisy and resulting loss of credibility could diminish Australia's international endeavours to support improved human rights and evidence-based legislation aimed to protect all community members vulnerable to HIV.

⁷ For instance, the *Ottawa Charter for Health Promotion*: WHO/HPR/HEP0/95.1; First International Conference on Health Promotion, Ottawa 21 November, 1986; the UN Political Declaration on HIV/AIDS: *Intensifying our Efforts to Eliminate HIV/AIDS*, a resolution adopted by the General Assembly on 10 June 2011 and the UNAIDS (Joint United Nations agreements on HIV/AIDS) *Guidance Note on HIV and Sex work*, March 2009

Conclusion

With an increasing epidemic of HIV in neighbouring countries, this is no time to undermine our world renowned best practice approach to the regulation of the sex industry. It is imperative that in NSW we do not allow short-sighted political expediency - or ill-informed knee jerk reactions to unsubstantiated and biased media articles - take precedence over the long term bigger picture.

Rather than adding to the hypocrisy, stigma and discrimination enacted towards sex workers, now is the time to continue to lead Australian States and Territories and other countries by local example; via the successful model of decriminalisation.

In the interests of informed policy making we would be pleased to meet with you and provide you with the benefit of our considerable knowledge and experience in negotiating best practice policy outcomes for this industry. Please feel free to call us on one of the numbers listed below.

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