

Sex Workers Union

We are writing in response to the Ofcom consultation on the Online Safety Act and how to implement it. We created a questionnaire for members of the Sex Workers Union to respond to and share their thoughts on the implementation of this Act and any concerns they have. Below we have included a number of finds and quotes from the questionnaire. We would ask that these views are taken into consideration when considering the implementation of the Act and to consider the implications actions can have on sex workers livelihoods - both in terms of safety and financially (which are interlocking issues often).

- 88% of respondents stated that Schedule 7 Clause 28 & 29 (a) specifically refers to 'causing/inciting prostitution for gain' and 'controlling prostitution for gain' as a priority offense in this Act is something that concerns them. Below are some of the reasons as to why:

"How else am I supposed to legally and safely advertise my services? It pushes me to dangerous places to gain clients so I can work and keep a roof over my head and dangerous clients lurk in dangerous places looking for people to prey upon"

"I will likely have to work in an illegal brothel instead of working independently online and being able to choose who I offer services to. I also won't be able to check their public feedback or secret feedback that has been left about them for safety warnings in case they are violent, abusive or have otherwise harmed other workers."

"On purpose it could be twisted by prosecutors into attempting to charge sex workers helping other sex workers: After all we do all have something to gain by helping each other out as a community. Much in the same way sex workers and sometimes even sex workers who are partners simply living and working in the same place have been at the accused of brothel keeping by poorly written laws. But even by accident, such loose legislation can make tech companies scared to host sex worker content,

even content that is helpful such as FAQs & info messages for other sex workers."

"Because advertisers could be seen as profiting from prostitution"

"In person sex workers are safer when they can work together in person and share information about clients and other safety information online. This act, along with other laws already in place, will make it harder for workers to support each other to stay safe."

"Escorting is legal but would become impossible to offer if it is unable to be advertised as a service I offer"

"I am concerned that the act will criminalise the advertisement of the provision of completely legal sexual services by one of the most vulnerable work forces. Subsequently, eroding what little online safety, client checks and accountability is currently available to sex workers. This would be illogical, unethical, harmful and generally counter productive for everyone engaged in sex work, or who cares about safety. I am concerned that the bill would harm both mine and my partners physical and financial security."

- 79% of respondents stated that Schedule 7 Clause 29 refers to 'possession of extreme pornographic images' as a priority offense. The law around this includes - 'an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals' (Section 63[b] of the Criminal Justice and Immigration Act 2008.) is something that concerns them. We've included a number of responses below.

"Because most of my income is from consensual, risk-aware bdsm. This will make that illegal"

"Who defines what is "serious" and what is not? Someone who enjoys being caned because of the chemicals the body releases during play, is consenting and therefore shouldn't consent be taken into consideration?"

Serious injury should be defined as an injury that was not consented to, that puts someone in hospital such as ruptured rectum, broken bones, etc. Consent is important, as well as clarifying what is considered "serious"

"Filming 'extreme' scenes with consenting adults, extreme is a vague term and it concerns me that a scene would be now classed as illegal when all safety considerations have been taken on board."

"Due to filming legal and consensual fetish pornography this would be very difficult legislation to interpret in practice. Particularly, as 'vanilla' sex can cause injury, bleeding and tearing etc, as well as because in the context of performance in porn, simulated activity may be almost impossible to differentiate from actual harm."

- 48% of respondents said that some or most of their online content might be considered to show "injury to a person's anus, breasts or genitals"
- 92% of respondents don't feel like there has been clarity around this law, or what changes are needed to comply
- People also responded with their own suggestions on how to implement the Online Safety Act:

"Allow full service workers to continue to advertise online, just make sure clients are definitely over 18 (I have never had a client even close to 18 - all have been 30+)"

"I think parents should have a lot more responsibility than anyone else, providing we can just make sure our sites are easy to be identified by parental controls like blocking services. "

"Clearer instructions and less discrimination against sex workers"

"I would like to see the online safety act implemented by competent, conscientious, courageous and responsible people with the sole intent of reducing risk to people who use the internet. This would include respect for sex workers and their safety, as well as the ability to differentiate between consensual sex work and abuse."

"More resources to explain how to comply with the new regulation and to make it more accessible"

- We would also like to include some finishing comments from the questionnaire, which we thought were of particular importance.

"Taking into consideration the limits sex workers already are under and keeping our safety and livelihood into their decision making. "

"FOSTA/SESTA made online work so much harder, and in person work so much more dangerous. There's a chance this will just force the industry underground, which no one wants. Sites might just geo block the UK, which is easy to get around but could also leave a lot of us without work."

"if online sex work is criminalised street sex work will potentially increase"

We hope you take into consideration the importance of sex worker voices and the concerns that many of us have.

Academic research in regards to FOSTA SESTA (see appendices)

Section 230 of the Communications Decency Act of 1996 stipulates that “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

SESTA/FOSTA amends Section 230 by suspending its protection in cases where online platforms are perceived to be promoting prostitution.

We are concerned about the similarities between these laws and the implications of the Online Safety Act, particularly in regards to these aspects:

Schedule 7 Clause 28 & 29 (a) specifically refers to 'causing/inciting prostitution for gain' and 'controlling prostitution for gain' as a priority offense in this Act.

Schedule 7 Clause 29 refers to 'possession of extreme pornographic images' as a priority offense. The law around this includes - 'an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals' (Section 63[b] of the Criminal Justice and Immigration Act 2008.)

As you can see there are many similarities between FOSTA/SESTA and OSA. We hope you take the time to look through these studies and consider the implications that a negative application of this act can have.