



28 June 2004

Dr David Cousins  
Director  
Consumer Affairs Victoria  
2/452 Flinders Street  
Melbourne 3000

By email: [joan.williams@justice.vic.gov.au](mailto:joan.williams@justice.vic.gov.au)

**AUSTRALIAN  
FEDERATION OF AIDS  
ORGANISATIONS INC.**  
ABN 91 708 310 631

PO Box 51  
Newtown NSW  
2042 AUSTRALIA

Ph +61 2 9557-9399  
Fax +61 2 9557-9867

Email [afao@afao.org.au](mailto:afao@afao.org.au)

Internet <http://www.afao.org.au>

Dear Dr Cousins

### **Prostitution Control Fees Regulations 2004**

The Australian Federation of AIDS Organisations (AFAO) represents Australian HIV/AIDS community based organisations at a national level. Our membership includes Scarlet Alliance (the national forum for sex worker organisations and projects), State and Territory AIDS Councils, the Australian Injecting and Illicit Drug Users League and the National Association of People Living with HIV/AIDS (NAPWA). Amongst AFAO's activities is the provision of HIV policy advice to the governments, advocating for our member organisations, developing and formulating policy on HIV/AIDS issues, and promotion of medical and social research into HIV/AIDS.

AFAO is concerned that the legislative framework within which the Fees Regulations are intended to operate is flawed.

The Policy of 100% recovery for all 'efficient costs' relating to prostitution control is inappropriate. The need to address issues such as sexual servitude and exploitative working conditions are matters of general public interest, the cost burden of which should not fall entirely on the industry itself. AFAO opposes the proposed Regulation because the fee increases will impose an inappropriate and excessive burden that will have a particularly adverse impact on small licensed operators.

AFAO has a particular concern regarding the justification asserted that increased fees are required to cover the costs associated with inspections as a result of the need to identify cases of sexual servitude (RIS page 7). Imposing a substantial extra financial burden on brothel operators by increasing fees is likely to lead to a greater proportion of the industry avoiding licensing altogether, as indeed the RIS acknowledges as a risk at page 14. The underground sex work sector is the part of the industry in which sex workers arriving from overseas are most likely to be vulnerable to exploitative practices. The powerlessness and potential for exploitation of migrant workers is compounded when they are working in an illegal and underground industry.

Increasing fee levels may also result in some operators cutting back on health and safety measures to reduce operating costs. This could compromise the health, safety and security of both workers and their clients.

AFAO recommends that the sex industry be fully decriminalised in all Australian states, that regulation be limited to Local Government planning standards developed in consultation with the industry, and that occupational health and safety standards and industrial laws be applied to the industry. This is preferable to adopting complex licensing and registration schemes that are expensive to administer, and that are characterised by 'two tier' industries comprising a relatively small number of boutique licensed brothels and a large number of unlicensed, small and hidden operations. This structure favours large operators and is anti-competitive in nature.

In a decriminalised environment, occupational health and safety standards and measures to eliminate exploitive practices can be developed and implemented through open and consultative processes with the sex industry. This approach is more likely than a licensing and inspections approach to lead in the medium to long term to a sex industry in which the occurrence of sexual servitude is substantially reduced or eliminated. We therefore disagree with the assessment of the social costs and benefits of the proposed scheme that is made at page 22 of the RIC.

In the experience of our member organisation, Scarlet Alliance, through its membership of State and Territory sex worker organisations and projects, the overwhelming majority of overseas sex workers have chosen to work in the Australian sex industry and have willingly entered into 'contracts' with agents to facilitate their passage and working arrangements whilst in Australia. The coercive, slave-like conditions that a small number of sex workers find themselves in are a result of the relative powerlessness of these workers to negotiate the conditions of their employment and accommodation. Working conditions are more likely to be improved in the industry as a whole if sex work businesses are decriminalised, making it less likely that contracted women will be subject to exploitative working environments.

AFAO also wishes to register a concern about the lack of consultation with the sex industry in developing the proposed regulations. There have been inadequate efforts to work with the sex industry to draft the regulations or to assess the likely impact of the regulations, particularly in terms of the disincentive to licensing that the fee structure represents, and the likely outcome in terms of costs passed on to clients. We recommend that regulatory proposals be developed in closer collaboration with sex workers to ensure that workable and socially responsible outcomes are achieved.

Yours faithfully

A handwritten signature in black ink that reads "Don Baxter". The signature is written in a cursive, slightly slanted style.

Don Baxter  
Executive Director