

This card explains a sex work-specific criminal offence to help you understand when you are involved in criminal activity. This may help inform your decisions and capacity to work safely.

By and for sex workers  
Living and working in safety  
and dignity

## ADVERTISING AND THE LAW



This document should not be taken as legal advice. This is a tool offered to sex workers so that we may improve living and working conditions. It is not intended to influence anyone to commit illegal acts.

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### ADVERTISING: the offence

Section 286.4 makes it a criminal offence to advertise sexual services.

The Crown must prove that the ad is for a service that is both **sexual AND for consideration**. "For consideration" means in exchange for something: money, drugs, goods, etc.

### QUESTIONS TO ASK YOURSELF:

- Do you explicitly advertise sexual services? Are the words, images (pictures, videos, etc.) explicitly sexual?
- Does your ad include your prices—and are your prices directly linked with sexual services?

### WHO CAN BE PROSECUTED FOR THE ADVERTISING OFFENCE?

Advertising sexual services is a criminal offence, but sex workers can't be prosecuted if they are only advertising their own sexual services.

However every person or business that advertises **another person's sexual services can be prosecuted**. This could include the owner of a newspaper, the host of a web site, a colleague or friend, etc., whether or not they work in the sex industry.

### YOU CAN ONLY ADVERTISE YOUR OWN SERVICES

If you advertise another sex worker's sexual services you could be prosecuted—the fact that you are a sex worker doesn't give you immunity.

Advertising someone else's sexual services could include an ad for a colleague under "duos" or a link or banner leading to another sex worker's ad or website.

### QUESTIONS TO ASK YOURSELF:

- Do you know the name of the person or company you pay for your advertising (domain name, host server)?
- Do you provide them with personal information (e.g. legal name, address, date of birth, etc.)?
- Are you using a personal or public computer, your personal IP address or a VPN?
- Are you using your personal credit card, someone else's card, a prepaid credit card?

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### POSSIBLE SENTENCE

The sentence for advertising can vary:

There is no minimum sentence

The maximum sentence is 18 months in prison if the prosecutor decides to charge you with a summary offence

The maximum sentence is 5 years in prison if the prosecutor decides to charge you with an indictable offence

Sentencing depends on the specifics of the case and depends on many factors. E.g.: accused's prior criminal record, their current situation, the context of the offence and of their arrest and if it is a summary or indictable charge.

### IMPACTS

Because of this law, advertising services may:

- Stop placing or posting your ad
- Change their policies that determine what you can't write in your ad and what content you can't use in your pictures, videos, etc.
- Not change anything and risk prosecution
- Change payment method
- Require ID

Because sex work is criminalized, police devote resources to collect data from ads on sex workers, clients and third parties and use them for surveillance and undercover operations.

Although sex workers can't be prosecuted for advertising their own sexual services, it is more difficult to advertise, and our ability to meet clients safely and communicate with them effectively is compromised.

This impacts our physical and financial health and safety:

- Not being able to meet clients through our ads forces us to meet them in more precarious and less safe situations.
- Not being able to explicitly and clearly communicate our services and prices prevents us from properly screening our clients and ensuring they understand our conditions, limits and services before we meet them.

### PROTECT YOUR PERSONAL INFORMATION

Someone who is arrested for advertising your services can be forced to give authorities information so that they can identify and find the person who placed the ads (that could be you).



If you use your personal information (e.g. legal name, address, date of birth) or your personal computer or IP address to pay for the ad, the person who is prosecuted may be forced to give this information to authorities.

### CONTACT US FOR MORE INFORMATION OR SUPPORT

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