



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Education and Workforce Committee

Komiti Whiriwhiri Take Kuranga, Take Hunga Mahi

54th Parliament

February 2025

**Petition of Fired Up Stilettos: Strippers’
Rights are Workers’ Rights**

Presented to the House of Representatives
by Katie Nimon, Chairperson

Contents

| | |
|--|----|
| Recommendation..... | 3 |
| Request to address issues faced by workers in the adult entertainment industry | 3 |
| The petitioner’s three main proposals..... | 4 |
| A right to bargain collectively, while remaining independent contractors | 4 |
| Outlawing all fines and bonds between venues and contractors | 5 |
| Limiting venues to taking no more than 20 percent from contractors..... | 5 |
| Achieving fair contract terms for adult entertainment workers | 6 |
| Different regulatory settings for independent contractors and employees | 6 |
| Processes to address unfair contract terms | 6 |
| Complaints about unfair contracts in the adult entertainment industry..... | 7 |
| Discussion about possible changes to address unfair contract terms..... | 8 |
| Health and safety concerns of workers in the industry | 9 |
| Complaints about health and safety issues at venues | 9 |
| Our response to the petition..... | 10 |
| Appendix | 12 |

Petition of Fired Up Stilettos

Recommendation

The Education and Workforce Committee has considered the petition of Fired Up Stilettos—Strippers' Rights are Workers' Rights—and recommends to the Government that it addresses the concerns raised by the petitioner and the matters we have raised in this report, especially when it undertakes reviews of fair trading legislation and the health and safety system.

Request to address issues faced by workers in the adult entertainment industry

The petition was presented to the House on 30 August 2023. It requests:

That the House of Representatives: establish the right of adult entertainment workers to bargain collectively while maintaining independent contractor status; outlaw all fines and bonds between employers and contractors; and establish a nationwide mandatory maximum of 20 percent that an employer can take from a contractor's profits.

The petitioner gave the following reason for the petition:

Our experience is that contractors in adult entertainment face widespread labour exploitation, not due to the adult nature of our work, but because of the lack of legal protections offered to workers who are not employees and because we depend on a venue. We have experienced a culture of bullying, income theft, violations of contract law, and sometimes outright labour trafficking. We want nationwide intervention to stop these exploitative practices.

We considered written and oral submissions from Fired Up Stilettos, the Ministry of Business, Innovation and Employment, the Commerce Commission, and WorkSafe New Zealand.

Fired Up Stilettos told us it is a worker-led society of activists who aim to improve the rights of adult entertainment workers. Its mission is to unite the community, destigmatize the industry, and campaign for legislation that will support adult entertainers.

Fired Up Stilettos said that 20 years ago New Zealand set a global standard for sex worker rights with the Prostitution Reform Act 2003. In contrast, it said, New Zealand has fallen behind when it comes to rights and protections for adult entertainers, with no legislative change since the 1970s. By law, the petitioner said, adult entertainers are not considered sex workers, and there is no specific legal definition or legislative protection for them. The petitioner said this leaves adult entertainers in an unregulated grey area, with power almost completely in the hands of the club owners and management. This leads to punitive conditions, coercion, and the potential for exploitation.

The petitioner's written submission is well organised and comprehensive. It starts with an overview and historical account of the adult entertainment industry in New Zealand, then describes the current arrangements in the industry. The third section explains the petitioner's concerns about workers' access to justice, with examples of real cases involving the courts and tribunals, and details of the contracts and practices workers face in the industry. The final section sets out the petitioner's specific requests, which we discuss below.

The petitioner's three main proposals

The petitioner told us about its efforts to address the issues workers face in the adult entertainment industry. The petitioner explained its concerns about the responses by government agencies and the broader regulatory and legislative frameworks, which have not led to satisfactory outcomes. This petition proposes three main policy changes:

- a right for workers in the adult entertainment industry to bargain collectively while maintaining their status as independent contractors (as opposed to having an employment relationship)
- outlawing all fines and bonds between adult entertainment venues and workers
- a mandatory maximum of 20 percent that adult entertainment venues can take from contractors' earnings.

The submissions of Fired Up Stilettos also highlighted major issues relating to the health, safety, and wellbeing of workers in the industry. The petitioner told us that these issues arise due to actions of the venues rather than the nature of adult entertainment work.

A right to bargain collectively, while remaining independent contractors

The petitioner wants adult entertainment workers to have the right to bargain collectively, while maintaining their status as independent contractors. It views such a right as the most practical way to support workers in all venues across the country.

The petitioner said that such rights have been granted to other types of contractors, such as those covered by the Screen Industry Workers Act 2022. The petitioner considers that adult entertainers need this added protection.

We heard that a collective bargaining right could be used by workers to address some of the issues being experienced in the industry. It could be used to negotiate standards, such as for security at venues, inductions and provision of information, safety and work procedures, and profit arrangements.

Below we highlight some of the points made in the petitioner's submission:

- Adult entertainment workers are not realistically able to exercise their rights to negotiate individual contracts—some venues adopt a “take it or leave it” approach. Attempts to advocate for fairer terms can result in loss of work.
- It is difficult to prove cases in the Disputes Tribunal due the nature of the industry practices and the consequences for workers.
- The Commerce Commission has declined to investigate and test the legality of contracts at adult entertainment venues.

- WorkSafe has declined to further investigate claims of unsafe working conditions in adult entertainment venues.
- There are no industry standards for safety and security measures in venues and, therefore, no pathways for entertainers to improve such standards.
- Systemic discrimination and stigmatisation of entertainers affects the ability of the court system to provide justice in cases involving violence.

The petitioner strongly considers that independent contractor status is necessary for workers to do the work safely. We heard that workers do not wish to be treated as employees. It said that the adult nature of the work requires independence to remain ethical.

The petitioner considers that the independent contractor status is not widely respected by venues. There is a need for collective bargaining to address the power imbalance. Related to this, the petitioner observed that an enforcement mechanism for any collective bargaining is also necessary.

Outlawing all fines and bonds between venues and contractors

The petitioner told us that venue owners profit from individual entertainers through an exploitative system of bonds, fees, and fines.¹ The petitioner also said that the amount of fines, fees, and bonds taken from entertainers' earnings by other parties has more than doubled over the past decade.

We were told that arbitrary fines and even withdrawal of work have been used against entertainers who have complained or confronted management about issues. The petitioner described the effects these practices have, both on workers' financial positions and on their health and wellbeing. The petitioner considers that outlawing these practices would bring the industry into line with other industries where similar practices are already acknowledged as exploitative.

Limiting venues to taking no more than 20 percent from contractors

The petitioner noted that entertainers pay a percentage of their earnings at a venue in exchange for the use of that venue's space. Similarly, adult entertainment agencies can extract a commission from entertainers' earnings in exchange for arranging bookings with customers.

The petitioner proposes that venues should be limited to collecting a maximum of 20 percent of an entertainer's earnings.² It considers that venues and agencies are taking excessive profits from workers, and this is not justified for two main reasons:

- Adult entertainment venues and agencies neglect consistent, reliable standards of safety and security; the onus then unfairly falls on workers to enforce their own boundaries and safety.
- While the prices charged to customers for services have been consistently increasing, the percentage amount that adult entertainers keep from these services is decreasing.

¹ Submission from Fired Up Stilettos, page 29.

² Submission from Fired Up Stilettos, pages 31–33.

The petitioner said that, based on evidence collected from adult entertainers, percentage commissions have more than doubled over the past decade, while services provided by venues have worsened.

Achieving fair contract terms for adult entertainment workers

We sought the views of the Commerce Commission and the Ministry of Business, Innovation and Employment (MBIE) as to how unfair contract terms could theoretically be addressed under the current system. We also discussed the practical challenges and limitations.

Different regulatory settings for independent contractors and employees

The regulatory framework that contractors operate under differs from that for employees. Employment law provides protection and minimum rights for employees. Employees have the right to join a union and bargain collectively; collective bargaining by employees is exempt from competition regulation under the Commerce Act 1986. MBIE noted that this is intended to address the assumed imbalance of bargaining power in employment relationships, as acknowledged in section 3 of the Employment Relations Act 2000. Employees also have access to low-cost dispute resolution through MBIE's employment mediation services, the Labour Inspectorate, and the Employment Relations Authority.

Contractors are not covered by employment law. MBIE told us that comparatively few legal protections exist for contractors who operate under commercial laws, reflecting an assumption that contractors are in business on their own account.³ The relationship between parties is governed by contract, and by laws such as the Commerce Act, the Contract and Commercial Law Act 2017, and the Fair Trading Act 1986. The main way to resolve disputes about business-to-business arrangements is by negotiation or through court action, usually to enforce contractual rights set out in a written contract.

Processes to address unfair contract terms

The Commerce Commission is responsible for enforcing the Fair Trading Act's regime for addressing unfair contract terms (UCTs) in standard-form consumer contracts and specified trade contracts, which include small trade contracts. The commission noted it can use a range of regulatory tools when enforcing the regime, ranging from lower-level tools such as engagement, information, and compliance advice letters, through to higher-level enforcement options such as warning letters and legal proceedings.

The commission told us that addressing UCTs through the court involves a two-stage process. First, the commission must obtain a declaration from the court that a term is unfair. Except in the case of grocery supply contracts, only the commission can apply to the court. If a term is declared unfair by the court, a trader cannot use it in a standard form consumer contract or a specified trade contract. The court cannot impose penalties unless the commission takes the second step of a criminal prosecution.

We asked the Commerce Commission how it determines what issues it investigates and pursues. The commission told us it receives about 13,000 complaints each year, so it has to make prioritisation decisions. The commission set out its prioritisation framework and the 11

³ Submission from MBIE, page 1.

criteria it assesses against. The criteria cover: the commission's programme areas, the extent of the detriment, the seriousness of the conduct, and the public interest. The commission said it also considers whether the tools at its disposal are appropriate to address the relevant harm.

Complaints about unfair contracts in the adult entertainment industry

A representative of Fired Up Stilettos had made a complaint to the Commerce Commission about industry contracts containing unfair contract terms. The Commerce Commission assessed the complaint, but declined to pursue an investigation for prioritisation reasons. It said its decision did not seek to minimise the harm alleged in the complaints. As noted above, parties cannot take court action in their own right to have a contract term declared unfair. As the Commerce Commission has declined to take any regulatory action, the petitioner is unable to make use of the UCT provisions under the Fair Trading Act.

In its submissions to us, the commission explained why it had not taken unfair contract proceedings in relation to the contracts raised by the petitioner. The commission considered that the complaint related to a comparatively small industry, with contract terms differing across venues. It considered that any proceedings would be limited to seeking relief in respect of specific terms at a single venue, so the broader impact of any declaration would likely be limited. However, the petitioner challenged the commission's comments on this, saying that the contract in question was used widely by an operator covering about a fifth of the industry.

In regard to its remit, the commission noted that the Fair Trading Act prevents it from examining certain terms, including terms setting the upfront price payable under the contract or defining the main subject matter of the contract. Such provisions could not be declared unfair. The commission told us this means that the percentage of profit taken from an independent contractor would fall outside the UCT remit.

At the time of its submission, the commission thought there were legal uncertainties about whether adult entertainment workers are independent contractors or employees. If it were an employment relationship, the matter would fall within the jurisdiction of the Employment Court. The commission noted that further court proceedings about the distinction between employees and contractors is possible. The commission also noted legislative reform was possible, as the Government had indicated there was a need for clarity in the status of contractors versus employees.

The commission acknowledged that its prioritisation decision may be disappointing given the vulnerability of the workers in the industry. However, it said it had to weigh the cost and size of an investigation, and its ability to effectively address the harm, against the larger impact it could achieve by deploying its resources in other areas.

We note that the commission also undertakes broader work. We heard it had undertaken sector reviews or investigations into unfair terms in standard form consumer contracts in the telecommunications, electricity, and gym sectors. It has conducted targeted reviews of small trade unfair contract terms in the waste management, retirement village, and funeral sectors. These had resulted in significant engagement with traders and changes to terms.

Discussion about possible changes to address unfair contract terms

Amending processes for challenging unfair contract terms

The Commerce Commission told us that it is challenging to have to go through a two-stage process in addressing unfair contract terms: seeking a declaration first, and then penalties. The process contrasts with other provisions under the Fair Trading Act and the Australian jurisdiction that allow the seeking of penalties at the outset. The commission would prefer to seek penalties and remedies in a single proceeding.

The commission supports amending the UCT regime to enable consumers who are subject to standard-form contracts and small businesses who are subject to small trade contracts to challenge alleged unfair contract terms on their own behalf. The commission said that such a change would remove the “bottleneck” of requiring the commission to initiate proceedings. The commission said that, while it could not comment on the appropriateness of sector-specific legislation for the adult entertainment industry, it considers that all independent contractors would benefit from the ability to challenge unfair terms on their own behalf directly through the courts.

Collective bargaining by independent contractors

As the law currently stands, collective bargaining by independent contractors would risk breaching commercial laws. MBIE said there is some ability under current law for the Commerce Commission to issue case-by-case exemptions to allow collective bargaining by businesses, but it is a power used rarely. In 2022, the commission authorised New Zealand Tegel Growers Association Incorporated to collectively negotiate on behalf of its members the terms of its members’ supply of chicken-growing services to Tegel Foods Limited for a 10-year period.⁴ The commission told us it is a complex and expensive process to go through. The commission did not consider this would be a practical remedy in this situation.

The Commerce Commission also provided information about the class exemption power available to the Australian Competition and Consumer Commission (ACCC). This enables the ACCC to grant class exemptions for specific conduct that may otherwise risk breaching Australia’s competition and consumer legislation. The ACCC must be satisfied that the conduct would not be likely to substantially lessen competition, or would be likely to result in overall public benefits. The ACCC has granted an exemption to small businesses, allowing eligible businesses to negotiate with their customers or suppliers as a group, without risking a breach of competition laws. New Zealand does not have a similar class exemption power.

MBIE told us that, compared to some international jurisdictions, there are relatively few industry-specific regimes covering contractors to provide industry-specific rights and dispute resolution processes.⁵ MBIE noted that Parliament has enacted regulatory protections in some instances for parties who operate within a commercial framework. These include the Sharemilking Agreements Act 1937, the Screen Industry Workers Act 2022, the Grocery Code of Conduct under the Grocery Industry Competition Act 2023, and the Construction Contracts Act 2022.

⁴ See: [the Commerce Commission website](#).

⁵ Submission from MBIE, page 4.

Health and safety concerns of workers in the industry

We also sought the views of WorkSafe New Zealand, as the petition highlights workers' concerns about health and safety practices in the adult entertainment industry. Work health and safety law applies broadly to all work, regardless of the legal classification of the worker.⁶

WorkSafe is New Zealand's primary health and safety regulator and has the role of promoting and contributing to a "balanced framework for securing the health and safety of workers and workplaces". WorkSafe told us that the Health and Safety at Work Act 2015 makes it clear that responsibility for ensuring the health and safety of workers and workplaces sits with businesses, with support and input from workers. It said this includes both the physical and mental health of workers.

Because New Zealand has about 600,000 businesses and over 2.9 million workers, WorkSafe must choose where to direct its finite resources, in accordance with its strategy. In practical terms, it says this means that most of its resources are directed to the construction, manufacturing, forestry, and agriculture sectors. It acknowledged that it cannot focus on some areas where harm is occurring. It said that, generally, this will be where the harm or risk is less serious, where there is no clear pattern or trend of risk or harm, or where other agencies or industry organisations already influence improvements to health and safety.⁷

WorkSafe told us it assesses every health and safety notification it receives against the criteria in its "When we intervene" policy. The criteria are:

- the risk or harm sits within its responsibilities
- we are the best agency to intervene
- the significance of the risk or harm warrants intervention
- intervening is an effective use of our resources.

WorkSafe told us that complaints about hazards such as uneven floors, black mould, and unhygienic toilets are unlikely to meet the threshold to trigger an investigation. WorkSafe also considers whether it is best placed to address the complaints; some serious complaints relating to safety are referred to the Police.

Complaints about health and safety issues at venues

WorkSafe acknowledged that adult entertainers face a range of workplace hazards, including exposure to violence and sexual harassment.

WorkSafe informed us it had received a total of 29 notifications from the adult entertainment industry between 2017 and 2024. (Originally it told us it had received 11 notifications but a further 18 were identified during a subsequent search.) The 29 notifications included complaints about:

- hazards and working conditions at premises
- reports of rape, sexual assault, bullying and harassment, and assault

⁶ Submission from MBIE, page 2.

⁷ Submission from WorkSafe, page 1.

- complaints about security and firearms
- complaints about breaches of COVID-19 restrictions.

In its submission to us, WorkSafe set out what action it took in response to each notification. It had identified some as matters for the Police, and referred the file to them. For some, WorkSafe was not able to establish that a “person conducting a business or undertaking” (PCBU) was operating. For other notifications, WorkSafe’s responses included informing the PCBU of their health and safety obligations and conducting some on-site assessments, although no further action was recommended. We note that some notifications did not have full details recorded.

There appear to have been no recorded notifications in 2019, and only one in each of 2017 and 2018. Many of the notifications since then were related to COVID-19 restrictions.

Our response to the petition

We thank Fired Up Stilettos for raising their concerns with us through their petition. The information we received from the petitioner highlights serious concerns about business practices within the adult entertainment industry.

Current legislative and regulatory systems appear to have proved inadequate in addressing and resolving these concerns. Current systems do not provide an accessible and effective means for workers in the industry (as independent contractors) to enforce minimum standards for health and safety and fair contract terms. Although the petitioner has raised concerns with agencies involved in these areas, agencies have prioritised other work based on their assessments of both the level of harm and their ability to effect change with the tools and resources that they have. However, we are unsure whether agencies’ prioritisation frameworks sufficiently account for workers’ vulnerability. We are concerned that a lack of action to address the harm described by the petitioner may further enable those causing the harm.

MBIE told us that there are currently no plans to make any policy changes on matters that are directly relevant to the petition. However, it said that a review of the Fair Trading Act is planned for this parliamentary term, and could include the issue of unfair contract terms.

MBIE noted some issues that would need to be considered, should the petitioner’s proposals be pursued further. We note these below:

- Collective bargaining—whether the petitioners envisage a prescriptive process for bargaining parties (as for employees and screen production workers under their respective regimes) or merely enabling collective bargaining to occur on a voluntary basis (as would be the case under a Commerce Act exemption).
- Penalty clauses in certain adult entertainment contracts—consideration would need to be given to the relationship between the proposal to outlaw such clauses, and the general “unfair contract terms” provisions that exist in the Fair Trading Act.
- Regulating a “maximum share of entertainer profits” that venues could retain—a key consideration would be how to determine a “maximum share” that appropriately balanced the interests of all affected parties.

- Consideration would need to be given to which government agency would be best positioned to enforce any new industry-specific requirements.

We recommend to the Government that it addresses the concerns raised by the petitioner and the matters we have raised in this report, especially when it undertakes reviews of fair trading legislation and the health and safety system.

Appendix

Committee procedure

The petition was presented to the House on 30 August 2023, just before the dissolution of the 53rd Parliament. The Petitions Committee of the 54th Parliament received a written submission from the petitioner and referred the petition to us on 2 May 2024. We met between 22 May 2024 and 12 February 2025 to consider it. We considered written and oral submissions from the petitioner, the Ministry of Business, Innovation and Employment, the Commerce Commission, and WorkSafe New Zealand.

Committee members

Katie Nimon (Chairperson)
Carl Bates
Camilla Belich
Mike Butterick (until 29 January 2025)
Francisco Hernandez (from 29 January 2025)
Grant McCallum
Dr Parmjeet Parmar
Hon Jan Tinetti
Hon Phil Twyford
Dr Vanessa Weenink (from 29 January 2025)
Dr Lawrence Xu-Nan (until 29 January 2025)

Ricardo Menéndez March participated in our consideration.

Related resources

The documents we received as evidence in relation to this petition are available on the [Parliament website](#).

Recordings of our hearings can be accessed online at the following links:

- [Hearing with the petitioner on 24 July 2024](#)
- [Hearing with the Ministry of Business, Innovation and Employment on 24 July 2024](#)
- [Hearing with WorkSafe New Zealand on 16 October 2024](#)
- [Hearing with the Commerce Commission on 23 October 2024](#)
- [Hearing with the petitioner on 11 December 2024](#).