



Connecting
our community

communication workers union
CWUnion
Australia

Submission

Senate Select Committee on Job Security

Inquiry

September 2021

[CEPU] Communication Electrical Electronic Energy Information Postal Plumbing and Allied Services Union of Australia

(Communications Division – CWU)

Table of Contents

Definitions	3
About the CEPU	3
Terms of Reference	3
Scope of this Submission	4
Introduction	5
Sub-contractors are the backbone of the network.....	5
Key issues facing NBN Co sub-contractors.....	6
Cost-cutting over safety, security and service delivery.....	6
Increased complexity of jobs on the mixed technology network	7
Insufficient rates of pay.....	7
Increased costs for sub-contractors.....	8
Inappropriate and unethical contracting practices	8
A history of inequitable distribution of work.....	9
A lack of oversight and responsibility by NBN Co	10

The CEPU and its members thank the Committee for the opportunity to provide this submission.

Definitions

CEPU	Communications Electrical Electronic Energy Information Postal Plumbing & Allied Services Union of Australia, Communications Division (also known as the CWU)
NBN Co	The Commonwealth Government Business Enterprise that is delivering the National Broadband Network
Delivery partner(s)	Companies contracted to deliver construction and maintenance services on the National Broadband Network on behalf of NBN Co
Sub-contractor(s)	A Communications technician traditionally contracted directly to Delivery Partners to perform sub-contracted construction and maintenance work on the National Broadband Network, on behalf of NBN Co
Prime(s)	An industry term for an additional third-party contractor who secures contracted work offering from an NBN Co delivery partner and sub-contracts that work again – retaining a self-determined commission on the earnings for works completed, from the sub-contractor

About the CEPU

The Communications Electrical Electric Electronic Energy Information Postal Plumbing and Allied Services Union of Australia [CEPU] is a national Union representing workers across the wider communications, electrical and plumbing industries.

The CEPU was formed in 1994 following the amalgamation of the Communication Workers' Union of Australia (CWU) with the Electrical Trades Union (ETU) and the Plumbing and Gasfitters Employees' Union (PGEU/PTEU)

1912 the Australian Letter Carriers' Association and the Australian Telegraph, Telephone Construction & Maintenance Union (later known as the Australian Postal Linesmen Union of Australia) were both registered federally

1924 the Australian Letter Carriers' Association changed its name to the Commonwealth Public Service Fourth Division Employees' Union of Australia only to amalgamate a year later with the Postal Sorters' Union of Australia and the Australian Postal Linesmen Union of Australia to form the Amalgamated Postal Linesmen Sorters' & Letter Carriers' Union of Australia

1926 the newly amalgamated Union becomes known as the Amalgamated Postal Workers' Union (APWU), covering posties, mail sorters and telecommunications linesmen.

1974 the APWU merges with the Union of Postal Clerks and Telegraphists (UPT) to become the Australian Postal & Telecommunications Union (APTU)

1990 the APTU merged with the Australian Postmasters' Association and later the Postal Supervisory Officers' Association to eventually be known as the Communication Workers Union (CWU). The Australian Telecommunications Employee Association/Australian Telephone & Phonogram Officers Association (ATEA/ATPOA) and the Telecommunication Officers Association (TOA) later amalgamated with the CWU. The ATEA retained autonomy in a divisional structure, whilst the TOA was absorbed by APTU originating Branches.

1994 the CWU had merged with the Electrical Electronic Plumbing & Allied Workers Union of Australia, the end product of a merger between the ETU and the PGEU/PTEU a year earlier, to form the Communications Electrical Electronic Energy Information Postal Plumbing & Allied Services Union of Australia (CEPU)

The CEPU operates under an autonomous divisional structure.

The Communications Division (also known as the CWU) has coverage of and represents workers across today's postal, telecommunications and information technology industries.



Connecting
our community



Terms of Reference

That a select committee, to be known as the Select Committee on Job Security, be established to inquire into and report on the impact of insecure or precarious employment on the economy, wages, social cohesion and workplace rights and conditions, with particular reference to:

- a. the extent and nature of insecure or precarious employment in Australia;
- b. the risks of insecure or precarious work exposed or exacerbated by the COVID-19 crisis;
- c. workplace and consumer trends and the associated impact on employment arrangements in sectors of the economy including the 'gig' and 'on-demand' economy;
- d. the aspirations of Australians including income and housing security, and dignity in retirement;
- e. the effectiveness, application and enforcement of existing laws, regulations, the industrial relations system and other relevant policies;
- f. accident compensation schemes, payroll, federal and state and territory taxes;
- g. the interaction of government agencies and procurement policies with insecure work and the 'on-demand' economy; and
- h. any related matters.

Scope of this Submission

This submission responds to the following items within the Terms of Reference outlined above:

- a. the extent and nature of insecure or precarious employment in Australia;
- b. the risks of insecure or precarious work exposed or exacerbated by the COVID-19 crisis;
- c. workplace and consumer trends and the associated impact on employment arrangements in sectors of the economy including the 'gig' and 'on-demand' economy;
- g. the interaction of government agencies and procurement policies with insecure work and the 'on-demand' economy; and
- h. any related matters.

As the Union representing workers in the telecommunications sector, our submission is focused on the nature of job insecurity currently experienced by workers engaged by NBN Co and its delivery partners to deliver the National Broadband Network, a major national infrastructure initiative of the Federal Government.

Introduction

When announcing his government's plan to build a fibre-to-the-premises, wholesale, open access national broadband network in April 2009, then-Prime Minister Kevin Rudd told the Australian people the construction of the network would create 25,000 jobs, with 37,000 at its peak.¹

A majority of those jobs were to be in the installation of fibre-optic cable to business and household premises across the nation, with permanent network maintenance and repair jobs to follow as the network was rolled out.

The expectation was that this nation-building infrastructure project would create secure, well-paid jobs for technical trades and construction workers throughout Australia. More than a decade later, the reality for the workers installing and maintaining the NBN falls far short of these expectations.

Under the current operational structure of NBN Co, the majority of workers responsible for connecting homes and businesses to the national broadband network, and for maintaining and repairing any local faults in that network across the Australian landmass are among the most insecure and poorly paid in our economy.

A public infrastructure project that was intended to provide secure, well-paid jobs for technical trade and construction workers has, instead, become a means by which private contracting companies and their executives are able to enrich themselves, at the expense of both the income and job security of the workers we represent and the experience of the customers of the network.

What follows is an account, based on the experiences of CEPU members who are working on frontlines of the NBN, of the working conditions forced upon workers in the communications sector by NBN Co. These conditions are the result of years of cost-cutting, outsourcing and sham contracting by the company and its delivery partners.

As we will demonstrate, the terms set by NBN Co, and the company's operational structure for the engagement of skilled technical trades and network construction workers, are creating widespread job insecurity, underemployment and declining income for workers.

As NBN Co operates a wholesale monopoly broadband network, the ability for workers in the sector to improve pay and working conditions is significantly limited: there are very few alternative employers for these skilled workers, which is a direct result of the Australian Government's decision to create a single wholesale, open-access network operator. As such, and given that NBN Co currently operates as a Commonwealth Government Business Enterprise (GBE), it is the responsibility of the Australian Parliament to ensure its operations are not distorting the Australian labour market, compromising hard-fought for rights for workers and undermining the value of a career in technical trades in the communications sector.

The CEPU strongly recommends that the Committee consider making specific recommendations that limit outsourcing and sub-contracting of work in all GBEs to instances of genuine need or efficiency, and cease using such methods to undermine job security and limit wage growth for Australian workers.

Sub-contractors are the backbone of the network

The CEPU represents the army of sub-contractors engaged to install, maintain and repair faults on the national broadband network, on behalf of NBN Co, across Australia.

Perhaps unknown to most Australians, the workers who install fibre to their homes or businesses, who repair and maintain the ageing copper and hybrid fibre-coaxial (HFC) networks on which a large portion of the NBN

¹ <https://www.itnews.com.au/news/government-goes-it-alone-on-nbn-141880>

still relies, and who respond to network faults to restore their essential internet services, are not employees of NBN Co.

Rather, this Commonwealth Government Business Enterprise has entered into a complex mix of contracts with delivery partners who then engage individual workers required to operate as limited companies with as sub-contractors to construct, provision and maintain the backbone of the network.

That these essential, skilled workers are forced to operate as businesses, with no sick pay, annual leave, superannuation or other workplace rights, on the biggest national infrastructure program of recent decades, is a failure of the Parliament. These workers deserve the security of a permanent job and the benefits that go with that.

Further, the use of outsourcing and sub-contracting workforce practices, which are designed to hold down wage growth and reduce worker power, by a GBE that is a monopoly provider of essential public infrastructure creates a powerful distortion in the labour market, undermining wage growth across the economy and limiting Australia's productivity growth more broadly as we seek to recover from the biggest economic shock in a century.

Key issues facing NBN Co sub-contractors

CEPU members report growing and significant concerns about the nature of their engagement with NBN Co and its delivery partners, particularly in relation to the following issues:

- Cost-cutting over safety, security and service delivery
- Increased complexity of jobs on the mixed technology network
- Insufficient rates of pay
- Increased costs for sub-contractors
- Inappropriate and unethical contracting practices
- Inequitable distribution of work
- A lack of oversight and responsibility by NBN Co

What follows is an outline of each of these issues, using information provided by CEPU members.

Cost-cutting over safety, security and service delivery

When I started working on the NBN in 2010, it was a decent income. Now it's not even a living wage...

NBN Technician & CEPU Member, NSW

CEPU members engaged as technicians on the NBN consistently report declining real incomes and worsening working conditions. While sub-contracting has always been part of the NBN business model, contractual arrangements between NBN Co and its delivery partners, and between those delivery partners and the sub-contractors they engage to perform technical work on the network, have become significantly compromised over recent years.

It is evident from the reports received from CEPU members that the shift to a cheaper model for the NBN, with a mix of different technologies and an increased amount of remediation work to be done on deteriorating copper and other older infrastructure, has resulted in poorer outcomes for workers on the project.

At the same time, a government focus on the 'on budget' costs of the NBN, and the management imperative to reduce those costs in order to meet shareholder expectations, has arguably resulted in NBN Co turning a blind eye to unethical and illegal practices used by delivery partners to keep sub-contracting costs down.

The CEPU receives regular reports from members who are engaged through sham contracting arrangements with delivery partners, which are seeking to limit labour force costs in order to make a profit from their original contracts with NBN. Too many sub-contractors are, as a result, engaged on contracts that have insufficient safety provisions and require a work rate from sub-contractors that compels them to 'cut corners' in order to meet their contractual obligations.

This focus on cost-cutting by NBN Co ultimately creates genuine safety risks for workers, reduces their income and compromises the quality of service provided to NBN customers.

Increased complexity of jobs on the mixed technology network

In the decade since the NBN build commenced, the work undertaken by technicians has increased in complexity, and jobs have become less routine and more unpredictable. This is partly due to an increase in repairs and maintenance as the network build has come to completion, but it is largely a result of the Government's decision to change the design of the NBN to a 'multi-technology mix'.

Where originally technicians were connecting fibre to portals inside the premises, now technicians may be required to repair degraded copper wires or remediate HFC cabling; they must be qualified in FTTP, FTTC, FTTB and FTTN installations and maintenance; and often they will arrive at a job to find it is impossible to complete the repairs in the time assigned due to unforeseen faults or degradation of obsolete technologies. These scenarios result in delays to the end-user and a further reduction to the sub-contractor's potential for earnings.

Insufficient rates of pay

Despite the significant changes to the network design since 2010, and the resulting complexity of the repair and maintenance work required of technicians, the job rates of pay offered by NBN Co have failed to keep up with the cost of living over the last decade. Some job rates are the same as they were under the original contracts in 2010, while some have even gone down.

At the same time, the amount of administration and other tangential work required of sub-contractors has increased, as they are pushed to take on more of the administration tasks that were originally performed by NBN Co or its delivery partners.

As network technicians are required to operate as a limited business to contract with an NBN Co delivery partner, they are required to complete administration tasks that are not adequately compensated by the per job rates of pay.

The CEPU has members who have worked as NBN technicians since the project was launched in 2010. For some of these members, who commenced under the Telstra contract, the job rate for a fault was \$79 – it is the same rate today, 11 years later. Contracts have barely changed to account for CPI increases over the last decade, while a \$75 per-job fee, to compensate for delays caused by the recent implementation of the flawed *Service Max* job dispatch platform and disputed rate reductions currently under review, ends in October 2021.

As explained below, sub-contracted technicians can also, on occasions, be required to travel for up to two hours for one job, making it impossible for them to complete enough work in a day to cover their costs, let alone provide a living wage.

Despite operating as contractors with ABNs, many technicians working on the NBN are treated more like employees. CEPU members report that, although they are required to be a proprietary limited company to qualify for the contracts, they are obliged to accept availability rosters three months in advance, unable to negotiate their rates of pay and unable to determine their own mix of jobs or manage their workload semi-autonomously as independent contractors should expect to do.

See below for further information about the way work is distributed through NBN Co's sub-contracting arrangements.

Increased costs for sub-contractors

Technicians sub-contracted to work on the NBN are expected to purchase and maintain all their own equipment, which, given the need to be prepared for jobs on multiple technologies, is a greater burden than it was when the network was launched. They are also expected to cover the costs of safety requirements, training and any additional requirements imposed on specific contracts, without adequate compensation.

For example, all fibre technicians were recently directed by NBN Co to purchase a fibre video scope in order to continue working on the network. This cost around \$1,000 and had to be paid for by the sub-contractor. Rates of pay were not altered to account for this increased operating cost to technicians.

Our members also report that NBN Co recently introduced a mandatory bridge tap test on all node work prior to completing the job. This adds to the time taken to complete each job, but job rates were not altered to reflect this additional task.

CEPU members also report that the safety and training standards are regularly reviewed, as necessary, but when this results in the cost of meeting those standards increasing, contractors' rates of pay are not increased to cover the difference. Furthermore, at times, these requirements are unnecessary, through irrelevance to the technology type a particular sub-contractor is engaged to perform work on.

Costs to earnings ratios become completely blown out of proportion when factoring in the reality that the contractors provide no guarantee of ongoing work and sub-contractors are regularly "switched off" – stood down without notice nor explanation – diminishing their potential for earnings for days without recourse nor compensation.

Inappropriate and unethical contracting practices

The CEPU is highly concerned about the increasing reports from our members of delivery partners, through which NBN Co engages network technicians as subcontractors, are engaging in 'sham' contracting in order to maximize the profits of the subsidiary company at the expense of workers' incomes, and of the quality of service provided to customers.

Among other unethical practices, the CEPU is aware of managers and supervisors employed by delivery partners creating secondary companies in the names of their family members, to which they then direct area contracts for network repair and maintenance.

This allows the managers to retain the administration fees for those contracts, and to control the distribution of work among sub-contractors to their own benefit by directing the most lucrative jobs on the network to those companies (see below for further detail about this practice). They are, effectively, 'creaming off' excess profits from the fees meant to support the delivery of front-line maintenance and report work.

We have also received evidence of managers and supervisors taking 'kick-backs' for assigning contracts to certain primes and sub-contractors, abusing the system set up by NBN Co to increase their own profit, of taxpayers' funds, through unethical and illegal means.

Several CEPU members have reported being engaged by a prime or 'head sub-contractor', who does not provide them with contracts, fails to pay insurance, directs them to his own accountant to manage their taxes, and takes as much as 40% of the job rate as a 'commission'.

These sham operators target workers from non-English speaking backgrounds, and are using platforms such as *Gumtree* to advertise jobs and onboard technicians. These outfits are operating outside Australian workplace and industrial relations laws, but NBN Co turns a blind eye to such practices.

A history of inequitable distribution of work

Tasks assigned to technical trades and network construction workers in the communications sector are known as 'jobs': that is, the individual installation or remedial work done at different network locations around the country is considered a 'job' that a worker can be assigned under the terms of their contract.

The CEPU receives regular reports from members that jobs are distributed inequitably between sub-contractors, depending on the delivery partner they are sub-contracted to and the individual practices within.

Up until the recent implementation of the *Service Max* work dispatch system under NBN Co's *Unify* contract, the job assignment was undertaken by the delivery partners, who have had the ability to game the contracts with NBN Co in order to maximize their own profits at the expense of workers' income and customers' service experience.

This resulted in some sub-contractors receiving a disproportionate allocation of work.

Because technicians are paid a 'per job' rate, the number of jobs they are able to complete in a day is critical to their potential earnings and effective take-home pay. Despite the job dispatch process now largely facilitated by NBN Co under the *Service Max* and *Unify* arrangements, some disparity remains – with some technicians receiving between 6 and 10 jobs per day, while others receive between 3 and 5.

As technicians operate as independent contractors under their own ABN, these gross daily earnings must cover income and other taxes, superannuation, leave entitlements, insurance, asset (equipment) purchases and maintenance, administration, accounts, travel time and costs, skills development and the actual work to install, repair or maintain the network.

When a technician is assigned 6 - 10 relatively simple repair jobs in a day, all within a 10-20km radius, they are more likely to earn a reasonable income after their operating costs.

When a technician is assigned only 3 – 5 jobs per day, of varying complexity, with longer travel times between jobs, they are often left with take-home pay equivalent to less than minimum wage, after meeting their operating costs. In some cases, we have had members make an overall loss on a day's work that they are obligated to complete under their contracts with NBN Co delivery partners.

Furthermore, the CEPU is continuing to receive regular reports of the most lucrative category of installation and provisioning work – that of connecting apartments and offices in high-rise and other large buildings to the node in the basement (known as 'basement work') for certain sub-contractors, often those engaged through a secondary company, or a prime. These jobs allow technicians to complete multiple jobs per day, as the job rates are per premises (individual home or office) rather than per building.

CEPU members with specialist qualifications in this work continue to be locked out of basement work, despite the *Service Max* and *Unify* arrangements and remain limited to the less lucrative jobs connecting fibre to the curb or to the node, where it is difficult to complete more than a few jobs per day.

This ongoing practice creates distinct inequities in the workforce, with a select few earning a good salary, whilst many are often left unable to earn a living wage, despite working up to 60 hours a week.

A lack of oversight and responsibility by NBN Co

NBN Co is a wholesale monopoly infrastructure provider. As such, it is the monopsonist employer of network technicians in Australia. Despite using sub-contracting arrangements, there is no real competition in the labour market for our members who are skilled and qualified network technicians. This allows NBN Co an unacceptable level of power over the labour market.

Despite this, NBN Co does not exercise an adequate duty of care to its workforce. Our members report that there is practically no oversight of the practices of delivery partners by NBN Co, and no chain of responsibility to its workforce.

Sub-contracted technicians have no means of providing feedback directly to NBN Co, as everything is managed through the sub-contracting process at arm's length from the company.

The workers on the frontline of the network have no meaningful recourse to address these systemic workforce issues with the Government Business Enterprise that is their ultimate employer.

Technicians engaged by delivery partners to work on the only project that can adequately utilise their skills and qualifications are effectively unable to have any of these legitimate workplace safety, security and wage issues addressed for fear of losing access to the work offering they have been trained in, and have personally heavily invested in.

The relevance of NBN Co's delivery partners, for the purpose of fulfilling ongoing labour requirements for the network's maintenance regime, needs to be seriously questioned. If not for the insecure sham employment model that has been allowed to fester under the arrangement, at least from an economic point of view in assessing whether the taxpayer is receiving value for money in the costs associated with continuing to administrate an essential workforce through multiple intermediaries. This is particularly so with the introduction of *Unify* and the direct dispatch of work offering by NBN Co through the *Service Max* process.

Conclusion

Some of the most insecure work in this country is undertaken by skilled and qualified NBN communications technicians, undertaking critical work on essential public infrastructure, which is funded and managed by the Australian Government.

Rather than delivering on the original promise of the National Broadband Network to create secure, fairly-paid publicly funded jobs for skilled technicians and tradespeople, the NBN project has created a monopsony employer that operates at arm's length from its workforce, resulting in workplace practices that often fall foul of Australia's industrial relations laws, and routinely skirt around their edges.

The pyramid structure of NBN Co's sub-contracting arrangements deliberately precludes adequate reporting and complaints mechanisms for the project's workforce.

It seems that the Shareholder Ministers who are responsible, on behalf of the Australian people, for NBN Co's operations as a Government Business Enterprise are entirely unwilling to address this problem. We can only assume that this is because job security and a living wage are unimportant compared to the government's imperative to keep the on-budget costs of the NBN down.

Therefore, on behalf of the workforce delivering this essential infrastructure to the Australian people, we would like to express our thanks the Committee for giving us the opportunity to present the concerns of our members to the Parliament.

We urge the Committee to recommend to the Senate that contracting arrangements within Government Business Enterprises be subject to urgent review, to ensure that workers engaged in public works receive the pay, entitlements and job security that the Australian community expects.