



Electrical Trades Union of Australia

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SUBMISSION

Joint Select Committee on National Broadband Network (NBN)

March 2017



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The Electrical Trades Union (ETU) is the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, plumbing and Allied Services Union of Australia (CEPU). The ETU represents approximately 65,000 electrical and electronic workers around the country and the CEPU represents approximately 100,000 workers nationally, making us one of the largest trade unions in Australia.

We thank the Committee for the opportunity to make submissions in relation to its current examination of the rollout of the National Broadband Network (NBN).¹

What is clear is that the NBN rollout is not proceeding fast enough and there are serious questions as to whether the fibre-to-the-node multi technology mix model that the government has pursued is not delivering results for Australian taxpayers and consumers.

In a scathing piece in March 2017 the CEO of Internet Australia, the peak body representing Internet users, stated that the NBN path was ‘broken beyond repair’, citing complaints about the slow speeds being delivered to NBN customers and the extremely dysfunctional sign-up process that seems to be plagued with delays, missed appointments and general confusion. The CEO, who has decades’ experience in the telecommunications industry stated:²

“Like so many, I’ve watched the second iteration of our broadband policy based on fibre to the node (FTTN), and reliant on old copper wires, with increasing dismay. Highly regarded technical experts are speaking out and saying that this major infrastructure project is fundamentally flawed — for many reasons, but mainly because of the Government’s dogged commitment to persisting with already-obsolete copper-based technology.

¹ Appendix 1.

² <http://www.theaustralian.com.au/business/technology/opinion/nbn-path-broken-beyond-repair/news-story/2e6c2fb2e51a0294b32d07378de0d324>



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Consumers are being lumbered with a network delivering internet speeds that doom them to lag behind the rest of the world and are subjected to installation procedures that seemingly have little or no ‘customer service’ component in them. Both of these issues have the NBN at the top of the Telecommunications Industry Ombudsman’s complaints table.”

The Organisation for Economic Co-operation and Development (OECD) examined aspects of Australia’s economy, including whether policies were encouraging productivity through innovation, in a March 2017 economic survey³ and raised concerns about whether the National Broadband Network is actually encouraging innovation or providing value for money. It said the National Broadband Network’s multi-technology mix may not be delivering promised savings, stating ““The cost savings of this approach have become less clear over time,” and “Optical-fibre installation costs have fallen and repair and renovation costs to pre-existing network facilities have proven greater than expected.”

In our view there are a slew of concerning issues around the NBN rollout and NBN Co that should be examined in detail by the Committee and are discussed in this submission, they include:

- Inadequate and inaccurate speeds;
- Pricing and Affordability;
- Rural Broadband Surcharge;
- NBN Cut Off Deadlines
- Impacts on existing ADSL users;
- Industry Skills and Training;
- Delays in rollout due to the Building Code 2016;
- Telecommunications Universal Service Obligation; and

³ <http://www.oecd.org/newsroom/oecd-launches-economic-survey-of-australia-friday-3-march-2017.htm>



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- NBN Co's involvement in an illegal police raid of a Senator's office.

In order to address these issues going forward, we urge the Committee to accept the following recommendations:

Recommendations

1. The establishment of real time public reporting of NBN speeds to drive openness and accountability from providers and empower consumers to make informed decisions when choosing an NBN provider.
2. Consideration be given to a price 'safety net' to ensure affordability, particularly for lower income and vulnerable consumers. This could be achieved through a form of price regulation as has occurred in the energy industry.
3. Regarding the Rural Surcharge Levy, regional customers should have their services subsidised so charges are in line with metropolitan customers, we do not believe that cost should be simply passed on to consumers. Government should directly fund the difference, to ensure price parity.
4. NBN cut-off dates be suspended until such time as the government and/or NBN Co has engaged in a proper public communication campaign to ensure the community is aware of the cut off dates and what the impacts will be for them.
5. In order to ensure that maximum employment opportunities for apprentices and young workers are realised we recommend that NBN carriers be required to commit a 1 or 2 % payroll levy to funding apprentices and professional development and training of workers.
6. The Committee direct the Australian Building and Construction Commissioner to, under section 6A of the Building Code 2016, provide an automatic exemption to all NBN related service providers.



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7. In relation to the matter under investigation by the Senate Privileges Committee that falls within the purview of this Committee but sits outside the scope of the current inquiry, call on NBN Co to appear before the Committee to answer further questions about why a staff member of NBN Co was present at the an illegal Federal Policy raid of a sitting Senator's office and taking photographs of the illegally seized documents.

Inadequate and Inaccurate Speeds

Australia has slid to 51st on the Akamai State of the Internet report, down from a ranking of 48 at the end of 2015 and behind countries such as Kenya, Latvia, Romania, Estonia and New Zealand.⁴ New Zealand speeds are, on average, 30 percent faster than Australia. The Akamai rankings are widely considered the industry-accepted standard for comparing internet connectivity across the world

That Australia has gone backwards instead of improving over the two years from 2015 is a damning indictment on the mess that government has made of the NBN roll out. It is completely unacceptable.

80 percent of Australians who have signed up to the NBN have opted for a maximum speed of up to 25Mbps, and only 13 per cent have signed up for the much faster and more expensive high-end 100Mbps.⁵

There are serious doubts as to whether or not NBN consumers are receiving promised speeds.

⁴ <https://www.akamai.com/us/en/our-thinking/state-of-the-internet-report/>

⁵ <http://www.news.com.au/technology/online/nbn/australia-continues-to-slide-down-global-net-speed-rankings-despite-nbn-broadband-rollout/news-story/a418b4a67305390933e28aee4ad0603b>



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Consumers are being misled about internet speeds delivered by the NBN and can only find out what they'll really receive after their home has been connected to the network.

There has been a 100 per cent increase in NBN complaints to the Telecommunications Industry Ombudsman over the last financial year, many of them about the speed of internet access.

The situation has deteriorated so much that 'consumers cop's' of thousands of households to expose providers lying about the speed of the National Broadband Network service they provide. Volunteers would have a special device attached to their modem or router to accurately track their actual streaming speeds. Telstra has announced plan to publish NBN speed information over the coming months in a bid to reduce confusion around the service following CEO Andy Penn's public comments that there was 'absolute confusion' around what sort of internet connection speeds consumers could expect from NBN connections, and the performance of the national network.⁶

Pricing and Affordability

There are serious questions around the suitability of the NBN pricing model.

The NBN's pricing model is split into two parts: internet service providers pay a usage fee on top of a baseline access charge. Industry has long criticised the usage fee, known as the connectivity virtual circuit charge, which reaps revenue in line with growing traffic as services such as Netflix grow.

Last year, the NBN Co overhauled the Connectivity Virtual Circuit (CVC) charge to -introduce a "dimension-based discount" so the price per megabit per second falls as

⁶ <http://www.news.com.au/technology/online/nbn/telstra-to-publish-nbn-speed-data-in-the-wake-of-nbn-co-being-criticised-for-leaving-consumers-in-the-dark/news-story/f6bf5c371ac158e777b88b682559ef16>



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internet providers allocate more CVC capacity to customers. Although that discount was applied on an industry-wide basis NBN Co has stated it might shift to calculating the discount separately for individual ISPs.

Telstra has warned that this could push up prices for customers who use very low amounts of data or only want a voice-only service, particularly given the correlation between low usage and low income.

We consider that the current NBN pricing will negatively impact on affordability, particularly for lower income and vulnerable consumers.

Rural Broadband Surcharge

We note that the Government is planning to charge competitors to the National Broadband Network a monthly levy of \$7.09 per connection to help pay for rural broadband services.⁷ By 2022 the levy would rise to \$8 per connection.

This is being done to ensure NBN providers are unable to cherry-pick the most profitable parts of the market, usually in the inner city, and leave NBN Co to wholly subsidise the cost of providing services to rural and remote areas. Exemptions would be granted for Telcos with fewer than 2000 customers or companies such as Telstra and Optus, which are transitioning their networks to the NBN.

The government has admitted that the costs associated with the rural levy will be entirely or substantially passed onto consumers and the providers that would be subject to the levy have expressed serious concern about how the levy will affect their ongoing financial viability.

Mr Phil Smith, Opticomm's chief regulatory officer, said the change would force the company to increase its prices or it could go out of business, stating:

⁷ <https://www.communications.gov.au/have-your-say/consultation-telecommunications-reform-package>



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*"This could cripple companies like us. This would take 30 per cent of our revenue straight off our bottom line. This is a terrible instrument to enforce on a small number of players - it's so anti-competitive it's not funny."*⁸

It is clear there are serious and numerous concerns around the proposal.

While we support the fundamental premise that regional customers should have their services subsidised so charges are in line with metropolitan customers, we do not believe that cost should be simply passed on to consumers. Government should directly fund the difference, as happens with electricity prices in many jurisdictions.

We believe the Committee must examine the government's proposals, particularly around implementation of the levy, in detail and make subsequent recommendations.

NBN Cut Off Deadlines

The NBN rollout has reached approximately 3.5 million premises across the country and the government is proposing that homes and business have 18 months to migrate to the NBN once it is available to them, after which traditional copper and cable services in the area are severed — cutting off fixed-line phone and internet access.⁹

That means that around 350,000 Australian homes and businesses risk losing their phone and internet access in 2017, a countless more in future years, with their home services cut off if they fail to switch to the National Broadband Network service available in their area. It will affect 348,627 homes and businesses across every

⁸ <http://www.smh.com.au/federal-politics/political-news/this-could-cripple-companies-like-us-government-announces-new-nbn-tax-on-broadband-companies-20161212-gt9hxi.html>

⁹ <http://www.smh.com.au/technology/technology-news/nbn-cutoff-date-looms-for-almost-350000-australian-homes-and-businesses-20161211-gt8uy3.html>



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state and territory but mostly in New South Wales (102,885), Victoria (71,266) and Queensland (53,966).

We are concerned that many don't know their existing service will be cut off if they don't connect to the NBN once their home or business is declared NBN-ready given the that such a small amount of the NB rollout has occurred and the clear majority are not NBN ready. This means that the NBN is not front of mind to the vast majority and as such, along with little to no communication from the government, many will be totally unaware that there is a cut-off date for existing copper services.

Impacts on existing ADSL Customers

We are concerned about revelations from Senate Estimates that NBN Co is refusing to disclose how many premises with existing ADSL connections will be offered only satellite services in future.

During the hearings NBN Co all but confirmed that having an existing fixed line service is no guarantee of future fixed line connectivity under the NBN and stated¹⁰ that:

“The technology that may already be available in an area (for example ADSL or 4G etc) is not so much a driver of NBN Co’s technology choice as other factors such as the cost per premises of servicing the area. With some exceptions, satellite is typically a cost-effective solution in non-metropolitan areas where there is either no line of sight to a fixed wireless tower or where there is low population density.”

This could particularly be a problem for internet users living on the low-density metropolitan fringe, as well as those in regional or rural Australia.

¹⁰ Environment and Communications Legislation Committee, Senate committee, Thursday, 5 May 2016.



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Consumers have a right to know, as early as possible, how the NBN rollout is going to impact on them. We are alarmed by NBN Co's clear intent to place economics as a priority over consumers. This is not acceptable strategy for a taxpayer funded monopoly infrastructure asset.

Industry Skills and Training

We believe the NBN rollout has a critical role to play in the provision of employment based training and apprenticeships opportunities for our youth and understands that providing these opportunities is an integral part of what define a successful NBN roll out. In order to ensure that maximum employment opportunities for apprentices and young workers are realised we recommend that NBN carriers be required to commit a 1 or 2 % payroll levy to funding apprentices and professional development and training of workers.

Telecommunications Universal Service Obligation

We note that the Productivity Commission is currently undertaking an inquiry into the Telecommunications Universal Service Obligation (TUSO) as a result of the impacts of the NBN rollout.¹¹

The voice based TUSO is the obligation placed on universal service providers to ensure that standard telephone services, payphones and prescribed carriage services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. This includes services for people with a disability and those that have medical conditions. The contracted primary universal service provider in Australia is Telstra.

¹¹ <http://www.pc.gov.au/inquiries/current/telecommunications#report>



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The Government has costed the TUSO at approximately \$3 billion in net present value terms over twenty years argues that the current TUSO is anachronistic and needs to change based on changes to technology and consumer behaviour, pointing to the sizable public investment in NBN infrastructure which is planned to provide universal access to high-speed broadband services to all premises across Australia by 2020. However, even when the NBN has achieved completion there will be some who will not be able to access NBN services. In that regard, the NBN is not as widely available or ubiquitous as the current traditional copper network telephony services.

We believe that a TUSO service should be available to all people and businesses who wish to connect and that the service should be of a minimum quality. For example, it would be unacceptable from an USO perspective for there to be frequent data loss or drop out in an NBN satellite or wireless area. We consider that the availability objective, including a minimum performance standard, is critical.

There continues to be a strong equity rationale to provide a universal service of the same quality to all who reside in Australia, irrespective of where they choose to live or work and that some people may experience difficulties accessing or affording available services must be taken into consideration.

- We believe that the Committee should rightly consider the TUSO as part of its work and urge the Committee to make the following recommendations:
- Any removal or change of the TUSO, be it staged or not, should only occur after the full rollout of the NBN is complete.
- Any post TUSO arrangements must have regard to availability to ensure the service is available to all people and businesses who wish to connect to that service and that the service is subject to a minimum quality standard.
- Government proceed with its planned review of telecommunications consumer safeguards as a matter of priority.



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- Detailed modelling of price impacts of TUSO removal should be undertaken urgently. This should include modelling on NBN costs for consumers in the absence of a TUSO.
- Government provide funding from general government revenue.

For further details on our position in relation to the TUSO, attached is our submission (Attachment 1) to the Productivity Commission.

Standing Committee of Privileges

We note with concern reports around the findings of the Senate Standing Committee of Privileges inquiry into Parliamentary privilege and the use of intrusive powers.¹²

As has been made public, the inquiry centred on the Australian Federal Police raiding the parliamentary offices of a sitting Senator to seize documents relating to the NBN despite the Senator claiming privilege over the documents. Report have recently emerged that the Committee has found that privilege does apply and they have to be returned.¹³

What we are concerned about in relation to this matter that falls within the purview of this Committee but sit outside the scope of the Privileges Committee inquiry is why a staff member of NBN Co was present at the raid and taking photographs of the illegally seized documents.

We urge the Committee to call on NBN Co to appear before the Committee to answer further questions about how this illegal and inappropriate situation was allowed to occur and who within NBN Co authorised and/or directed these actions.

¹² http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Privileges/intrusivepowers

¹³ <http://mobile.abc.net.au/news/2017-03-28/afp-ordered-to-return-stephen-conroy-seized-documents/8394590>



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The Building Code 2016

The Building Code 2016¹⁴ is made pursuant to the *Building and Construction Industry (Improving Productivity) Amendment Bill 2017* and require compliance to its terms for construction industry and related entities and businesses as a condition of eligibility to submit expressions of interest, tender for or be awarded Commonwealth funded building work. Despite only being made law earlier in 2017, the transitional period for existing industrial agreements entered into prior to the issuing of the Building Code 2016 to be compliant is to 1 September 2017. Builders now have to secure code-compliant agreements by the end of August this year if wish to be eligible to tender for contracts that involve commonwealth funding – this obviously will impact directly and significantly on the rollout of the NBN as it is a federally funded project.

We are already aware of an instance where a large essential service provider, an electricity network business in South Australia, who holds commonwealth NBN contracts, is seeking a Code compliant agreement on the basis that it holds the NBN contract. Apart from the clearly erroneous application of the code in applying to an essential service provider, the amendments will mean that the provider will be at risk of its ability to be awarded commonwealth funds unless it can negotiate a new agreement by 1 September 2017.

There is an easy remedy to this situation. The Committee has the power to direct the Australian Building and Construction Commissioner to, under section 6A of the Building Code 2016, provide an automatic exemption to all NBN related service providers.

¹⁴ <https://www.abcc.gov.au/building-code/building-code-2016>



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Appendix 1 - Terms of Reference

1. That a Joint Standing Committee on the National Broadband Network be appointed to inquire into and report on the rollout of the national broadband network;
2. until the national broadband network is declared built and fully operational, the committee report to each House of the Parliament annually on:
 - a. rollout progress with particular regard to the NBN Co Limited Statement of Expectations issued by Shareholder Ministers on 24 August 2016;
 - b. utilisation of the national broadband network in connected localities in both metropolitan and regional areas, and the identification of opportunities to enhance economic and social benefits;
 - c. Australia's comparative global position with regard to residential broadband infrastructure; particularly relative to other large, developed economies;
 - d. national broadband network activation rates, user demand, usage patterns and trends, and any identified impediments to the take-up of national broadband network services;
 - e. any market, industry, or regulatory characteristics that may impede the efficient and cost-effective rollout of the national broadband network; and
 - f. any other matter pertaining to the national broadband network rollout that the committee considers relevant;
3. the Committee consist of 17 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 4 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, and 1 non-aligned Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate, 1 Senator to be nominated by the Leader of the Australian Greens in the Senate; and 1 Senator to be nominated by any minority group or independent Senator;
4. participating members:
 - a. may be appointed to the committee on the nomination in the:
 - i. House of Representatives, of the Government or Opposition Whip or Whips, or any minority group or independent member; and
 - ii. Senate, of the Leader of the Government or Opposition, or any minority group or independent senator;
 - b. shall be taken to be a member of the committee for the purpose of forming a quorum;
 - c. may participate in hearings of evidence and deliberations of the committee, and have all the rights of a member of the committee, except that a participating member may not vote on any question before the committee;
5. the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy;
6. every nomination of a member of the committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives;



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7. the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time;
8. the committee elect:
 - a. a Government member as its chair; and
 - b. an Opposition member as its deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee;
9. at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting;
10. in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote;
11. five members of the committee constitute a quorum of the committee provided that in a deliberative meeting the quorum shall include one Government member of either House and one Opposition member of either House;
12. the committee:
 - a. have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider, provided that each subcommittee shall include at least one Government member of either House and one Opposition member of either House; and
 - b. appoint the chair of each subcommittee who shall have a casting vote only;
13. two members of a subcommittee constitute a quorum of that subcommittee, provided that in a deliberative meeting the quorum shall include one Government member of either House and one non-Government member of either House;
14. members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purposes of a quorum;
15. the committee and any subcommittee have power to:
 - a. call for witnesses to attend and for documents to be produced;
 - b. conduct proceedings at any place it sees fit;
 - c. sit in public or in private;
 - d. report from time to time; and
 - e. adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives;
16. the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President and the Speaker;
17. the committee has power to consider and make use of the evidence and records of the Joint Committee on the National Broadband Network appointed during a previous Parliament;



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18. the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.