

To BSA

1. Mr Bartley said at the hearing “on average, the techs can earn \$63 an hour.”

To clarify:

- a. Is \$63 an hour what the techs do earn on average, or what they can potentially earn? And if the latter, what is the actual average earning?

BSA: \$63 per hour is an estimated average rate paid by BSA to the subcontractors based on the current mix of work.

- b. How did BSA calculate that \$63 (or whatever alternative is provided above) is the appropriate average hourly rate for its subcontractors?

BSA: As above, an average rate of \$63 an hour is our estimate given the current mix of work where each job is performed for a different payment or “rate”. It is not possible for BSA to comment on the appropriateness of the quantum for individuals as that would be determined by the subcontractors’ individual circumstances. Further, it is important to note that as an average, it is very possible to earn considerably more than that rate per hour.

Does BSA ensure that the average rate (\$63 or otherwise) can cover technicians’ costs plus a living wage? If so, how?

BSA: Please refer to our answer to 1b.

- c. How has that average moved over the last five years?

BSA: As per the oral evidence, the rates are not fixed, and are instead driven by the mix of work. For example, during the connection phase of the NBN, there was significant activity associated with rolling out Hybrid Fibre Coaxial (HFC) and Fibre (FTTX) networks. That activity is no longer occurring, and the activities are more focused on individual house activations and assurance. As a result the mix has changed. Due to these shifts within the industry, it is not possible to meaningfully compare the average rates as the nature of the activity has so significantly changed.

2. Does the \$63 average (or whatever alternative is provided above) include technicians engaged through Primes?

a. If so, does that figure take into account the money withheld by Primes?

BSA: The average rate described above does not discriminate between workers who are contracted directly with BSA or work with BSA through a Prime contractor. It is the estimate of what BSA pays for work to be done.

- b. The Committee has received evidence that some Primes are withholding up to 50 per cent of the rate. How much would subcontractors engaged through Primes actually earn on average once the Prime has taken their margin?

BSA: BSA does not have visibility of the commercial relationships between Prime contractors and their workforce. BSA does allow prime subcontractors to engage with BSA as a direct contractor and has processes in place to streamline this activity.

3. When engaging Primes, does BSA provide any guidance or set any expectation around what proportion of the rate of pay the Prime can withhold from the technician?

- a. If yes, what is that amount?
b. If yes, how is it enforced?
c. If no, how does BSA ensure that Primes aren't withholding unreasonable sums from technicians?

BSA: Please refer to our answer to 2a.

4. How many notifiable incidents have BSA subcontractors suffered over the last five years? BSA: 3.

- a. What proportion of them were direct subcontractors, and what proportion were subcontractors engaged through Primes?

Notifiable Incidents	NBN (Sept 2017 – Aug 2021)
Direct Subcontractors	2
Prime Subcontractors	1
Total	3

5. How many safety incidents which weren't notifiable incidents have BSA subcontractors suffered over the last five years?

Injury/Incident Type	NBN contract (Sept 2017 – Aug 2021)
Lost Time Injury	2 (Subcontractors Only)
Medical Treatment Injury	8 (Subcontractors Only)
First Aid Injury	44 (Subcontractors Only)
Incident – report only	46*
Incident – near miss	47*

BSA: Please note that those statistics above indicated by an * include safety incidents involving employee and contractor technicians. BSA (In line with the various work health and safety legislative frameworks across Australia) does not differentiate between an employee or a contractor (prime or direct) when recording non notifiable safety incidents. Both employed technicians and subcontract technicians are treated as 'workers'. Both types of workers must adhere to the same stringent safety standards. However, BSA's injury statistics do differentiate between the two types of workers due to worker's compensation records management requirements.

- a. What proportion of them were direct subcontractors, and what proportion were subcontractors engaged through Primes?

BSA: Our injury and non-notifiable safety data does not distinguish between direct subcontractors or prime subcontractors.

6. At the hearing Mr Bartley said: "Over the last five years there has not been a material move in rates."

Excluding rates for new tasks that did not exist five years ago, what % increase or decrease has there been across job rates for NBN technicians over the last five years?

BSA: Please refer to our answer to 1c.

7. Are subcontractors able to negotiate with BSA on job rates, or are these dictated by BSA?

BSA: BSA does not dictate rates for jobs. Rates for jobs are agreed through a competitive tender process between BSA and NBN. They are based on a top down and bottom-up build – i.e. the price paid by NBN for the work to be done is dictated by both i) how much an NBN customer will pay for a particular service to be provided and ii) how much it costs BSA to provide that service including a reasonable profit margin on that cost. Per our oral evidence, BSA seeks – and receives – feedback from the technicians on the rates paid to those technicians through our ongoing engagement process called Toolbox Talks, and they will advise us where those rates are not viable. Where this is an issue BSA then takes it up with NBN for resolution.

- a. If subcontractors are able to negotiate with BSA, does that include subcontractors engaged by Primes?

BSA: please refer to our answer to 7. At Toolbox talks all technicians (both directly engaged and those provided by Primes) are present and thus able to provide feedback.

- b. Are subcontractors able to negotiate with you collectively?

BSA: Please refer to our answer to 7.

- c. If subcontractors are able to negotiate with BSA collectively, has it ever resulted in a higher rate of pay for subcontractors? If yes, please provide specific examples.

BSA: Please refer to our answer to 7.

8. When asked about how NBN Co monitors the pay and conditions of NBN technicians, NBN Co said at the hearing:

“I would say that we work tirelessly to ensure that our contracts are strong and that people are paid fairly.”

Please advise in as much detail as possible:

- a. How NBN Co ensures that BSA pays its subcontractors (including those engaged by Primes) fairly.

BSA: As above, rates of pay for jobs are set between NBN and BSA. Workers provide feedback to BSA regarding those rates which can be taken up with NBN. We are contractually obliged to ensure that the rate that is agreed is paid to the worker, minus a BSA margin. Each month when submitting its own payment claim, BSA is required to verify – by statutory declaration – that it has paid subcontractors all monies due to them.

- b. What specific guidelines or expectation NBN Co provides around the rates of pay NBN technicians should receive

BSA: BSA must comply with all regulations and laws, as well as our contract with NBN. BSA is very conscious that it has no volume guarantees from NBN and that if BSA does not comply with its legal and contractual obligations, then it is unlikely to receive further work from NBN, thus imperilling BSA's profitability.

- c. What specific guidelines or expectation NBN Co provides around terms and entitlements NBN technicians should receive

BSA: Please refer to our answer to 8b.

- d. What specific monitoring or audit actions NBN Co has engaged in with respect to pay and conditions for BSA subcontractors

BSA: Questions about internal NBN processes are best asked of NBN, however, in our experience, where a complaint has been lodged with NBN about BSA, that matter is raised with BSA. Engagement with BSA continues until the issue is resolved.

- e. What specific enforcement actions NBN Co has engaged in with respect to pay and conditions for BSA subcontractors

BSA: Please see our answers to 8a) to 8d) inclusive. To date, NBN has not been compelled to take any enforcement action as a result of any unsatisfactory conduct by BSA with regard to its subcontractors.

9. If subcontractors refuse tasks allocated to them, is this recorded in any way, and does a record of refusing tasks influence the allocation of future tasks?

BSA: This information is not recorded by BSA and thus cannot influence work allocation.

10. Where a task is allocated directly by NBN Co to a technician by the ServiceMax app, does BSA still take a margin of that rate of pay?

BSA: Yes.

- a. If yes, how does the margin compare to what BSA would take if BSA had been responsible for allocating the workflow?

BSA: We are not in a position to disclose our margin on jobs as it is commercially sensitive information, but the margin is not materially different whether NBN or BSA have been responsible for allocating the workflow.

11. Have you ever rejected an application by an NBN technician to subcontract directly for your company, because they had not been released from their prior arrangement with a Prime? Or because doing so would incur a fee payable to a Prime?

BSA: Historically this information has not been recorded. As per our oral evidence, we are agnostic as to whether a technician engages with BSA either directly or through a prime. We do not have visibility of the contractual arrangements between technicians and Prime contractors but do not stand in the way of anyone if they want to engage with BSA as a direct contractor and have processes in place to streamline this activity.