



COMMUNICATIONS ELECTRICAL PLUMBING UNION NSW POSTAL & TELECOMMUNICATIONS BRANCH

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Submission to ACTU Inquiry into Insecure Work

Communication, Electrical, Plumbing Union
NSW Postal and Telecommunications Branch

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Connecting
our community

Introduction

The CEPU (NSW Postal and Telecommunication Branch) are pleased to have the opportunity to make this submission compiled on behalf of the members of CEPU (NSW P&T Branch). Our branch represents approximately 6900 postal workers in NSW and the ACT and 1500 Telecommunication workers.

Although the vast majority of our members are covered by Union Collective Agreements there has been considerable growth in contracting both in the Postal and Telecommunications areas.

In the Postal area we have been successful through collective bargaining in reducing Part Time workers by redesigning work and ensuring that the company abides by its commitment to maximize permanent fulltime work. Fixed term employees are used in Australia Post to fill short term or definable term absences.

The company employs casual employees from time to time but this is managed in accordance with strict agreements and guidelines with the majority of these casual workers employed at Christmas due to the spike in mail. Casual work in the Postal industry is negligible.

The area of concern in the Postal Industry is Australia Post mail and parcel delivery. Whereas previously in the main Postal workers were directly employed as employees, there is now a mishmash of independent contracting, contracting and sub-contracting associated with mail and parcel delivery services.

The Telecommunications area is littered with contracting and sub-contracting.

As is demonstrated in our submission individual contracting arrangements severely restrict the ability of the sub-contractor to operate on a level playing field thus leaving them vulnerable, not to the market but to the contractor and the company that engages the contractor.

The shifting of most business risk to the sub-contractor means that these sub-contractors are merely "employees" that pay for their job.

Telecommunication Sub-Contracting

Our submission includes real life examples of Sub-Contractors who are severely disadvantaged in their day to day work due to the category of employment.

Of course for some the idea of owning their own business is exciting and rewarding. The reality is that a sub-contractor that works under a contractual arrangement for someone like FOXTEL is not really operating their own business in normal market circumstances.

Although it is not unusual for small companies to sign exclusive contracts the individual exercises their day to day duties like an employee with the exception that they purchase all the equipment, parts and insurance. They have no control over how many jobs they do per day and there are severe restrictions on installation times.

All sub-contractors operate under the same contract and these contracts are signed under duress considering the financial position of the sub-contractors.

Some of these sub-contractors are locked into this arrangement, not because of their contract but because of their investment. They have thousands invested in their equipment and vehicles and have no prospect of on selling the business.

There are also severe fines if the sub-contractor cannot fulfill their obligation to undertake work regardless of the reason ie: Sickness in family

Most sub-contractors rarely are able to clear the annual minimum standard of 4 weeks holiday per year.

Sub-Contractors have become the meat in the sandwich. They are neither small business's nor are they employees and they have little prospect of organisation, in fact legally they have no way of collectively bargain.

A lot of these sub-contractors do not understand the legislative arrangement that impacts on their work. Many think they have access to Fair Work Australia and are covered under industrial law.

The CEPU are currently supporting a campaign by Sub-Contractors to have FOXTEL intervene in the new contracts that have been offered by the contracting companies.

FOXTEL contract two companies to undertake installations of their pay TV equipment. Downer and BSA. In turn those companies engage a range of Sub-Contractors on patterned contracts. Each contractor is required to be a company.

The CEPU recently launched the "Fair Go Foxtel" campaign". To date FOXTEL have made one comment saying they have nothing to do with the contracts.

The campaign has a website (www.fairgofoxtel.com.au) and contractors are handing out brochures to customers. The contractors were also supported by Unions NSW by arranging the launch and the ACTU through media. The contractors have resolved to escalate the campaign if they are ignored.

The CEPU also have members in Telstra both individually contracted and covered by collective agreements. We also represent members many members in the Telecommunications industry covered by no less than 7 collective agreements.

It appears to the CEPU that organisations such as FOXTEL are able to use employment loop holes and technicalities to shift their business risk onto workers. Whilst our union has little prospect of arguing technicalities in the interest of its members.

Australia Post

During the period of the Howard Government there was a significant rise in the use of part time, casual and fixed term employees in Australia Post. It is the view of the CEPU that the increase of the less secure forms of employment was more ideological rather than fitting into any sensible business model. The decrease in the letters side of the business was used to explain away the reduction of fulltime work despite a significant rise in parcels.

The CEPU were successful in having clauses inserted into the Australia Post Fair Work Agreement 2010 that maximises fulltime work.

The following clause has been the vehicle by which our union has converted part time (less secure) positions into fulltime positions:

7.4 Maximising Full-time Work

7.4.1 Australia Post and the Relevant Principal Unions commit to working together during the life of the Agreement to develop a model of work that will allow increased opportunity for a greater proportion of Australia Post employees, particularly those engaged in the Postal Services Strategic Business Unit, to be engaged as full-time employees. The model will also explore opportunities to review work arrangements and increase flexibility by amalgamating functions where possible, improve productivity and create further full-time opportunities for full-time work or for additional income for our employees.

7.4.2 Australia Post and the Relevant Principal Unions commit to commencing discussions immediately to address the impact of this commitment. It is envisaged that the discussions will encompass:

- (a) development of appropriate work level standards for the Postal Worker (PW) classification;*
- (b) Job Design issues that apply to all classifications;*
- (c) considering ways to maximise the number of small packets and small parcels delivered by Australia Post employees;*
- (d) consideration of annualised hours, or other flexible distribution of hours as agreed, and salaries;*
- (e) ensuring the Community Service Obligations are achieved in the most efficient way possible; and*
- (f) consideration of the application of penalty rates.*

7.4.3 The model developed and agreed to by the Australia Post and the Relevant Principal Unions for maximising full-time work will be handed up to Fair Work Australia for the purpose of placing it on the Australia Post Fair Work Agreement file so that it can be referred to at any relevant conciliation or arbitration by Fair Work Australia.

Under the current regime the CEPU have been able to maximize fulltime work but it is important to state that a clause such as the one above does not, on its own, guarantee rising rates of fulltime employment.

The CEPU through significant agitation has been able to achieve a move towards fulltime employment in Australia Post and that continues today.

Conclusion

This is a very short and to the point submission. The CEPU is available at any time to provide verbal submissions or provide further information and research to the inquiry.

We congratulate the ACTU on doing something to address this extremely important issue on behalf of workers in Australia.

The CEPU P&T NSW Branch stands with the ACTU and Unions NSW in ensuring that employment flexibility in Australia does not have to undermine working people the opportunity to have access to secure employment and decent income and conditions.

JIM METCHER


BRANCH SECRETARY

**CEPU NSW Postal and
Telecommunications Branch**

Attachments:

1. Foxtel Installer Submission
2. Foxtel Installer Submission

Note: The individuals names in the attachments should remain confidential unless specific permission is granted by the Branch.

1. Tell us about yourself.

My name is Jason Butler, I am married with five kids. We rent the family home and I am a member of the CEPU.

2. What is your work status?

I currently own a small business, which is contracted to Foxtel contractor BSA. I have worked as a Foxtel installer for 5 years. I also do home Theatre and antenna installations for my small business.

I have very little control of the hours I work for Foxtel. The hours fluctuate a lot. One day I might have two jobs which can be completed in under three hours and then nothing. Some days I have one job in the morning and one in the afternoon. Other days I might have a full day.

We have to lodge our availability 3 months in advance advising how many jobs we can do for the month on which days. This has to include two Saturdays and two Sundays each month. If you don't put down enough jobs on the weekends sometimes they just allocate them to you anyway. I often say that I can do about three jobs on a Saturday and also on a Sunday due to family commitments but that isn't enough for them. So they give me more jobs and then if I don't do them, they threaten to fine me.

We have to guarantee that we can do our work but they won't guarantee us a minimum number of jobs so we know what our base earnings will be. On the other side of things though, it is in our contract that if they get a lot of work come in they can force us to do more work than we signed up for.

I have had to take on other work to keep up with my expenses but the level of fluctuation in the work makes it very difficult to schedule work around it. Foxtel always say that their work should be our priority.

3. Describe your workplace.

All installers for Foxtel are either under the BSA contract or the Downer contract. I think BSA and Downer will do whatever they need to do to get their contract with Foxtel and that means doing whatever they need to do to us. This might be less pay, poorer conditions it doesn't matter to them.

Whenever I make a complaint or let BSA know about a problem they either ignore the problem and never provide any feedback when they do listen to our work concerns/queries.

I have had days where they have asked me to go to a job that is an hour away and then expect me to wait around for 2 hours because the customer isn't there yet. I don't get paid for those 2 hours but if I leave without doing the job they threaten to fine me because I haven't done the job I said I would do. I end up suffering because of their poor planning.

Sometimes a customer expects me to do a job I haven't been prepared for or a job I am not technically supposed to do, such as mounting a television on the wall, connecting their amplifier or other home entertainment components. Foxtel has told them that I will do it, but haven't told

me and won't pay me for the extra work. I then have to deal with an angry customer or do work that I won't be paid for.

I have brought this up at meetings but nothing gets done. At BSA they get a bonus if the work gets done, however it gets done, so they push us and push us to work for their bonus.

Because installers are subcontractors, it means we are 100% responsible for training, for insurance, accountants fees, telephone bills, vehicle running costs, super, etc and they don't have to give us sick leave or holiday leave.

My daughter had to be taken to hospital once when I was scheduled to do a job. I dropped everything and went to the hospital and told my supervisor I couldn't do the job. I was already going to lose money that day because we don't get any sick leave but my supervisor said that the State manager advised him I would also get fined \$200 each for the jobs that I couldn't finish that day unless they were covered by another tech, this is unfair pressure at a time when other things are more important.

4. What are your career prospects?

Any training that we do, we have to pay for. Even OH & S information they are required to give us is on our own time. I have to drive for an hour, do the training and then drive back with no compensation for the time I have taken out from working. They have to do it to cover themselves in case something goes wrong but they won't pay us for our time.

Sometimes they put on training that they say we have to do in order to keep up with new sorts of installations. They charge us \$1600 for a week of training, a week we won't get paid for. I looked into it and I could do the training for \$700 less elsewhere.

5. Your financial situation.

It is essential that I know how much money is going to come in ever week. I especially need to know what I can and cannot budget for as I have a 3yo son and 17yo daughter with special needs. This means meeting a number of costs for assessments and therapy.

This past year has been particularly hard. Based on my earning from the previous year, we estimated that we would earn a lot more than we did. In the end we earned nearly \$30 000 less than we thought. The work coming in from Foxtel just wasn't there.

It's hard because we always need for someone to be home to look after the kids. Childcare is so expensive that it isn't worth my wife getting a second job, the fees would just eat up whatever she earned.

I like to keep our reliance on credit cards to a minimum but sometimes we have to use them if we want to take a holiday. I don't want our kids to miss out but we just can't take holidays unless we have that extra help from credit and then hope there's enough work to repay the debt.

6. Social/family impact

The way our work is scheduled makes it really hard to plan time with my family. I only find out what work I will get at the earliest at 6pm the night before. Sometime the information comes in later. It makes it impossible to plan.

Because I don't know day to day how much work I will get it makes it hard for my wife to get a second job and it makes it hard for me to schedule any other work for the business. Often I have to build up a back log of jobs that aren't from Foxtel and then quickly schedule them in if I don't get work that day. This practice is harmful to my private work as reliability is essential to get a good name.

Spending time with my family is really important to me, but Foxtel isn't really interested in how we spend our time. They just tell us to be ready to do whatever they want, when they say.

In the BSA warehouse they have a collage of pictures and photo's from the office staff saying why it is important to come home safely-many have had them done by their children-every time I see it it constantly reminds me of how much time on weekends I miss playing with and watching my children grow up.

7. Recommendations to the inquiry

All I want from Foxtel is a fair days pay for a fair days work.

I think if their communication with subcontractors were better it would make things easier. At the moment, we can't anticipate when we will be working and no one listens to any of the concerns we have. Flexibility is also required as we need more notice than 11 hours for the next days work or if this is unable to be changed we should be able to not accept work due to our other commitments.

1. Tell us about yourself.

My name is Max Catania. I am married with two kids, I have a mortgage and I am a member of the CEPU.

2. What is your work status?

I started working in the telecommunications sector in 1994 and have been working as a subcontractor for Foxtel since 2000.

This required me to set up my own Pty Ltd company which is then contracted to Downer EDI to do installations for Foxtel customers. This contract does not allow me to take a second job.

I do not have a lot of control over the hours I work or the number of days. I have been able to keep the days I work at 6 days a week but I know some guys who are made to work 7 days a week.

I get paid per installation and I have no control over how many installations I will do each day. It depends on how many people want installations and whether they get assigned to me.

Work is also seasonal. Every year there is always a period of 3-4 months when things get very quiet and it is hard to make ends meet.

3. Describe your workplace.

Everyone who works as an installer for Foxtel is a subcontractor working under the same contract.

I think they do this so they can keep productivity high and minimise their own costs for Occupation Health and Safety requirements, training and public liability insurance. This way Foxtel can make sure subcontractors are responsible for all these costs and take on all the risk.

Sometimes I have problems at work and I do tell Downer about them, but they never answer my questions or fix the problem. Other subcontractors are too scared to complain because they can't afford to lose their contact.

Often Downer just says, "If things are that bad why do you stay? Why don't you just leave?"

I tell them that it isn't that simple. Most subcontractors have had to take out loans to get the van and all the equipment to do the job. They would have to wrap up their business and most couldn't afford to do that even if they wanted to.

We don't get sick days. If you are sick, you lose that days pay and sometimes Downer stops assigning jobs to you for two or three days. Some of the installers get fined if they take a sick day.

We can get taken off the job at any time. All you have to have done is turn up late once to a job because of bad traffic and have one quality complaint from a customer and they can fire you on the spot.

We are expected never to be late for a job but if something comes up when we are doing an installation that requires more time to do a quality job we are not aloud to take that time. Yet we get fined for poor quality and for being late – it doesn't make sense.

4. What are your career prospects?

All subcontractors are expected to pay for their own training. We don't get offered any skills development or promotions from Foxtel or Downer.

5. Your financial situation.

I have a mortgage, loans and bills to pay so it is really important that I know how much I am going to get paid each week. I have had to use pay day lenders and I have borrowed from family and friends when I haven't been given enough work one week to cover the bills. I can't even get a second job when this happens because I am always expected to be available to work, even when there isn't any to do.

I don't normally have any money left over after I have paid all my bills. I have to live on credit cards, personal loans and refinancing. I don't have any savings, there is no way I could do it.

For the first 7 years that I worked as a Foxtel subcontractor I didn't have one holiday. I couldn't afford it. Now I take one week a year which means I have had 4 weeks of holidays in the past 11 years. It's tough because I don't get paid for that week and I have a lot of catching up to do when I get back.

6. Social/family impact

My work situation makes to really tough on my family. When the finances get stretched it puts pressure on me and my wife. It's stressful. We don't have a lot of security. If I lost my job there would be no long service leave or holiday pay out – I would be in a lot of debt.

Lots of the time I have to miss out on time with my kids. They play soccer every weekend and I am lucky if I get to one or two games in a season.

I try to make time for them when I can but I don't know the hours I am going to work the next day until 5pm the day before so planning is hard.

7. Recommendations to the inquiry

What do you think would make a difference to your situation? (e.g. changes to your working arrangements, rights, conditions or entitlements?) Would you like permanent work?

I would like to see:

- Our Occupational Health and Safety covered
- Super payments from
- A roster system that would allow subcontractors to have a few weekends off every month
- Proper and fair procedures for termination of contract. At the moment there is no consistency, it just depends on the mood of the contractor.

- **Move away from contracts and introduce a certain amount of guaranteed work per day with bonuses for extra work and accountability taken if the minimum work can't be provided**
- **Share in responsibility for costs if equipment is damaged or broken. At the moment installers are charged \$500-\$600 if they loose a Foxtel box.**