



Battleground shifts to AGMs in new state of the union

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MANAGEMENT REPORTER

UNION shareholder activism is set to increase with the dismantling of union power, a study has found.

The study, published by the University of Melbourne's Centre for Corporate Law and Securities Regulation, says unions taking the fight from the picket line to the annual meeting could become more prevalent with the WorkChoices legislation.

"In light of this erosion of the ability of unions to co-ordinate industrial action in response to workplace matters and during enterprise bargaining, union shareholder activism may become more significant," the study said.

Or as one union officer told researchers: "Unions are not going to confine their bargaining to the workplace when the prevailing laws so heavily circumscribe what can take place at that level."

The study's co-author, Ian Ramsay, said there had been an erosion of union influence over

the past 10 years, culminating in the WorkChoices legislation, and unions were continuing to use the Corporations Law to try to influence management. But the unknown was how corporations would respond, he said.

Earlier this year, Commonwealth Bank started legal action against the Finance Sector Union after the FSU targeted the CBA's "Which New Bank?" policy following failed attempts to negotiate an enterprise agreement. The CBA argued that the shareholder campaign constitutes unlawful industrial action designed to coerce the bank into an agreement. The court has not yet ruled on it.

"What's unresolved is what sort of backlash might unfold," Professor Ramsay said.

Looking at various union campaigns, the study identified four key strategies:

- Using the "100 member rule" to put forward resolutions at annual meetings.
- Using the "100 member rule" to call extraordinary meetings.
- Lobbying for proxy votes by distributing union-sponsored resolutions.
- Putting questions to boards of directors at shareholder meetings.

These strategies have been built around trying to link the interests of workers with those of shareholders, targeting companies with perceived corporate governance issues, using the campaign to focus on corporate reputation and using the annual meeting to open a dialogue with management.

Cases of union shareholder activism had typically come about as a result of failed enterprise bargaining, or in the context of other disputes.

Larger, well-resourced unions were more likely to conduct the campaigns. And while no union shareholder campaign had been successful in having a union-sponsored resolution passed, some campaigns had put enough pressure on boards to secure a favourable result.



Share of the action: union bargaining tactics are changing.