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Unions think outside the box

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The constraints imposed by the Work Choices legislation have led to some innovative thinking by unions on how to maintain presence and influence in workplaces, and in the wider industrial relations domain. Adrian Rollins investigates.

While the **ACTU's** multimillion-dollar television advertising campaign against the federal government's industrial relations laws has grabbed widespread public attention, at workplaces around the country the union movement is leading the counterattack against Work Choices using a combination of inventive tactics and old-style campaigning.

As unions feel the squeeze from tough constraints introduced six months ago under Work Choices, they are fighting back with everything from innovative deals and legal strategies to text messaging and emails to keep in touch with workers, recruit new members and make sure they remain part of the workplace.

Among these has been the increasing use of side agreements between unions and employers, such as common law deeds and contracts, to cover conditions and entitlements that are prohibited under Work Choices.

Research fellow Chris Briggs, from the Workplace Research Centre based at the University of Sydney, says although such agreements are nothing new, they are becoming more common as unions seek to drag at least part of their enterprise deals outside the jurisdiction of the formal industrial relations system.

Briggs says such contracts often include unfair dismissal provisions, training entitlements and arrangements for union workplace access that are prohibited in agreements registered with the Office of the Employment Advocate.

National Union of Workers NSW branch secretary Derrick Belan says his union has struck memorandums of agreement with several employers covering prohibited content, particularly payroll deductions of union dues,

and Community and Public Sector Union (CPSU) national secretary Stephen Jones says his union has arrived at understandings with several employers to retain conditions that are prohibited under Work Choices laws.

Jones says sometimes these are included in an enterprise agreement or, in the case of some entitlements, may be incorporated in departmental policy.

But he admits that at least some of these arrangements have fallen foul of the federal government's industrial relations watchdog.

Recently, Jones says, his union and the government's aid agency Ausaid agreed to include a clause that recognised the right of workers to have freedom of choice between collective and individual employment agreements, but it had to be removed on the insistence of the Department of Employment and Workplace Relations.

Unions have had similarly mixed success in dealing with the federal government's move to make going on strike more difficult by requiring a secret ballot of workers before any protected industrial action can be taken.

Several attempts at conducting secret ballots have fallen foul of legal and technical difficulties, but since the Construction, Forestry, Mining and Energy Union organised the first successful ballot under Work Choices in May, there have been several others, most notably at the ABC, which resulted in last Thursday's 24-hour strike by journalists and production staff in support of a wage claim.

Media, Entertainment and Arts Alliance assistant federal secretary Mark Ryan says forcing unions to conduct a secret ballot of members about taking industrial action has tended to drag out negotiations between employers and workers.

ABC management made its pay offer to staff in July and Ryan says that before Work Choices staff could have met to consider the issue within days, and it could well have been resolved by early August.

"Instead here we are in mid-September and it is still going," he says. "It has pushed everything back by six or seven weeks."

Although meeting the technical requirements of a secret ballot can be onerous, particularly the painstaking work of revising and updating union membership lists to include current addresses and employment details of all workers, several unions say the exercise has also yielded some useful results.

ABC staff union secretary Graeme Thomson says its secret ballot, conducted by the Australian Electoral Commission, delivered an overwhelming show of workplace support for the union, with more than 70 per cent of members voting, and more than 90 per cent endorsing the call for industrial action.

"It gives us an extraordinary position of authority in dealing with employers," he says.

The CFMEU says a survey of the first 30 secret ballots for industrial action held since Work Choices became law found that 12 delivered unanimous worker support for proposed action, and another 15 similar proposals had

overwhelming backing.

General president of the union's mining and energy division, Tony Maher, says such results make the position of the union "unassailable morally".

Labour organisations have also found ways to work around tight Work Choices restrictions on union officials' access to workplaces.

Researcher at the University of Adelaide's Centre for Labour Research, Patrick Wright, says unions are increasingly resorting to the use of technology and political campaigning methods to communicate with employees and recruit members outside the workplace.

Wright says unions are making greater use of text messages, telephone calls and emails to keep in touch with members, with some employers trying to crack down on this by installing software that blocks union emails.

The CPSU has established a call centre to handle member issues and inquiries, and Maher says his union has installed an intranet for its workplace delegates, as well as using emails and text messaging to keep in touch with workers.

Many unions are redoubling their efforts to recruit members. Finance Sector Union national secretary Paul Schroder says his organisation undertook an extensive restructure to gear up for Work Choices, and has increased the number of its organisers by 50 per cent, as well as establishing a national enforcement unit to monitor employer compliance with agreements.

Maher says in the booming mining sector the union is struggling to keep up with the expansion in workplaces, but in mining communities it is using door-knocking, meetings outside work and word of mouth to recruit members.

Several union leaders say the task of recruitment and fund-raising has been made easier by the introduction of Work Choices and its associated political campaign.

"In the short term it's been good for business," one union leader says. "Membership and revenues are up."

The unionist, who doesn't want to be identified, says his union is one of the poorer ones but has raised its contribution - about \$100,000 - to the **ACTU's** Work Choices campaign fund, "without getting out of first gear". It has also built up a \$2 million strike fund, he says.

But Briggs says Work Choices has so radically recast the position of unions in the industrial relations system that many are developing ways to advance their cause outside it.

He says the Liquor, Hospitality and Miscellaneous Union is using a community-based campaign, including securing the support of religious and community leaders, to generate support for better wages and conditions for cleaners.

"They are working outside the IR system to place public and moral pressure

on businesses to then put commercial pressure on building owners who actually control the contracts."

Briggs says companies will also find themselves increasingly under pressure from unionist shareholders.

"You can expect to see more options like these," he says. "It did not happen traditionally because unions had a recognised role in the industrial relations system, but now the system has changed for them."

Labour lawyer Josh Bornstein, a principal at legal firm Maurice Blackburn Cashman, says Work Choices has forced unions to review how they are organised and how they go about their work. By imposing restrictions on how unions can operate and putting legal hurdles in their way, Bornstein says the laws are fostering far-reaching changes in the way unions are formed and operate, and not necessarily in ways the government will like.

"If unions take the view that the legislation is so awful that there is very little for unions and employees under the legislation, then at least some of them will consider operating as much as possible in ways that do not interact with the legislation," he says.

Caption :PHOTO: Conducting secret ballots has tended to drag out negotiations between employers and workers. Photo: JAMES DAVIES

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