



Court cases could prevent 'super union'

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Dozens of legal actions against the militant maritime and construction unions could prevent them forming a new super union, according to a last-ditch intervention by employers.

Business groups are preparing the untested legal argument to stop the Construction, Forestry, Mining and Energy Union and Maritime Union of Australia from merging after the Turnbull government's failure to put its promised laws to block the merger to a Senate vote.

The Australian Mines and Metals Association and Master Builders Association fear the militant super union will "strangle" businesses through industry-wide stoppages and a combined \$146 million in annual revenue and \$330 million in assets.

"The 'pots of gold' to cover the 'price' of unlawful conduct will grow," the employers said in a submission to the Fair Work Commission.

Ahead of a February 2 hearing, AMMA and the MBA are turning to the largely untested Registered Organisations Act, which requires no proceedings "other than civil proceedings" to be pending against the unions before a merger.

The CFMEU and MUA have said the requirement only refers to criminal proceedings. But employers have argued such a simple dichotomy would "make a nonsense" of the section.

They argue at least 40 pending penalty cases against the CFMEU and MUA for workplace breaches are "quasi-criminal" in nature and differ from civil proceedings.

The act also requires the union to

regard itself as bound by any legal obligations it has prior to the merger, the employers argue. However, they say the CFMEU considers itself unbound by industrial laws and believes fines for breaches are "the price of doing business. Indeed the CFMEU freely admits this."

They quote CFMEU Victorian secretary John Setka in 2012 where he said members "want to maintain a militant union" and "unfortunately the price of that is we will get fines".

The CFMEU has amassed more than \$12 million in fines, and since 2000 paid penalties on more than 120 occasions.

"If the CFMEU and the MUA wish to amalgamate there is a simple solution," the employers conclude.

"They must start complying with the law until such time as they have no pending penalty proceedings against them."

The Turnbull government promised during the 2016 election to introduce a public interest test for union mergers, which would prevent a merger if unions have a history of lawlessness.

Even if the government's bill went to a vote before the merger was approved, Labor, the Greens and Liberal Democratic Party have signalled their opposition to the bill.

Mr Setka yesterday accused the employers of double standards.

"Multinationals frequently merge, don't pay tax, underpay workers, rort safety laws resulting in injuries, illnesses and death and government doesn't blink an eye," he said. "Workers get together and they squeal like spoilt kids who don't like to share."

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