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10 September 2008 4:51pm

Telstra is seeking a Federal Court injunction to prevent unions making what it alleges are false and misleading claims to its employees about a non-union collective agreement they are due to vote on next week.

Justice Ross Sundberg this morning adjourned the full hearing of the application to tomorrow after Herman Borenstein SC argued on behalf of the unions – the CPSU, CEPU and APESMA – that more time was required to consider the 50 page affidavit filed by Telstra yesterday.

The submission drew a sharp response from Telstra's barrister, Peter Jopling QC, who told the Court the unions had displayed "extraordinary arrogance" in failing to respond to letters from Telstra in relation to the matter, a claim they reject.

It is understood Telstra's application alleges the unions have breached [s401](#) of the Workplace Relations Act, which prohibits recklessly making a false or misleading statement where it causes another to make, approve, lodge, vary or terminate a workplace agreement, or not to do so.

If granted, the application could hinder union attempts to persuade workers in Telstra's wholesale division not to vote up a non-union collective agreement offered by the company on Monday and Tuesday next week.

Although not a commonly-used provision, the operation of s401 was considered by the Full Bench of the Federal Court in April this year in *SDA v Karellas Investments Pty Ltd* (see [Related Article](#)).

Telstra group managing director, HR, Andrea Grant, said the action was necessary because unions had refused to respond to requests from the company to stop "misinforming" its employees about the collective agreement they are about to vote on.

"Our employees have told us that they have been left confused by some of the unions' claims - we don't want this confusion to continue," Grant said. "We have kept our people informed with the facts at every step of the process to ensure they can make an informed decision. Employees have also been given access to independent, free legal advice."

ACTU secretary Jeff Lawrence said he was disappointed by Telstra's decision to launch legal action and that unions have sought to provide accurate and useful information to employees at all times.

"Telstra employees face important decisions about the company's latest pay offer and need all the independent advice and help they can get at the moment. We will do the best we can to continue to provide this advice and to effectively represent union members at Telstra," he said.

Telstra and the unions are also back in the AIRC today in the first conciliation hearing following yesterday's [decision](#) by Senior Deputy President Brian Lacy that the AIRC has the power to intervene in the dispute under their existing collective agreement.

The Commission was due to mediate the dispute between Telstra and the unions this afternoon.

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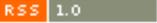
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