

On Friday, Prime Minister Scott Morrison vowed to craft new laws targeting social and political protest. Speaking to the Queensland Resources Council, he labelled some activist groups as environmental “anarchists”, [and lamented](#) how businesses like banks might be sensitive to consumer or protest group pressure to limit dealings with the mining industry.

These laws could ban activists from advocating for certain boycotts against companies. Morrison lambasted progressives, saying they:

want to tell you where to live, what job you can have, what you can say and what you can think – and tax you more for the privilege of all of those instructions.

Boycott laws already exist

The first thing to note is there is no proposal on the table. Morrison merely warned his government was:

working to identify mechanisms that can successfully outlaw these indulgent and selfish practices.

The existing law on boycotts has been driven by conservative governments. In the 1970s, the Fraser government sought to crack down on “secondary boycotts”, with stiff provisions in trade practices or competition law. Morrison also specifically invoked “secondary boycotts” in his speech.

A secondary boycott is simply pressure you put on someone you're dealing with to have them “boycott”, or not deal with, another person or business. It's considered secondary action because you have no particular beef with the person you are directly pressuring. The real target of your pressure is the “secondary” person or business down the chain.

It's easy to imagine secondary boycotts most people would sympathise with. Going on strike to stop your employer dealing with overseas sweatshops, for instance.

The chief concern of secondary boycott law has been with union power. The fear was that a strong union, in a key sector like the wharfies unloading ships, could wield disproportionate social power through secondary boycotts.

As a result, unionised workers are now confined to industrial action, such as going on strike, to improve conditions in an enterprise bargain at their workplace.

Morrison wants to stop consumer pressure on banks

The focus of laws against secondary boycotts has never been against consumer groups or movements involving non-employees. There's an obvious and good reason for this.

Encouraging or organising consumers to put pressure on one company to limit its dealings with a secondary "target" company is a form of political communication and association. These are freedoms [the High Court](#) has read into our constitution.

It might seem unfair to banks for consumers to organise boycotts against them to encourage a change in their business practices. The banks may see themselves as the meat in the sandwich, caught between activists and the mining industry.

Read more: [**Cattle prods and welfare cuts: mounting threats to Extinction Rebellion show demands are being heard, but ignored**](#)

The Morrison government will not only try to sell this idea as a "get protesters" or "protect coal" initiative. He'll also argue markets should be as free as possible and boycotts either distort

competition or are an abuse of power. There are two problems with this.

Companies don't need more protection

First, it's a hard sell to pretend banks are the playthings of activist groups. Financial institutions look at mining investments across a range of risks, including their social brand and reputation.

Second, modern corporations, especially retail ones dealing with citizens every day, have long been aware of the social environment around business. They don't trade in an economic bubble because economics has never been divorced from society.

Social media reinforces this reality by galvanising and magnifying consumer and activist sentiment.

Things would be different if activists could strong-arm one business to renege on an actual contract with another. It has long been against tort law (laws against "civil wrongs" like intimidation or trespass) to leverage someone into breaking an agreement, without some justification.

But if a bank reneges on an existing funding deal with a mining company, say because protesters were blockading the bank's offices, the miners would hardly have to go after the protesters.

The bank would be liable for damages to the mining company director. And the bank would only buckle under such pressure after a thorough cost-benefit analysis to itself.

Morrison also appealed to "quiet shareholders" in his remarks. He implied they were the real meat in the sandwich when businesses did not pursue a singular vision of putting today's profits above long-term social reputation.

Read more: [Is the Morrison government 'authoritarian populist' with a punitive bent?](#)

The irony here is that even company law is not solely about economics, shorn from social reality. Shareholders are entitled to be [corporate activists, too](#).

Previous attempts at boycott legislation

In any case, you can expect the government to sell any proposal to expand secondary boycott law as one to protect smaller businesses, not the banks or big miners.

Last year, it heralded a proposal to criminalise the incitement of protesters trespassing to protect family farms. The law that was passed this year extends to [all manner of primary production](#), including large-scale abattoirs.

We have seen similar kites aloft before. In 2007, Treasurer Peter Costello vowed [to crack down on](#) those who organised boycotts. He singled out animal welfare activist group PETA for encouraging a boycott of Australian wool in protest against the de-skinning of sheep.

In the end, Costello's bill did not expand secondary boycott law. It just allowed the competition watchdog to take representative action on behalf of businesses affected by secondary boycotts. Labor waived it through.

This time, the stakes may be higher.

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Scott Morrison wants to outlaw boycott campaigns. But the mining industry doesn't need protection

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