




ACS loses major court battle over irregular vote Featured

 0 Shares
  Share

 Tweet

 Share

 Share

By Graeme Philipson (/freelancer-sp-720/author/3737-graeme-philipson.html)

Comments:0 Comments (/it-industry/acs-loses-major-court-battle-over-irregular-vote.html#disqus_thread)



(/media/k2/items/cache/e2fbc24c8afddfe7d9cc19f10b9983c6_XL.jpg)

The Australian Computer Society, which prefers to be known as simply ACS, is still a computer society. Late last year it attempted to become a company, but to do so it needed a 75% vote in favour at a Special General Meeting.

It held the meeting and won – by a single vote. Just 747 of ACS's more than 10,000 full members voted. Now the Federal Court has declared that vote to be invalid, and the process starts all over again. The results were challenged by those who voted against the change, and a court found against the ACS, in a damning judgement.

That judgement, handed down in the shadow of Christmas, found that the meeting and the resolution it passed were invalid, on the basis that ACS members have not been adequately informed of the proposed changes, that there were significant irregularities in how the meeting was held, and in the voting procedure.

ACS has accepted the criticism and has subsequently apologised to its members. The two parties will meet again in February 2020 to work out the best way forward.

It is an extraordinary tale, and one which still has a long way to play out. There is a lot at stake. The ACS is awash with cash (though notoriously secretive of the details), primarily because of its large number of overseas members. They significantly outnumber Australian professional members. It also has a government endorsed monopoly on accreditation for IT skills for computer professionals working in Australia on visas.

Many professionals belong to ACS because it is seen to be the right thing to do, but their numbers are declining even as the industry is growing. Many people believe that the organisation is no longer adequately performing its primary task of representing Australia's computer professionals.

In many ways it is a battle of the soul of ACS. Traditionalists opposed to the change want it to remain a professional society for individuals, while those advocating a transition to a company want it to be more representative of the industry. They say that the change is necessary to keep up with the demands of the modern world.

ACS management, as might be expected, strongly supports the change. The two key protagonists are CEO Andrew Johnson and President Yohan Ramasundara. The CEO holds a salaried position and runs ACS day-to-day, while the president is elected by the members for a two-year term.

Those opposing the changes are led by Canberra-based academic and consultant Roger Clarke, a fellow of the ACS and widely known within the IT community. His supporters include many senior members of ACS.

VENDOR NEWS & EVENTS

Remo MOV & MP4 Video Repair Software - how I fixed my corrupted video files
 (/sponsored-announcements/remo-mov-mp4-video-repair-software-how-i-fixed-my-corrupted-video-files-202001050938.html)

(/sponsored-announcements/remo-mov-mp4-video-repair-software-how-i-fixed-my-corrupted-video-files-202001050938.html) **Have you ever thought of going through your old videos...**



Rare CBD hemp strain found (/sponsored-announcements/rare-cbd-hemp-strain-found-2.html)

(/sponsored-announcements/rare-cbd-hemp-strain-found-2.html) **BPH Energy Limited (ASX:BPH) investee Patagonia Genetics has acquired the...**



Creso Pharma launch medicinal cannabis product into Africa (/sponsored-announcements/creso-pharma-launch-medicinal-cannabis-product-into-africa.html)

(/sponsored-announcements/creso-pharma-launch-medicinal-cannabis-product-into-africa.html) **Creso Pharma Limited (ASX:CPH) | FRA:1X8) has begun launch preparations...**



Is Comet the stock to light up the graphite sky? (/sponsored-announcements/is-comet-

ACS's role in the Australian IT industry has long been the subject of debate. Founded as a federation of existing state bodies in 1967, it as for most of its existence been primarily an organisation representing computer professionals.

Membership has at times been restricted to those with academic qualifications in IT, but this requirement has been relaxed in recent years. It has long been criticised as being overly representative of the academic IT fraternity, and not fully embracing the commercial world. Many vendors dismiss it as irrelevant.

The unsuccessful attempt to turn it into a company is in many ways a symptom of the ongoing debate over the role of ACS. There are sound arguments on both sides, each of which has said it wants what is best for members and for the industry. There is a touch of arrogance all round.

The ham-fisted way in which the change was attempted has now led to a the judge's ruling that the two sides talk to each other in a 'case management' exercise. We can only hope, the sake of ACS members and for the industry as a whole, that a compromise is reached and that ACS will evolve into an organisation respected across the industry.

iTWire will follow and report on subsequent developments closely.

Chronology

For those who came in late, a brief chronology:

7 December 2018

The ACS National Congress unanimously endorses a proposal that the organisation should transition from an Incorporated Association to a Company Limited by Guarantee. It says the proposal was endorsed by all elected members of all ACS state and territory branches – nearly 200 people. The proposal is not communicated to ACS members.

15 May 2019

The National Congress endorses significant governance changes to help ease the transition from society to company.

25 June 2019

ACS publicly announce (<https://ia.acs.org.au/article/2019/acs-to-modernise-governance.html?customerID=0019000001m3E2tAAE>)s its intention to make the transition, in an article in its InformationAge online publication. It argues that the change is necessary to be "contemporary and relevant, and at the forefront of thinking in relation to emerging technology and the new economy.

"We need to ensure our organisational design and governance frameworks are fit for purpose, so that ACS delivers agility in a changing operating environment, and that we are best placed to deliver on the Strategy." The 'Strategy' is a reference to the ACS five year plan, announced in 2017, to modernise.

3 July 2019

The ACS sends an email to some members outlining the changes and announcing a Special General Meeting to vote on them. The email is not sent to members who had previously opted out of receiving marketing material from ACS. The limited nature of the distribution and of the announcement itself, which contained hyperlinks to documents rather than full details the changes, is to become one of the bones of contention in the subsequent court case.

11 October 2019

A group opposed to the transition, led by well-known Canberra academic and consultant, and ACS Fellow Roger Clarke, begins a campaign to encourage members to vote against the motion. It argues that the change would "destroy the ACS as a professional society, and to substitute for it an industry association and/or a marketing corporation. The resolution would remove the last vestiges of member influence over the organisation's strategy."

Campaign gains 163 proxy and 23 in-person votes against the motion.

25 October 2019

The Special General Meeting is held in Sydney. Just 161 members attend the meeting, many of them armed with proxy votes. Roger Clarke travels to Sydney from Canberra for the vote. The meeting takes 90 minutes, with short two-minute statements but no questions allowed.

The proxies mean that there are 747 votes on the motion, which requires a 75% majority to pass.. The motion is passed by a single vote (561 for to 186 against), with two proxy votes against disallowed on what were subsequently ruled to be invalid grounds. Had those votes been allowed, the motion would have been lost.

12 November 2019

[the-stock-to-light-up-the-graphite-sky-2.html](#))

(/sponsored-



[announcements/is-comet-the-stock-to-light-up-the-graphite-sky-2.html](#))
Syrah Resources (ASX:SYR) has been knocked around in 2019 as...

[GREAT BEAR RAINFOREST 3D EXCLUSIVELY IN IMAX - will be presented in IMAX 4K](#)

[LASER DIGITAL \(/sponsored-announcements/great-bear-rainforest-3d-exclusively-in-imax-will-be-presented-in-imax-4k-laser-digital-2.html\)](#)

(/sponsored-



[announcements/great-bear-rainforest-3d-exclusively-in-imax-will-be-presented-in-imax-4k-laser-digital-2.html](#))
Opens 2nd of Jan 2020 A magical environment. Unchanged for...

[How Enterprise Ethernet is driving global expansion from rural Tasmania \(/sponsored-announcements/how-enterprise-ethernet-is-driving-global-expansion-from-rural-tasmania-2.html\)](#)

(/sponsored-



[announcements/how-enterprise-ethernet-is-driving-global-expansion-from-rural-tasmania-2.html](#)) By Jared Mendham, General Manager, MyTyreSite: Tasmanian online business, MyTyreSite,...

[Beating Burnout: Tips for Work-Life Balance \(/sponsored-announcements/beating-burnout-tips-for-work-life-balance-2.html\)](#)

(/sponsored-



[announcements/beating-burnout-tips-for-work-life-balance-2.html](#)) PAXUS: When the highly successful American businesswoman and HuffPost founder...

[2020 from an IT learning perspective: what's in store? \(/sponsored-announcements/2020-from-an-it-learning-perspective-what's-in-store-2.html\)](#)

(/sponsored-



[announcements/2020-from-an-it-learning-perspective-what's-in-store-2.html](#)) Jon Lang, CEO of DDLS: As Australia's largest provider of...

[YPB signs second early adopter of key MotifMicro technology \(/sponsored-announcements/ypb-signs-second-early-adopter-of-key-motifmicro-technology-2.html\)](#)

(/sponsored-



[announcements/ypb-signs-second-early-adopter-of-key-motifmicro-technology-2.html](#)) Product authentication

Roger Clarke launches a crowdfunding page (<https://www.gofundme.com/f/rescue-your-acs>) on gofundme to finance action against the vote. "This may be achieved by negotiation, or mediation, but it may be necessary to get court orders to overturn the resolution." It raises \$14,223.

14 November 2019

The ACS refuses to negotiate and Roger Clarke initiates an action against the vote in the Federal Court in Canberra.

12 December 2019

The case is heard under Justice Wigney. The hearing takes a full day, with barristers employed by both sides.

23 December 2019

Justice Wigney hands down his judgement

(<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca2175>). He finds against the ACS on all counts, setting aside the results of the vote and awarding costs against the ACS. His 79 page judgement is extremely critical of ACS's behaviour, detailing the irregularities in how the meeting was called and whether proxies should have been allowed. He was also critical of the conduct of the meeting. "Plainly a decision had been taken before the meeting to curtail discussion and debate."

The judgement call for a "case management hearing in February 2020 for the purpose of considering what, if any, orders or directions should be made for the convening of a general meeting of the Society. To that end, the parties should confer and jointly a range for the matter to be listed on a mutually convenient date in February 2020."

31 December 2019

The ACS issues a statement saying that in light of the court judgement it will review its plans to transition to a company structure. "We are naturally disappointed. No process is ever perfect, and for a not-for-profit membership body we have shown an exhaustive effort to keep all members involved in the consultation processes, and to participate in the resolution process. That said, we respect the Court's decision."

6 January 2020

The ACS sends a contrite *mea culpa* email to all members, apologising for its shortcomings in announcing and executing the Special General Meeting.

"It is clear there were a number of shortcomings identified in our processes, and for that we sincerely apologise.

Where did we go wrong? At a high level:

- The notice of proposed alteration to the Rules and Objects was not correctly constructed.
- The notice of proposed alteration to the Rules and Objects was not correctly distributed.
- Some proxies were not correctly treated, and this was material to the outcome.
- The General Meeting was not run correctly."

To be continued ...

CHIEF DATA & ANALYTICS OFFICER BRISBANE 2020

26-27 February 2020 | Hilton Brisbane

Connecting the region's leading data analytics professionals to drive and inspire your future strategy

Leading the data analytics division has never been easy, but now the challenge is on to remain ahead of the competition and reap the massive rewards as a strategic executive.

Do you want to leverage data governance as an enabler? Are you working at driving AI/ML implementation?

Want to stay abreast of data privacy and AI ethics requirements? Are you working hard to push predictive analytics to the limits?

With so much to keep on top of in such a rapidly changing technology space, collaboration is key to success. You don't need to struggle alone, network and share your struggles as well as your tips for success at CDAO Brisbane.

Discover how your peers have tackled the very same issues you face daily. Network with over 140 of your peers and hear from the leading professionals in your industry. Leverage this community of data and analytics enthusiasts to advance your strategy to the next level.

Download the Agenda to find out more

and consumer engagement solutions provider YPB Group Limited...

Demand for cloud-related cyber security training on a high: DDLS (</sponsored-announcements/demand-for-cloud-related-cybersecurity-training-on-a-high-ddls-2.html>)

(</sponsored-announcements/demand-for-cloud-related-cybersecurity-training-on-a-high-ddls-2.html>) There is currently significant growth in demand in the Australian...



What Makes Yodot a Highly Preferred Hard Drive Recovery Software? (</sponsored-announcements/what-makes-yodot-a-highly-preferred-hard-drive-recovery-software-2.html>)

(</sponsored-announcements/what-makes-yodot-a-highly-preferred-hard-drive-recovery-software-2.html>) SPONSORED REVIEW: External hard drives are evolving to be faster,...



Evaluating a Data Protection Solution? Read this TCO Analysis First. (</sponsored-announcements/evaluating-a-data-protection-solution-read-this-tco-analysis-first.html>)

(</sponsored-announcements/evaluating-a-data-protection-solution-read-this-tco-analysis-first.html>) An economic comparison of StorageCraft OneXafe, traditional backup software, and...



Elixir Energy drilling large Mongolian gas prospect on the doorstep of China (</sponsored-announcements/elixir-energy-drilling-large-mongolian-gas-prospect-on-the-doorstep-of-china-2.html>)

(</sponsored-announcements/elixir-energy-drilling-large-mongolian-gas-prospect-on-the-doorstep-of-china-2.html>) Drilling is underway at Elixir Energy Limited's (ASX:EXR) 100% owned...



88 Energy's North Slope well could be one of the biggest in 2020 (</sponsored-announcements/88-energy's-north-slope-well-could-be-one-of-the-biggest-in-2020-2.html>)

(</sponsored-announcements/88-energy's-north-slope-well-could-be-one-of-the-biggest-in-2020-2.html>) An exploration renaissance is underway at Alaska's North Slope basin...



Published in [IT Industry \(/it-industry.html\)](/it-industry.html)



[Graeme Philipson \(/freelancer-sp-720/author/3737-graeme-philipson.html\)](/freelancer-sp-720/author/3737-graeme-philipson.html)

Graeme Philipson is senior associate editor at ITWire. He is one of Australia's longest serving and most experienced IT journalists. He is author of the only definitive history of the Australian IT industry, 'A Vision Splendid: The History of Australian Computing.'

He has been in the high tech industry for more than 30 years, most of that time as a market researcher, analyst and journalist. He was founding editor of MIS magazine, and is a former editor of Computerworld Australia. He was a research director for Gartner Asia Pacific and research manager for the Yankee Group Australia. He was a long time weekly IT columnist in The Age and The Sydney Morning Herald, and is a recipient of the Kester Award for lifetime achievement in IT journalism.

Latest from Graeme Philipson

- [Welcome to the 2020s! \(/strategy/welcome-to-the-2020s.html\)](/strategy/welcome-to-the-2020s.html)
- [Data breaches worst in Australia, says Cisco. But beware 'cyber security fatigue' \(/telecoms-and-nbn/data-breaches-worst-in-australia,-says-cisco-but-beware-'cybersecurity-fatigue'-2.html\)](/telecoms-and-nbn/data-breaches-worst-in-australia,-says-cisco-but-beware-'cybersecurity-fatigue'-2.html)
- [Telecoms in Australia a billion dollar a week industry \(/telecoms-and-nbn/telecoms-in-australia-a-billion-dollar-a-week-industry.html\)](/telecoms-and-nbn/telecoms-in-australia-a-billion-dollar-a-week-industry.html)
- [ACMA acts against 11 Telcos \(/technology-regulation/acma-acts-against-11-telcos.html\)](/technology-regulation/acma-acts-against-11-telcos.html)

Sponsored

[Uluru: Experience the Art, Culture and Food](#)

Ayers Rock Resort

[She Had No Clue Why The Crowd Started Cheering](#)

Journalistate

[Bizarre Fishing Pics - They Haven't Been Edited](#)

Vitaminews

[This Photo Backup Gadget Is Going To Sell Out Before New Year 2020](#)

The Photostick | Smarter Brain Network

[Is a credit card or a charge card better for your business?](#)

Finder

[Australia: This New Air Cooler With No Installation Necessary Is Selling Out](#)

Handy Tech Gadgets

[Australia leading the way with 5G \(/sponsored-announcements/australia-leading-the-way-with-5g-2.html\)](/sponsored-announcements/australia-leading-the-way-with-5g-2.html)

(/sponsored-

announcements/australia-

leading-the-way-with-5g-2.html)

SPONSORED Guest Opinion by Simon

Lockington, Director of Global Solutions...



[Workday Extends Technology Leadership With Innovations for the Changing World of HR \(/sponsored-announcements/workday-extends-technology-leadership-with-innovations-for-the-changing-world-of-hr.html\)](/sponsored-announcements/workday-extends-technology-leadership-with-innovations-for-the-changing-world-of-hr.html)

(/sponsored-

announcements/workday-

extends-technology-leadership-with-

innovations-for-the-changing-world-of-

hr.html) Machine Learning, Blockchain, and

Analytics Advancements Unlock Opportunity and Personalize...



[Shopping securely: Cyber security tips for in-app checkout & mobile payments \(/sponsored-announcements/shopping-securely-cybersecurity-tips-for-in-app-checkout-mobile-payments-2.html\)](/sponsored-announcements/shopping-securely-cybersecurity-tips-for-in-app-checkout-mobile-payments-2.html)

(/sponsored-announcements/shopping-

securely-cybersecurity-tips-for-in-app-

checkout-mobile-payments-2.html)

(/sponsored-

announcements/shopping-

securely-cybersecurity-tips-for-in-app-

checkout-mobile-payments-2.html) In-app

mobile checkouts are a smart, convenient

way to pay...



[HeraMED's new age technology addresses age-old problems \(/sponsored-announcements/herameds-new-age-technology-addresses-age-old-problems.html\)](/sponsored-announcements/herameds-new-age-technology-addresses-age-old-problems.html)

(/sponsored-

announcements/herameds-

new-age-technology-addresses-age-old-

problems.html)

(/sponsored-

announcements/herameds-

new-age-technology-addresses-age-old-

problems.html) Medical technology group

HeraMED Limited (ASX:HMD) has gone from

strength...



[Metminco Now Drilling Amongst Multi-Million Oz Gold Discoveries \(/sponsored-announcements/metminco-now-drilling-amongst-multi-million-oz-gold-discoveries.html\)](/sponsored-announcements/metminco-now-drilling-amongst-multi-million-oz-gold-discoveries.html)

(/sponsored-

announcements/metminco-

now-drilling-amongst-multi-million-oz-gold-

discoveries.html)

(/sponsored-

announcements/metminco-

now-drilling-amongst-multi-million-oz-gold-

discoveries.html) By Meagan Evans. Host to

multi-million-ounce gold discoveries,

Colombia's Mid-Cauca...



[3 strategies to modernise your warehouse operations \(/sponsored-announcements/3-strategies-to-modernise-your-warehouse-operations.html\)](/sponsored-announcements/3-strategies-to-modernise-your-warehouse-operations.html)

(/sponsored-announcements/3-

strategies-to-modernise-your-warehouse-

operations.html)