

Icahn to battle Yahoo to accept Microsoft bid

Reuters

By Dane Hamilton

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NEW YORK (Reuters) - Financier Carl Icahn on Thursday launched a proxy battle to force Yahoo (YHOO.O: [Quote](#), [Profile](#), [Research](#)) to reopen buyout talks with Microsoft (MSFT.O: [Quote](#), [Profile](#), [Research](#)), saying the Yahoo board had acted "irrationally" in refusing its \$47.5 billion (24.4 billion pound) offer.

Icahn harshly criticized Yahoo for the breakdown in talks, and said he had accumulated 59 million shares and options in Yahoo and assembled a 10-member dissident board slate for election at Yahoo's annual meeting on July 3.

"The board of directors of Yahoo has acted irrationally and lost the faith of shareholders and Microsoft," Icahn wrote in an open letter to Roy Bostock, Yahoo's chairman. "It is obvious that Microsoft's bid of \$33 per share is a superior alternative than Yahoo's prospects on a stand alone basis."

But the New York-based billionaire left the door open for a settlement instead of a full-blown proxy battle, where both sides typically spend millions of dollars and unleash a barrage of negative charges against each other. He urged Yahoo to "move expeditiously to negotiate a merger with Microsoft, thereby making a proxy fight unnecessary."

The move came just two weeks after Microsoft walked away from three-month talks to buy Yahoo in a bid to catapult it into a top provider of on-line commerce and services. But Microsoft's final \$33-per-share offer wasn't enough to sway Yahoo CEO and co-founder Jerry Yang, who wanted \$37 per share.

Yahoo shares initially moved up on the news, but were down 6 cents, or 0.2 percent, to \$27.08 in afternoon trading.

One analyst said Yang will face a rougher road dealing with Icahn, a blunt-spoken veteran financier known for bare-knuckle takeover tactics, than Microsoft CEO Steve Ballmer.

"If Jerry Yang had a tough time dealing with Steve, wait till he meets Carl Icahn," said Colin Gillis, a Canaccord Adams analyst.

HAS MICROSOFT MOVED ON?

A bigger threat, said Gillis, is whether Microsoft is willing to come back to the table. "It's not clear that he has a buyer. We think that Microsoft has really walked away."

Others said there is a reasonable chance of revived talks, saying the strategic rationale for Microsoft's initial interest in Yahoo hasn't changed in the last two weeks.

"Microsoft may still be interested as, in our view, it needs Yahoo to compete against Google (GOOG.O: [Quote](#), [Profile](#), [Research](#))," said UBS technology analysts in a note. "We continue to think a deal could be reached, with the value in the \$34 to \$35 range."

Microsoft spokesman Frank Shaw was noncommittal: "Right now we don't have very much to say. We will see how it goes. The company has moved on." Yahoo declined to comment.

Others said the proxy contest gives new wind to existing shareholder pressure to revive talks.

"We view this is a very positive development," said a portfolio manager at a large investment firm that holds Yahoo shares. "It seems that the initial deal did not get done because some Yahoo directors got in the way. Getting some new blood on the board would be very beneficial."

ICAHN'S SLATE

Icahn's slate of nominees includes himself, Frank Biondi, a former Viacom (VIAB.N: [Quote](#), [Profile](#), [Research](#)) chief, and Keith Meister, vice chairman of Icahn Enterprises (IEP.N: [Quote](#), [Profile](#), [Research](#)).

Mark Cuban, Dallas Mavericks basketball team owner and co-founder of cable network HDNet is also on Icahn's slate. Cuban is also familiar with Yahoo's negotiating style after he sold Broadcast.com to Yahoo in 1999 for about \$5 billion.

Other nominees include Lucian Bebchuk, professor of law, economics and finance at Harvard Law School; John Chapple, president of Hawkeye Investments; and telecoms industry veteran and former chief executive of Nextel Partners; Adam Dell, managing partner of Impact Venture Partners; Edward Meyer, CEO of Ocean Road Advisors and former CEO of advertising firm Grey Global Group; Brian Posner, a former CEO of ClearBridge Advisors LLC; and Robert Shaye, the former co-CEO of Time Warner's (TWX.N: [Quote](#), [Profile](#), [Research](#)) New Line Cinema.

Icahn also disclosed in the letter that he sought antitrust clearance from the U.S. Federal Trade Commission to acquire up to about \$2.5 billion worth of Yahoo stock.

Evan Stewart, an antitrust lawyer with Zuckerman Spaeder LLP, said he does not anticipate any antitrust issues for the shares purchase and the proxy battle adds to existing shareholder pressure. "The shareholder pressure was going to happen," said Stewart. "That it's someone as well-resourced and well-connected as Icahn makes it newsworthy."

(Reporting by Dane Hamilton, Kenneth Li, Michele Gershberg, Eric Auchard, Svea Herbst-Bayliss and Diane Bartz; Editing by Dave Zimmerman and Tim Dobbyn)