

Yahoo Disputes Icahn's Claim Board 'Botched' Talks

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By Crayton Harrison

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Yahoo! Inc. disputed Carl Icahn's claim that its directors "botched" takeover talks with Microsoft Corp., signaling Chief Executive Officer Jerry Yang will fight the billionaire investor to keep control of the board.

Icahn has a "significant misunderstanding" of Microsoft's offer and the response of Yahoo's board, Chairman Roy Bostock said yesterday. Icahn, who owns about 10 million shares and options to buy an additional 49 million, named a slate of 10 nominees to replace the board at Yahoo's July 3 annual meeting.

Yang faces mounting pressure to reconsider his rejection of Microsoft's \$47.5 billion bid. John Paulson, who runs the New York hedge fund Paulson & Co., said yesterday that he will back Icahn's slate and that he was disappointed Yahoo didn't reach a deal with Microsoft. Paulson & Co. owned 50 million shares of Yahoo, the second most popular search engine, as of March.

"We do not believe it is in the best interests of Yahoo stockholders to allow you and your hand-picked nominees to take control," Bostock said in a letter to Icahn. He said Yahoo's directors are the most qualified to boost the company's value.

Bostock said Yahoo is willing to consider any proposals, including from Microsoft, that offer shareholders full value. He said Yahoo's board met more than 20 times to review Microsoft's offer and other options, keeping an "open mind and an open ear."

Yahoo, based in Sunnyvale, California, fell 9 cents to \$27.66 in Nasdaq Stock Market trading at 4 p.m. New York time. The stock had declined 32 percent in the 12 months before Microsoft announced its bid on Feb. 1. Microsoft, the world's biggest software maker, fell 46 cents to \$29.99.

'Sensible Path'

Icahn said in a letter to Yahoo's board yesterday that a combination with Microsoft "is by far the most sensible path" if the Internet company wants to take on Google Inc.

"The board of directors of Yahoo has acted irrationally and lost the faith of shareholders and Microsoft," said Icahn, 72. "I sincerely hope you heed the wishes of your shareholders and move expeditiously to negotiate a merger with Microsoft, thereby making a proxy fight unnecessary."

Icahn didn't return a phone message seeking comment on Yahoo's letter yesterday. Microsoft spokesman Frank Shaw had no comment.

Yang sent letters to employees and managers that echoed his letter to Icahn, asking workers to stay focused on the day-to-day operations of the company, according to regulatory filings today. Yang said he didn't know how long a proxy fight with Icahn might take.

Yang's Rejection

The CEO rejected Microsoft's \$33-a-share offer this month, saying his company was worth at least \$4 more. Buying Yahoo would have helped Microsoft compete with Google in online advertising, a market Microsoft expects to almost double to about \$80 billion by 2010.

Bostock said in the letter that Microsoft didn't deliver its higher \$33-a-share offer in writing and failed to specify the mix of cash and stock. Within hours of Yang proposing a price of \$37 a share, Microsoft walked away, Bostock said.

Senior executives of Yahoo and Microsoft and their advisers had frequent contact and met in person seven times, Bostock said. Yahoo asked Microsoft to discuss the regulatory implications of a deal and never got a response, he said.

Yahoo's letter "seems like a pretty boilerplate response," said Sachin Shah, a merger-arbitrage analyst at ICAP Securities in Jersey City, New Jersey. Still, Yahoo's board appears to have carried out a lot of its fiduciary duty, he said.

Board Nominees

Icahn's board nominees include Mark Cuban, owner of the Dallas Mavericks basketball team, and Frank Biondi Jr., former chief executive officer of Viacom Inc. Icahn said he has sought regulatory clearance to buy as much as \$2.5 billion in Yahoo stock, about 6.7 percent of the company's outstanding shares as of April 30.

"If you're Yahoo right now, I would imagine shareholders are calling them up and saying, 'Let's figure out if we can get a deal better than \$33 if we make it friendly and make it before the proxy starts,'" said Heather Bellini, an analyst at UBS AG in New York.

Accepting Microsoft's offer is a better option than going it alone, Icahn said. The board "completely botched" negotiations with Microsoft, prompting some Yahoo shareholders to ask Icahn to step in, he said.

Should Microsoft CEO Steve Ballmer fail to re-emerge as a bidder, Icahn may have to find other ways to boost Yahoo stock, such as aligning the company with Google or selling stakes in Yahoo's Asian operations, said Ross Sandler, an RBC Capital Markets analyst in New York.

Google Partnership?

Yahoo has held discussions to allow Google to sell some of its advertising for Internet searches. In a May 3 letter, Ballmer criticized Yahoo for exploring the partnership, saying it would hurt Yahoo's ability to keep customers and employees, making an acquisition "undesirable."

Icahn also nominated himself for Yahoo's board, along with Keith Meister, principal executive officer of Icahn Enterprises Inc. The other nominees are Lucian Bebchuk, a professor at Harvard Law School; John Chapple, the former CEO of Nextel Partners Inc.; Adam Dell, managing general partner of Impact Venture Partners; Edward Meyer, CEO of Ocean Road Advisors Inc.; Brian Posner, former CEO of ClearBridge Advisors LLC; and Robert Shaye, co-CEO of New Line Cinema.