

Ten Questions Yahoo! Shareholders Want Answered

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By Wendy Tanaka

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Corporate raider extraordinaire Carl Icahn launched his strategy to push Yahoo! back into Microsoft's arms.

In a letter delivered Thursday to Yahoo! Chairman Roy Bostock, Icahn presented an alternative slate of board members to be voted on at the company's annual meeting on July 3. Icahn is on the 10-man list; so, too, is Internet entrepreneur Mark Cuban and entertainment mogul Frank Biondi.

Icahn also said he purchased 59 million shares of Yahoo!, totaling more than \$1 billion and giving him a 4.3% stake in the company. He also said he is seeking clearance from the Federal Trade Commission to acquire up to \$2.5 billion of Yahoo! stock.

Here's what Icahn's moves mean and what's next.

Why is Carl Icahn doing this?

This official answer: Icahn said a number of shareholders asked him to lead a proxy fight to remove Yahoo!'s board and establish a new board that would negotiate a buyout deal with Microsoft. On Jan. 31, the Redmond, Wash., software giant made an unsolicited bid of \$31 per share for Yahoo!. Yahoo! rejected that offer several times. Earlier this month, Microsoft increased its offer by \$2, to \$33 per share, but Sunnyvale, Calif.-based Yahoo! rejected the new offer, saying it wanted Microsoft to hike it to \$37. Microsoft said it couldn't offer more than \$33 and dropped its bid on May 3.

The unofficial answer: This is what Icahn does for a living. He goes into troubled companies and shakes things up. He has launched many proxy fights over the past 30 years and has enriched many shareholders--himself included. With a net worth of \$14.5 billion, Icahn is ranked 18th on Forbes's list of the wealthiest Americans.

Who are the 10 proxy board members?

Icahn; Keith Meister, vice chairman of the board at Icahn Enterprises; Edward Meyer, former chief executive of Grey Global Group; Brian Posner, founder of the Hygrove Partners hedge fund; Robert Shaye, chief executive of New Line Cinema; Lucian Bebchuk, Harvard Law School professor; Frank Biondi, former chief executive of Universal Studios; John Chapple, co-founder of Nextel Partners; Mark Cuban, founder of Broadcast.com and owner of the Dallas Mavericks basketball team; and venture capitalist Adam Dell, brother of computer king Michael Dell.

What is Icahn trying to accomplish?

Icahn is trying to get Yahoo! and Microsoft back to the negotiating table to work out a deal. His goal, of course, is to cash out of Yahoo!'s stock with a profit. Icahn paid about \$26 a share for his

59 million Yahoo! shares. If, for instance, he could get Microsoft to pay its last bid for Yahoo!--\$33 a share--Icahn could walk away with a cool \$400 million for his trouble.

Will Icahn succeed?

Icahn is even scarier than Microsoft CEO Steve Ballmer on a crazy day. Ballmer tried to play nice with Yahoo! and ultimately was frustrated. Icahn enjoys making chief executives squirm. The market is betting that he will succeed: Yahoo!'s stock, which dipped 15%, to \$24.37, after Ballmer threw in the towel, have perked back up, to \$27.75. But the intriguing question is whether Icahn will have to do some work to coax Microsoft back to the bargaining table, too.

Did Icahn discuss and/or devise his strategy with Microsoft?

Publicly, Icahn has said he hasn't spoken with Microsoft about his plans. Microsoft declined to comment. Industry observers, however, think it's possible the two have talked. Edward Deibert, a director at law firm Howard Rice Nemerovski Canady Falk & Rabkin, says conversations between the two companies would not be illegal.

What is Yahoo!'s reaction to Icahn's moves?

"Carl, you are so wrong!" summarizes Yahoo!'s response. In a letter to Icahn released on Thursday afternoon, Bostock said Icahn has "a significant misunderstanding of the facts about the Microsoft proposal and the diligence with which our board evaluated and responded to that proposal. A fair-minded review of the factual record leads to one conclusion: that Yahoo!'s ten-member board, comprised of nine independent directors along with Yahoo! CEO Jerry Yang, remains the best and most qualified group to maximize value for all Yahoo! stockholders." Bostock closed by saying, "We continue to believe that Yahoo!'s current board has the independence, the knowledge, and the commitment to navigate the company through the rapidly changing Internet environment and to deliver value for Yahoo! and its stockholders."

Is Yahoo! still doing an advertising deal with Google?

It's still possible. Google Chief Executive Eric Schmidt really wants to do a deal in which Yahoo! lets Google carry some or all its search advertising. Google and Yahoo! have been working out details of a partnership that would pass antitrust scrutiny. The possibility of such a partnership helped drive Microsoft to drop its bid for Yahoo!. You can bet that Google, Microsoft's archrival and outspoken critic of its bid for Yahoo!, will want to thwart any moves that could bring Microsoft and Yahoo! together. If Yahoo! throws itself into Google's arms, Icahn might have work even harder to convince Microsoft to pay something close to its \$33-a-share bid for the company.

Have any other investors bought a big chunk of Yahoo! shares recently?

Yes. Paulson & Co., a New York-based hedge fund, acquired 50 million shares during the first quarter. The company plans to back Icahn. "We intend to support the Icahn slate but sincerely hope that Yahoo! will negotiate an agreement with Microsoft thereby making a proxy fight

unnecessary." Legg Mason Capital Management, another large Yahoo! investor, however, cut its holdings Thursday.

What are Icahn's next steps?

Deibert, the Howard Rice attorney, says Icahn has not officially launched a proxy fight yet. He must file certain documents with the Securities and Exchange Commission and make them available to Yahoo! shareholders for a fight to become official.

Nevertheless, Deibert says Icahn will hire a shareholder solicitation firm--likely Georgeson or D.F. King & Co.--to rally shareholders. If Icahn does not get the support he needs in the next couple of weeks, he can try to negotiate with Yahoo! to get it to agree to a few new board members. "It's better to have a couple of members of the board who have a different idea-set than the current Yahoo! board who could apply enough pressure in the board room," Deibert adds.

All-out public relations campaigns from Icahn and Yahoo! will start now and continue to the July 3 annual meeting.

What can Yahoo! do to thwart Icahn?

Not much. It could throw its click-advertising program to Google, in the hope of making itself unattractive to Microsoft. It could also postpone its annually meeting, Deibert notes. Last year, Yahoo! held its meeting in mid-June. Companies are required to hold their annual meeting within 13 months of the last one. If Yahoo! postpones, Icahn can sue the company in Delaware court and demand it hold a meeting, pronto. That's what he did to BEA Systems, which had rebuffed Oracle, only to be acquired by the software giant later.