



<< [Back to Article View](#)

[Databases selected:](#) Multiple databases...

FORTUNE

Eisner's Last Act

Marc Gunther. Fortune. New York: Mar 8, 2004. Vol. 149, Iss. 5; pg. 123, 5 pgs

Author(s): Marc Gunther

Article types: General Information

Publication title: Fortune. New York: Mar 8, 2004. Vol. 149, Iss. 5; pg. 123, 5 pgs

Source Type: Periodical

ISSN/ISBN: 00158259

ProQuest document ID: 569000391

Text Word Count 3167

Article URL: http://gateway.proquest.com/openurl?ctx_ver=z39.88-2003&res_id=xri:pqd&rft_val_fmt=ori:fmt:kev:mtx:journal&genre=article&rft_id=xri:pqd:did=000000569000391&svc_dat=xri:pqil:fmt=txt&req_dat=xri:pqil:pq_clntid=9269

Full Text (3167 words)

Copyright Time Incorporated Mar 8, 2004

[Headnote]

Disney's CEO will have to turn in a star performance to prevent a takeover, placate shareholders, and repair ABC. Plus: Comcast's waiting game. BY MARC GUNTHER

Once upon a time, in a magical place called Disney, there lived a man named Michael whose days overflowed with happiness and fun. He was the host of his own television show. He was the toast of Broadway. He built eye-popping theme parks, designed enchanting hotels, and tested new thrill rides before ordinary people got to climb aboard. (No waiting in line for him.) If he didn't like the ending of a movie, he simply had it changed. He brought smiles to the faces of children and their parents. He made piles of money for his company and himself. He rescued an American icon. Some people said he had the best job in business. And everybody seemed to like Michael.

If this were a Disney movie, the credits would roll, and everybody would live happily ever after. But it's far from it. Michael D. Eisner, entering the twilight of a 20-year career as the chairman and CEO of the Walt Disney Co., is in the fight of his life. It's not just about Comcast, the powerful cable company that wants to take over the \$28-billion-a-year entertainment giant-and which isn't going away, despite Disney's rejection. Roy E. Disney, the nephew of company founder Walt Disney, is leading a public crusade to oust Eisner. The CEO has been conducting a frantic campaign of damage control to convince investors that the company is healthy, its board is strong, and he hasn't lost his magic.

It helps to have friends in times like this. Eisner has few, and a long list of foes-not just Comcast and Roy Disney, but Steve Jobs of Pixar, Jeffrey Katzenberg of DreamWorks, Harvey Weinstein of Miramax (a unit of Disney!), cable operators who say he charges them too much for his programs, so-called cast members who are displeased by all the belt-tightening at the company, even the people who sold him the rights to Winnie the Pooh, whose civil suit against Disney has become the longest-running case in Los Angeles Superior Court. It's never a good thing to be taken to court over a stuffed animal.

How the 62-year-old Eisner arrived at this juncture is a familiar tale that need not be repeated here. Suffice it to say that with the assistance of an all-star team of executives, Eisner delivered a decade of spectacular results at Disney-restoring its animation unit, expanding theme parks, raising admission prices, building stores, and releasing classic movies on videocassette. Since those glory years-we can trace the company's woes back to the death of Eisner's trusted partner Frank Wells in 1994 and the acquisition of ABC a year later-there has been less to cheer about. Disney has been rocked by talent defections, missteps on the Internet, the impact of 9/11, a travel and advertising recession, a dearth of hits at ABC, and boardroom battles that erupted into public view-a depressing saga, at least for Eisner and Disney investors.

Even after a recent bump sparked by robust first-quarter earnings and Comcast's merger proposal, Disney shares trade at 1997 levels. Operating income of \$3.1 billion for 2003 is just a tad more than what the company earned in 1994, even though it has plowed \$25 billion in cash back into operations since then. Eisner, meanwhile, has fared better than his shareholders. His total compensation, including salary, bonuses, and the value of options grants, adds up to \$278 million since 1996. (Eisner declined to talk to FORTUNE. His public relations people reminded us that he has been paid far more modestly since 2001.)

Eisner's contract expires in September 2006, when he will be 64. Many expect him to step down as CEO then-though the careers of rivals Sumner Redstone (who is 80) at Viacom and Rupert Murdoch (73) at News Corp. have defied expectations. In any event, Eisner's performance as CEO falls neatly into three acts-the revival of Disney (1984-94), the decline of Disney (1995 to the present), and the dramas still to come.

Comcast will stalk Disney, ready to pounce at any sign of weakness (see following story). Roy Disney, the patriarch whose family holds about \$700 million in company stock, and his business partner Stanley Gold will prosecute their anti-Eisner crusade. Disney's directors are under pressure to show their mettle. Think of what follows as a viewer's guide to act three of the Michael Eisner story.

Disney's shareholder meeting on March 3 in Philadelphia-Comcast's hometown, by chance-could be the most watched annual meeting ever. Roy Disney and Gold, who both left the Disney board last year, have been running a "vote no" campaign against four directors, including Eisner and former U.S. Senator George Mitchell, who are seeking reelection to the board. The dissidents won a big victory when Institutional Shareholder Services, the influential proxy advisory firm in Rockville, Md., recommended a vote against Eisner, although not against the other three. The company and the dissidents are feverishly lobbying investors as election day approaches.

The key campaign issues are financial performance and corporate governance. By most accounts Disney's board has become stronger and more independent lately. But Eisner still acts as if he's in charge. When Brian Roberts, the CEO of Comcast, called him to talk about a merger, Eisner rejected the notion outright, without consulting directors. "That was very revealing," says Sarah Teslik, executive director of the Council of Institutional Investors. "You can't possibly claim that's a management-level decision." Of course, it's theoretically possible that Eisner had anticipated a proposal from Comcast and already discussed it with his board.

Eisner should win the shareholder vote easily. Most investors support management, and several big holders of Disney stock who soured on the company's prospects, including Gordon Crawford, the savvy media stock picker for Capital Research & Management Co., and Warren Buffett of Berkshire Hathaway, sold their stakes in the late 1990s. If Eisner gets more than 90% of the vote, he can claim victory. Less than 80% represents a vote of no confidence. Anything in between will provoke lots of argument.

Beyond the boardroom Eisner faces another potential embarrassment in the courtroom. A shareholder lawsuit in Delaware Chancery Court, headed for trial this year, promises to rehash the Michael Ovitz imbroglio. The 1997 lawsuit alleges that Disney's directors failed to do their jobs when they approved Ovitz's employment contract as president and the \$140 million payment he got after flaming out just 13 months later. Ovitz and Eisner were close friends at the time.

Defendants include Eisner, Ovitz, and Mitchell, who is Disney's presiding director, as well as Roy Disney and Stanley Gold. The pleadings in the case, as well as a preliminary ruling from a Delaware judge, suggest that none served as a vigilant guardian of shareholder money.

While most shareholder lawsuits are settled before trial, the plaintiffs in this one feel so strongly about their case that they want every director who approved the Ovitz deal to leave the board. "This case will show that the board was so dysfunctional, they should all be fired," says Robert A.G. Monks, the longtime shareholder activist who is advising Milberg Weiss, the lawyers for the shareholders. Disney's lawyers say that when all the facts are out, they will show that the board did its job.

More important than any of the outside pressures, though, will be the performance of Disney itself. Expectations are high. The company has promised to deliver more than 30% growth in earnings this year and double-digit compound annual growth in earnings through fiscal year 2007. Wall Street has been listening; Disney's stock is up 58% in the past 12 months.

Eisner has a steep hill to climb, starting with ABC. The network is neither the biggest nor the most valuable business owned by Disney-theme parks are bigger and ESPN is far more profitable-but it is the company's most prominent laggard. Whether ABC's chronic problems have been caused by strategic blunders, short-term thinking, management by committee, or just plain bad luck, they need to be solved, and soon. When Comcast announced its takeover bid, Steve Burke, the president of Comcast Cable and a former ABC executive, pointed out that fourth-place ABC and its owned TV stations are barely breaking even, while the other broadcast networks and their owned TV stations earn between \$800 million and \$1.3 billion

each. The message was that Comcast could run ABC better than Disney does.

ABC has quietly developed some promising comedies, but it lacks a breakout hit on the scale of CBS's CSI or Fox's American Idol. (ABC turned down CSI, the No. 1 show on television.) This spring the network will try out a much-hyped series from horrormeister Stephen King and reprise Who Wants to be a Millionaire? Next fall ABC had better close the gap with top-rated NBC as NEC's Friends and Frasier leave the air. "If Roy and Stanley are on their jihad and the performance slips-particularly the fall TV season-it could get pretty bloody," says a powerful Disney insider.

Disney's movie studio has a different problem. It is coming off its best year ever, with more than \$3 billion in worldwide box-office receipts, which will be hard to top. Pixar's nasty divorce from Disney (read: Eisner) will take effect in two years, so Disney needs to rebuild its shrunken animation division by then. In the meantime, the pressure is on such coming releases as Home on the Range (animated singing cattle defend farm from scheming outlaw) and King Arthur (the Knights of the Round Table according to Jerry Bruckheimer).

Cable programming is Disney's best growth business-and the one coveted by Comcast-but to drive earnings at ESPN and the Disney Channel, Eisner has to persuade cable operators to pay ever-increasing fees. He signed two significant agreements in February to keep ESPN on Cox and Charter Communications. Eisner has to negotiate one other big contract for ESPN by the end of the year-with Comcast.

If Disney stumbles, look for Roy Disney and Gold to launch a full-fledged proxy battle a year from now to replace the board-unless Comcast swoops in first. If the company sustains its recovery, Eisner will go some distance toward restoring his tattered reputation. He could then look for a graceful exit. One scenario has Eisner stepping down as CEO, remaining chairman, and moving to New York City to oversee Disney's thriving Broadway operations. With a recovery, Roy Disney could spend more time racing his new yacht and watching the value of his Disney holdings grow. Happy endings are the rule at Disney, if not in real life. We'll see if Michael Eisner can script one more.

What's Next for Comcast?

It's poised to pounce if Disney gets weaker.

AT&T, we had to win. We don't feel that way about Disney."

Brian Roberts, the soft-spoken CEO of Comcast, appears relaxed. He leans back in his chair in a conference room at company headquarters, on the 35th floor of a skyscraper overlooking downtown Philadelphia. A week ago Comcast went public with its all-stock takeover bid for Disney, then valued at about \$66 billion. The deal's dead for now. Disney's board rejected it, and so did the stock market, by driving up the price of Disney shares and driving down the price of Comcast's. Back home after a cross-country series of investor meetings to tout the deal, Roberts sits down with FORTUNE to do some more selling and to explain his strategy, which amounts to a calculated waiting game. Comcast still wants Disney, but only at the right price, he insists. He will do his best not to get swept away by the thrill of the chase.

"We're all human," Roberts says. "I'm not going to sit here and tell you that this hasn't been an emotional week. But we're going to be disciplined in our process."

His thinking goes something like this. Comcast is a healthy growth business, so its shares should rise over time. The turnaround at Disney is unsustainable, so its stock should falter. Shareholders of both companies can be convinced that the deal, which marries Comcast's distribution with Disney's content, makes strategic sense. It will become evident, if it hasn't by now, that there are no other buyers for Disney. Eventually an offer of Comcast's stock will prove hard for Disney's directors and investors to resist. Roberts notes that Comcast's bid reflects "a full and generous valuation" and a "significant premium" over Disney's share price during any period over the previous three years. "I believe the market is generally right over a period of time," Roberts says. "At least that's what I was taught at the Wharton School."

Roberts, 44, is a bit of a deal junkie. The son of 83-year-old Ralph Roberts, the company founder, Brian has watched Comcast grow by acquisitions to become the nation's largest cable operator, with 21.5 million subscribers. In the biggest of those deals, Comcast bought AT&T Broadband for \$50.5 billion in 2002. That gave the company the scale it needed to go mano a mano with programming giants like Disney, Viacom, News Corp., and Time Warner (parent of FORTUNE'S publisher), which charge ever-increasing fees for their popular cable channels. Now, at least in theory, the entertainment giants need access to Comcast's homes (which represent 23% of pay-TV households) as much as Comcast needs their content. Over the years Comcast has also bought or built content of its own, including the home shopping network QVC (which it turned around and sold last year), E! Entertainment, the Golf Channel, and Philadelphia's 76ers and Flyers sports teams.

Comcast's bid for Disney was partly driven by strategy. By buying Disney the cable operator would no longer have to pay rising prices for Disney-owned channels like ESPN and the Disney Channel. Comcast also wants to use Disney movies and ABC TV shows to drive video-on-demand, the next big thing from the cable industry.

But the bid was also "opportunistic," said Comcast's CFO, John Alchin. Comcast executives won't publicly bad-mouth Disney or its CEO, Michael Eisner, but the fact is that when they analyzed the Mouse House, they sensed weakness. Others tell FORTUNE that Disney directors, working through intermediaries, hinted months ago to Comcast that they might be open to a merger. One source said Disney presiding director George Mitchell talked directly to Roberts. That would be a shocker, if true. Roberts declined to comment, and Mitchell couldn't be reached.

The back-channel whispering may have convinced Comcast that Wall Street and the Disney board would welcome Eisner's departure. If so, Comcast miscalculated. Now the Comcast executives are talking strategy instead. "We're not asking Disney shareholders to sell their company," says Steve Burke, a former Disney executive who runs Comcast's cable operations. "We're asking Disney shareholders whether they'd rather have 42% of our company after it is combined with theirs. These companies will be stronger together than they are apart." Of course, a merger would also replace CEO Eisner with Roberts, who, in an Institutional Investor survey this year of 1,400 analysts and portfolio managers, was voted best media CEO. Comcast's stock has grown twice as fast as the S&P 500 over the past 30 years.

To get the deal done, Comcast will have to win over skeptics in several camps. Many investors, including some big Disney holders, still wonder whether cable is a good business, given the industry's history of huge capital outlays and delayed promises of free cash flow and profitability. Comcast says an inflection point is here at last. It is reaping the benefits of billions spent to upgrade its pipes by selling high-speed Internet access and digital cable channels. (My monthly Comcast bill has grown from \$40 to \$110, especially after I signed up for Internet access. With 5.3 million Internet subscribers, Comcast is the biggest broadband supplier in the nation.) Comcast promises to generate free cash flow of \$2 billion in 2004, and analysts say it will deliver \$3.5 to \$4 billion in 2005. Comcast also says that honest-to-goodness net profits-hallelujah!-should appear within five years, as the depreciation of all that capital spending makes its way through the income statement. Says CFO Alchin: "The business model that we have from here on out looks absolutely terrific."

But Comcast's dense financial statements scare off some investors. They don't like all the acquisitions, which make year-to-year comparisons difficult, or they say that Comcast books some everyday operating costs as capital expenditures to boost income in the short run. When Comcast installs a high-speed modem, for example, it accounts for the costs of the box, its delivery, and installation-perhaps \$50 in all-in its capital budget rather than as an operating cost. Comcast says that this is standard industry practice. "In the cable industry there's so much room for maneuvering," frets Albert Meyer, who owns 2nd Opinion Research, an independent equity research firm. "If I'm a Disney shareholder, I wouldn't want Comcast paper."

Governance is yet another concern. Comcast has two classes of stock, giving the Roberts family, which has a 1.5% stake in the company, 33% of the shareholder vote. A 75% vote of the board would be needed to fire Brian as chief executive anytime before 2010. Roberts observes that such well-regarded firms as the Washington Post Co. and the New York Times Co. have two classes of stock, which preserves family control and allows for long-term thinking. The company's stock market performance speaks for itself. "We are extremely proud of our record with shareholders," Roberts says.

Comcast's board is chaired by C. Michael Armstrong, former CEO of AT&T, and director J. Michael Cook, CEO of Deloitte & Touche, chairs the audit committee. Roberts, his father, and a cousin's husband also sit on the 11-member board. FORTUNE has learned that shortly before Comcast launched its offer, Louis Simpson, head of Plaza Investment Managers, an arm of Berkshire Hathaway, resigned as a Comcast director. Asked why, Simpson declined to comment. But it may be surmised that as an executive of Berkshire, which has stayed clear of hostile transactions, he didn't care to be party to one. Another reason for Simpson's opting out might be that he and Warren Buffett, CEO of Berkshire, are both longtime friends of Disney director Thomas S. Murphy.

Skittish investors see Comcast/Disney as a replay of the nightmarish AOL/Time Warner merger, where a tech company favored by Wall Street bought solid content assets with overvalued stock. Roberts says it's more like the Time Warner/Turner merger, a logical match of cable systems and cable programs. He watched that deal unfold from the inside, as a thirtysomething member of Turner's board. This time he's in a position to call the shots. The question is whether he can put together an offer that's rich enough to get Disney but not so rich that his own shareholders rebel.

[Sidebar]

It helps to have Mends at times like this. Eisner has few, and a long list of foes.

[Sidebar]

"We're all human. But we are going to be disciplined in our process."

[Author Affiliation]

FEEDBACK mgunther@fortunemail.com

Copyright © 2004 ProQuest Information and Learning Company. All rights reserved. [Terms and Conditions](#)

[Text-only interface](#)

