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VIACOM, INC.: Corporate governance in a controlled company[[1]](#endnote-1)

Ram Subramanian wrote this case solely to provide material for class discussion. The author does not intend to illustrate either effective or ineffective handling of a managerial situation. The author may have disguised certain names and other identifying information to protect confidentiality.

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On Wednesday, March 16, 2016, Viacom, Inc., a New York City-based media company, announced the appointment of Frederic Salerno as the company’s first lead independent director on its board of directors.[[2]](#endnote-2) Although Salerno’s election to Viacom’s board had been opposed by nearly 25 per cent of the shareholders, the company’s stock price increased by 3.7 per cent in the 24-hour period after the announcement. Reuters opined that the uptick in the stock price was largely because the stockholders saw the appointment of an independent lead director as a way to address the myriad corporate governance challenges facing the company.[[3]](#endnote-3)

Viacom had been in the news in the months leading up to Salerno’s appointment. Eighty per cent of the company’s class A shares (which, unlike the company’s class B shares, had all the voting rights) were controlled by Sumner Redstone, who would turn 93 in May 2016 and was in extremely poor health.[[4]](#endnote-4) Redstone had recently appointed Philippe Dauman, the company’s chief executive officer (CEO) (and trustee of Redstone’s trust) as the executive chairman of the board. The magazine *Vanity Fair* and others had published lengthy articles detailing the sordid state of Redstone’s affairs and his animosity toward his daughter, Shari, a Viacom board member.[[5]](#endnote-5) Viacom’s generous executive compensation package and several years of poor financial performance had led proxy adviser Institutional Shareholder Services to recommend that Viacom shareholders withhold support for six of the company’s directors (including Salerno).[[6]](#endnote-6) As a small shareholder of class B shares, E. F. Greenberg had filed a lawsuit against the board of directors accusing it of wasting shareholder resources by paying Redstone for serving on the company’s board even when he was mentally incompetent.[[7]](#endnote-7) And, finally, Eric Jackson, an activist investor, had released a 99-slide presentation detailing various governance issues at the company.[[8]](#endnote-8)

As the lead independent director, Salerno was responsible for having the board develop a response to the company’s corporate governance challenges. Redstone’s age and declining health posed some urgency to Salerno’s decision, as did the upcoming May court hearing regarding Redstone’s mental competency.

INDUSTRY BACKGROUND

The U.S. cable networks industry accounted for US$73.1 billion[[9]](#endnote-9) in revenues and $17.2 billion in profits in 2015.[[10]](#endnote-10) The industry had shown an annualized growth rate of 3.6 per cent between 2010 and 2015;[[11]](#endnote-11) however, the growth of online content providers such as Netflix and Amazon Prime, and the increasing trend toward “cord cutting” (whereby consumers discontinued their cable subscription and accessed content directly online from various providers) indicated a significant slowdown in industry growth in the future. Although the industry had 430 players, the top four—Walt Disney, Time Warner, NBCUniversal, and Viacom—accounted for nearly 60 per cent of the market share.[[12]](#endnote-12)

The revenue model for a cable network was roughly split between advertising and subscriptions, though the model differed for players such as Disney, where subscriptions accounted for a larger share of overall returns for its ESPN family of channels.[[13]](#endnote-13) The biggest cost item was content, and cable networks both created their own content in-house and sourced content from independent third-party providers such as Lionsgate. Success in cable programming relied on strong content, extensive marketing, and the ability to match content with consumers’ changing demands. The Federal Communications Commission (FCC) regulated the industry, both at the time of a cable network’s entry and during its operations. The major players were vertically integrated (in terms of content creation and content distribution) through either ownership or long-term partnership agreements. For example, Walt Disney owned 80 per cent of the ESPN family of channels and 50 per cent of A&E, in addition to owning the Disney Channel and the ABC network.[[14]](#endnote-14) Time Warner (which spun off its cable service business in 2009) owned the Turner family of channels (eight separate cable channels).[[15]](#endnote-15) Comcast, a cable service provider, owned NBCUniversal, which included such channels such as MSNBC, CNBC, Bravo, Syfy, and Oxygen.[[16]](#endnote-16)

In fiscal year 2015, the movie and video production industry generated $34.1 billion in revenues and $5.0 billion in profits. The industry grew by 0.7 per cent from 2010–2015 and was expected to slow down even more, to growth of 0.1 per cent from 2015–2020.[[17]](#endnote-17) The Motion Picture Producers Association of America (MPAA) reported that 1.27 billion tickets were sold in 2014, a decline of 6 per cent from 2013. The decline was attributed primarily to consumers increasingly watching at-home content via their televisions or other devices.[[18]](#endnote-18) While the industry had 6,527 players, the distribution was concentrated with 61 per cent of the market share being claimed by the top five players—21st Century Fox (which was spun off from News Corp. in 2013), Walt Disney, NBCUniversal, Viacom, and Time Warner. In 2015, approximately half of a movie studio’s revenues came from the domestic market and the other half from international markets, where countries such as China and India were increasingly embracing American movies. DVD (and later, BluRay) sales were a significant revenue source for studios, but had been declining every year since 2004, mainly because of the popularity of services such as Netflix and Hulu.[[19]](#endnote-19)

Mounting production and marketing costs were adversely affecting industry profitability. The *Hollywood Reporter* pointed out that the average marketing cost for a medium-budget movie in 1980 was $4.3 million ($12.4 million in 2014 dollars), and had increased to approximately $40 million in 2014. Big-budget movies (referred to as “tentpoles” because they anchored a studio’s yearly releases) incurred average production and marketing costs of nearly $400 million, thereby substantially increasing the producing studio’s commitment and risk. The major studios had changed their past strategy of releasing more than 20 movies a year to releasing fewer (approximately 10) bigger budgeted movies each year.[[20]](#endnote-20)

VIACOM BACKGROUND

Because FCC rules prohibited television networks from owning syndication networks (a rule that no longer existed in 2016), in 1971, Columbia Broadcasting System, Inc. (CBS) spun off its syndication division as a separate company called Viacom, Inc.[[21]](#endnote-21) Viacom (short for visual and audio communication) grew rapidly by acquiring local television stations and cable networks, including its 1985 acquisition of Music Television (MTV). In 1987, the Redstone-owned National Amusements Inc. (NAI) acquired 83 per cent of Viacom.[[22]](#endnote-22) Buoyed largely by the cash flow from selling the syndication rights to television shows such as *The Cosby Show*, Viacom merged with Paramount Communications, Inc. in a $9.9 billion transaction to become a leading player in the motion picture industry. Redstone and Viacom continued their aggressive growth with acquisitions throughout the 1990s, including the purchase of Blockbuster Video, Inc. In a reversal of the 1971 event, in 2000, Viacom merged with CBS, Inc. in a $39.8 billion deal.[[23]](#endnote-23) The new company operated under the Viacom, Inc. name.

Two factors caused Redstone to rethink the merger in the following years. The first was the intense rivalry between Les Moonves, who headed CBS, and Tom Freston, who managed Viacom’s cable television business, both of whom saw themselves as the successor to Redstone. The second was the challenge of running the slow growth of the network television business (i.e., CBS) along with the fast-growing cable properties. Consequently, in 2006, Viacom was spun off from the combined company to again become an independent company. After the spin-off, Redstone (via NAI) owned a controlling interest in both Viacom and CBS.[[24]](#endnote-24)

From its corporate office in New York City, Viacom operated two distinct segments: Viacom Media Networks and Paramount Pictures Corporation (see Exhibit 1). Viacom Media Networks was the larger of the two segments, accounting for 78 per cent of total revenues in 2015, compared with 73 per cent in 2014 and 69 per cent in 2013 (see Exhibit 2).[[25]](#endnote-25)

Paramount Pictures Corporation, Hollywood’s oldest movie studio, was responsible for movies such as *The Godfather*, *Breakfast at Tiffany’s*, *It’s a Wonderful Life*, *Forrest Gump*, *Titanic* (jointly with Twenty-First Century Fox), and *Mission: Impossible*. Its library included approximately 3,300 motion pictures. Paramount released 10–15 movies a year and received revenues from box office receipts and sales of DVD and BluRay discs.[[26]](#endnote-26) The company attributed the poor results of the Paramount Pictures division in 2015 to the timing and mix of films released. A major part of the negative cash flow from financing activities was the result of the company’s stock buyback program.[[27]](#endnote-27)

VIACOM’S LEADERSHIP

Viacom’s top management team comprised Dauman (president and CEO), Thomas E. Dooley (chief operating officer [COO]), and Wade Davis (executive vice-president and chief financial officer [CFO]). Dauman had obtained his law degree from Columbia University Law School and then joined a law firm. While at the law firm, Dauman had been called on to advise Redstone, who was attempting to acquire Viacom through his privately owned theatre chain, NAI. The two became close friends, and Dauman went on to act as Redstone’s lawyer in several deals. He became Viacom’s general counsel in 1993, left the company when it acquired CBS in 2000, and when Viacom and CBS split, he returned to Viacom to become president and CEO.[[28]](#endnote-28) Barron’s explained his leadership style at Viacom:

Dauman meets weekly with each of Viacom’s division leaders, advising, coaching, goal-setting, and troubleshooting. He meets once a month with junior staff members, in groups of about 20, and tells employees, “I trust you as the ones navigating and building our brands. I’m never going to blame you for trying different things and taking chances.”[[29]](#endnote-29)

In the same interview, Dauman talked about what it took to be the CEO of a publicly owned company: “It’s really just math. Pay a dividend, buy back a lot of stock, still be investment-grade, be conservative, and you drive up earnings per share. If you do that, the marketplace will recognize the value creation that exists.”[[30]](#endnote-30) Prior to joining Viacom, Dauman was the co-founder of DND Capital Partners, a venture capital firm.[[31]](#endnote-31)

Dooley received his MBA from New York University’s Stern School of Business and joined Viacom in 1980. He worked in various positions in the company for many years before leaving it to become co-chairman and CEO of DND Capital Partners. He rejoined Viacom in 2006, first as its chief administrative officer, then as CFO from 2007–2010, and became COO in 2010.[[32]](#endnote-32)

When analysts criticized Viacom’s poor financial performance over the previous few years, Dauman was adamant in defending his performance:

I attribute some of Viacom’s recent decline to a lot of noise around the company, but no one should doubt my resolve in resuscitating the company’s stock price. Our outlook and the facts have been distorted and obscured by the naysayers, self-interested critics and publicity seekers. We will not be distracted or deterred as we build for the bright future ahead of us.[[33]](#endnote-33)

Dauman discussed the role of the board and his own relationship with board members (see Exhibit 3 ):

He [Redstone] and the board of Viacom, believing in my abilities and my character, have entrusted me with weighty responsibilities, none of which are inconsistent or incompatible. They [the board members] know our operational plans. They endorsed them, they have confidence in them and I will repay back that confidence by producing the results without shirking our obligation to make the changes that are necessary to make Viacom the leading content company of the future.[[34]](#endnote-34)

Davis was an investment banker (first at Lazard Frères & Co. and then at Wasserstein Perella & Co.) specializing in technology and media sectors prior to joining Viacom in 2012. He had also held an operating position at Harley–Davidson Motor Company.[[35]](#endnote-35)

CORPORATE GOVERNANCE AT VIACOM

On January 3, 2006, Viacom began trading on the NASDAQ Stock Exchange as an independent company following its split from CBS.[[36]](#endnote-36) In announcing the split in mid-2005, Viacom laid out the rationale:

In many ways, this separation is a natural extension of the path we laid out in creating [the original] Viacom. We recognize the need to adapt to a changing competitive environment and we believe the separation of New Viacom and CBS Corp. will best serve our stockholders. By separating [the original] Viacom’s higher growth Cable Networks businesses from those more focused on generating significant cash flow and returning that cash flow to investors, the separation will provide current and potential stockholders with attractive investment options that are more closely aligned with their various investment objectives.[[37]](#endnote-37)

The company also said that since NAI held sufficient shares of (old) Viacom and had supported the split, the shareholders of (old) Viacom would not be asked to approve it.[[38]](#endnote-38)

In the split, the independent Viacom retained its original dual-class share structure. Class A shares had one vote per share, while class B shares had no voting rights (see Exhibit 4). In the document that laid out the plan for the split, the company indicated the governance structure of (the new) Viacom:

NAI, through its beneficial ownership of New Viacom class A common stock, will have voting control of New Viacom. Mr. Sumner M. Redstone, the controlling stockholder, chairman of the board of directors and chief executive officer of NAI, will serve as chairman of the New Viacom board of directors, and Ms. Shari Redstone, the president and a director of NAI, will serve as vice chair of the New Viacom board of directors. NAI will be in a position to control the outcome of corporate actions that require stockholder approval, including the election of directors and transactions involving a change of control. You (the holder of class B shares) will be unable to affect the outcome of the corporate actions of New Viacom for so long as NAI retains voting control.[[39]](#endnote-39)

In two public statements on separate occasions, Redstone defended his lack of succession planning for his business holdings (that included Viacom) by insisting that he was immortal:

The people who fear dying are people who are going to die. I’m not going to die. I eat and drink every antioxidant known to man, including goji berries, Green Machine smoothies, and tomato juice. . . . I will not discuss succession. You know why? I’m not going to die.[[40]](#endnote-40)

However, Redstone did not attend Viacom’s 2015 shareholder meeting. At the 2014 CBS shareholder meeting, the stage curtain was drawn while aides carried Redstone onstage in a chair. In a 2014 Viacom’s earnings call, Redstone’s only involvement was to faintly whisper, “Good morning, everyone. Here’s my wise friend, Philippe [Dauman].”[[41]](#endnote-41)

On November 24, 2015, Manuela Herzer, a former girlfriend of the divorced Redstone, filed a lawsuit that sought to revoke a September 2015 directive removing Herzer as Redstone’s sole health care agent. In the lawsuit, Herzer alleged that Redstone was mentally incapable of making his own medical decisions and that Dauman had taken control of Redstone’s life to mastermind Dauman’s control of both Viacom and CBS. The lawsuit presented statements from several witnesses who spoke about Redstone’s deteriorating health and mental capacity:

Sumner (a) cannot speak and (b) hasn’t had a meal since Labor Day other than [through] tubes. I think there’s a big charade going on that Sumner’s is fine. I think he’s pretty out of it. He can’t speak, and I don’t know how much he knows what’s going on. He’s not sharp as a tack [contradicting earlier claims of Thomas Dooley, Viacom’s COO]. He really is not. It’s a sham. It really is. It’s horrible.[[42]](#endnote-42)

Another witness recounted a conversation that he had with Robert Evans, a close friend of Redstone’s: “I told Evans, ‘He looks like he’s dead,’ to which Evans replied, ‘Well, you should see him in person—he looks even worse.”[[43]](#endnote-43)

As Redstone’s declining health and mental capacity hit the headlines, Viacom’s senior management team and key board members sought to diffuse the negative publicity by reiterating that Redstone was fully involved as the executive chairman of the board and the controlling stockholder of the company.[[44]](#endnote-44) However, on January 19, 2016, E. F. Greenberg, a shareholder in Viacom since 2010, filed a lawsuit in the state of Delaware against the company’s entire board of directors. Greenberg alleged that the entire board should not be considered independent because of their “fealty to Mr. Redstone,” and that the board had caused substantial financial and reputational damage to the company by:

. . . permitting many millions of dollars to be paid to Mr. Redstone for serving as Executive Chairman of Viacom while he was physically and mentally incapacitated and, according to his principal caregiver, was unable to communicate reliably or competently manage his own health care and certainly unable to fulfill the responsibilities for which he was paid.[[45]](#endnote-45)

The lawsuit alleged that between 2012 and 2014, Redstone was paid $169 million in compensation as executive chairman of both Viacom and CBS. The suit also alleged that Viacom’s Board Compensation Committee supported Redstone’s $13.2 million compensation package for 2014 by stating falsely that “Mr. Redstone continued to oversee the activities of the Board of Directors. Under his leadership and vision, the company enhanced its financial position and continued to strengthen its overall business.”[[46]](#endnote-46)

On the same day that E. F. Greenberg filed his lawsuit, an activist investor, Eric Jackson, through his firm, SpringOwl Asset Management, went public with his criticism of Viacom’s top management and its board of directors. He released a 99-slide presentation titled “How Many Photo Ops Does It Take to Cut a Stock in Half? Bringing Viacom Back,” in which he characterized Dauman’s leadership of the company as the “lost decade” (see Exhibit 5). He identified several specific strategic missteps under Dauman that led to the company’s deteriorating financial performance, making the case that while the company’s performance had declined, Dauman and COO Dooley had been paid $432 million over the past five years. Jackson reiterated Greenberg’s charges that Dauman was taking advantage of Redstone’s mental incapacity. Invoking the central premise of the 1989 movie *Weekend at Bernie’s*, Jackson compared Dauman and Cooley’s actions as akin to that of the “two happy-go-lucky numskulls [who] discover that their rich boss has died and proceed to trick everyone into believing that he’s still alive while helping themselves to his fortune.”[[47]](#endnote-47)

In one of the slides, Jackson portrayed Dauman and Cooley as relaxing on a beach while pretending to the world that their dead boss was alive by holding up the dead man’s hand. Jackson also provided his suggested remedies for the company, which included hiring new management, recasting the board, and divesting Paramount Pictures to focus on the cable networks. In another slide, Jackson presented Redstone’s signature as evidence of his weakened mental state.[[48]](#endnote-48)

While Viacom refuted Jackson’s charges and deemed Greenberg’s suit as being without merit, on February 4, 2016, Viacom announced that Redstone had stepped down as the company’s executive chairman and would now hold the title of chairman emeritus.[[49]](#endnote-49) The company also announced that in a board vote (opposed only by Shari), Dauman would be both the CEO and executive chairman of the board.[[50]](#endnote-50) In reporting this news, *The New York Times* also quoted Mario Gabelli, whose investment firm, Gamco, was the second-largest voting shareholder in Viacom:

The appointment of Mr. Dauman as Viacom’s executive chairman rankled some investors concerned about the company’s performance. While Viacom faces challenges in a changing industry, it has had a difficult path over the last year. Total revenue for the company declined 4 per cent during fiscal 2015 and profit was down 20 per cent during the same period, when the company faced weak ratings and ad sales, and a lackluster film slate. Viacom’s share price dropped nearly 45 per cent during that fiscal year. “Philippe has six to nine months to deliver, and it is very hard to see how he can do that. They need someone with a creative dynamic. You can’t have a lawyer who is a deal guy in the digital world,” said Gabelli.[[51]](#endnote-51)

THE DECISION

Upon his March appointment as Viacom’s lead independent director, Salerno told Reuters:

I want to ensure Viacom’s independent directors had a good handle on every aspect of Viacom’s business, including mergers and acquisitions activity. The priorities are that we clearly understand the strategic plan that exists and to make sure it’s holistic enough for each and every one of the directors to not only understand it but to be able to input their views as to the doability and the appropriateness. We will make sure that we represent all shareholders, which is important in a controlled company.[[52]](#endnote-52)

As a controlled company (through its dual-share structure), Salerno and the board knew that an activist investor such as Jackson, even with the declining price of the company’s shares, would find it difficult to affect the company with a proxy fight or a tender offer. But the board also realized that Shari, who owned 20 per cent of NAI and had recently won back her father’s trust after a long period of acrimony, had long been critical of Dauman and had, in fact, voted against his appointment as the company’s executive chairman of the board. In addition, Gabelli had made it clear that he was unhappy with Dauman’s performance as the CEO of the company. Salerno realized that Shari and Gabelli could use the mounting outside criticism of the company to demand changes and that, as the lead independent director, he had to help frame the board’s response.[[53]](#endnote-53)

Exhibit 1: Viacom, Inc., Businesses and Brands

Viacom, Inc. operated under two separate business segments: Viacom Media Networks and Paramount Pictures Corp.

|  |  |
| --- | --- |
| **Viacom Media Networks** | **Paramount Pictures Corp.** |
| BET (Black Entertainment Television), BET Gospel, and BET HipHop | Paramount Pictures |
| CMT (Country Music Television) | Paramount Vantage |
| Comedy Central | Paramount Classics |
| MTV (Music Television) and MTV2 | Paramount Animation |
| Nickelodeon, Nick Jr., TeenNick, and Nicktoons | Insurge Pictures |
| Spike | Nickelodeon Movies |
| VH1 and VH1 Classic | MTV Films |
| TV Land |  |
| Logo TV |  |
| Centric |  |
| Colors (in India) |  |
| Paramount Channel (in Spain) |  |
| Channel 5 (in the United Kingdom) |  |
| J-One (in Japan) |  |

Source: Viacom, Inc., *[Annual Report on] Form 10-K*, 2015, accessed March 22, 2016, http://files.shareholder.com/downloads/VIA-B/1702921123x0xS1339947-15-42/1339947/filing.pdf.

Exhibit 2: Viacom, Inc., Summary Financials, 2013–2015

Income Statement Summary (in US$ millions, for year ended)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2013** | **2014** | **2015** |
| **MEDIA NETWORKS** |  |  |  |
| Revenues: |  |  |  |
| Advertising | 4,855 | 4,953 | 5,007 |
| Affiliate Fees | 4,245 | 4,660 | 4,908 |
| Ancillary | 556 | 558 | 575 |
| Total | 9,656 | 10,171 | 10,490 |
| Expenses: |  |  |  |
| Operating | 3,405 | 3,622 | 4,047 |
| Selling, General, and Administration | 2,011 | 2,130 | 2,138 |
| Depreciation and Amortization | 144 | 148 | 162 |
| Total | 5,560 | 5,900 | 6,347 |
| **Adjusted Operating Income** | **4,096** | **4,271** | **4,143** |
| **PARAMOUNT** |  |  |  |
| Revenues: |  |  |  |
| Theatrical | 1,239 | 1,209 | 841 |
| Home Entertainment | 1,300 | 1,164 | 871 |
| Licence Fees | 1,203 | 1,115 | 980 |
| Ancillary | 540 | 237 | 191 |
| Total | 4,282 | 3,725 | 2,883 |
| Expenses: |  |  |  |
| Operating | 3,516 | 3,031 | 2,350 |
| Selling, General, and Administration | 443 | 425 | 369 |
| Depreciation and Amortization | 89 | 64 | 53 |
| Total | 4,048 | 3,520 | 2,772 |
| **Adjusted Operating Income** | **234** | **205** | **111** |

Selected Balance Sheet Items (in US$ millions, on September 30)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2013** | **2014** | **2015** |
| Total Current Assets | 6,726 | 5,252 | 4,658 |
| Total Assets | 23,829 | 23,047 | 22,217 |
| Total Current Liabilities | 3,790 | 3,935 | 3,854 |
| Long-Term Debt | 11,867 | 12,681 | 12,267 |

Summary of Cash Flow Statements (in US$ millions, on September 30)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **2013** | **2014** | **2015** |
| Cash Provided by Operations | 3,083 | 2,597 | 2,313 |
| Net Cash Used in Investing Activities | (335) | (855) | (257) |
| Net Cash Used in Financing Activities | (1,159) | (3,100) | (2,477) |
| Exchange Rate Effects | (34) | (45) | (73) |
| Net Change in Cash | 1,555 | (1,403) | (494) |

Source: Viacom, Inc., *[Annual Report on] Form 10-K*, 2014, accessed March 25, 2016, http://files.shareholder.com/downloads/VIA-B/1702921123x0xS1339947-14-50/1339947/filing.pdf; and *Viacom, Inc., [Annual Report on] Form 10-K, 2015*, accessed March 25, 2016, http://files.shareholder.com/downloads/VIA-B/1702921123x0xS1339947-15-42/1339947/filing.pdf.

Exhibit 3: Viacom, Inc., Board of Directors

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Name** | **Details** | **Tenure/Age** | **Ownership** | **Compensation** | **Committees** |
| Sumner M. Redstone | Chairman Emeritus of Viacom and CBS | 29 years/92 | $1.72 billion | $2 million |  |
| Philippe P. Dauman | Executive Chairman, President, and CEO | 29 years/61 | $219.1 million | $54.2 million |  |
| Shari E. Redstone | Vice Chairman of Viacom and CBS; President of National Amusements | 22 years/61 | $3.095 million | $374,965 |  |
| Frederic V. Salerno | Retired Vice-Chairman and Chief Financial Officer of Verizon Communications | 22 years/72 | $3.292 million | $338,626 | Compensation, Audit, and Governance/  Nominating |
| Blythe J. McGarvie | Former faculty member at Harvard Business School | 9 years/59 | $1.226 million | $342,178 | Compensation, Audit, and Governance/  Nominating |
| Deborah Norville | Anchor of *Inside Edition* produced by CBS | 3 years/57 | $3.08 million | $293,100 | Compensation |
| Charles E. Phillips, Jr. | CEO of Infor Global Solutions | 12 years/56 | $1.875 million | $312,259 |  |
| William Schwartz | Attorney at Cadwalader, Wickersham, and Taft | 29 years/82 | $4.541 million | $316,071 | Compensation, Governance/  Nomination |
| George S. Abrams | Attorney at Winer & Abrams | 29 years/83 | $3.558 million | $395,068 |  |
| Thomas E. Dooley | Chief Operating Officer | 10 years/59 | $204.573 million | $29.4 million |  |
| Cristiana Falcone Sorrell | Senior Adviser to the Chairman at the World Economic Forum | 3 years/42 | $242,244 | $293,055 | Audit |

Note: Viacom and CBS were part of the same company before they were split in 2006; National Amusements was a privately owned company controlled by Sumner Redstone; Sumner and Shari Redstone controlled Viacom’s class A shares through their ownership stake in National Amusements.

Source: Emily Steel, “The 11 Executives, Lawyers and Celebrities Overseeing Viacom,” *New York Times*, March 14, 2016, accessed March 22, 2016, www.nytimes.com/interactive/2016/03/13/business/media/viacom-board-members.html.

Exhibit 4: Viacom, Inc., Stock Ownership

|  |  |  |  |
| --- | --- | --- | --- |
| **Type of Shares** | **Voting Rights** | **Number of Shareholders** | **Key Shareholders** |
| Class A | Yes | 1,451 | NAI 80%  Gamco 6.19%  Gabelli 3.80% |
| Class B | No | 21,905 | Capital Research 10.84%  Vanguard 5.53% |

Note: NAI = National Amusements Inc.; Gamco and Gabelli were mutual funds controlled by Mario Gabelli; Class B shares were 1 per cent owned by insiders, 5 per cent by owners, and 91 per cent by institutions and mutual fund companies.

Viacom, Inc., Stock Performance, 2010–2015 (in US$)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **2010-9-30** | **2011-9-30** | **2012-9-30** | **2013-9-30** | **2014-9-30** | **2015-9-30** |
| # of Shares | | | | | | |
| Class A | 100 | 122 | 140 | 219 | 204 | 121 |
| Class B | 100 | 109 | 154 | 243 | 227 | 121 |
| S&P 500 | 100 | 99 | 126 | 147 | 173 | 168 |
| Peer Group | 100 | 101 | 172 | 235 | 272 | 271 |
| Stock Price (US$) | | | | | | |
| Class A | 35.91 | 43.99 | 50.51 | 79.18 | 73.85 | 43.49 |
| Class B | 32.20 | 35.10 | 49.65 | 78.82 | 73.65 | 42.32 |

Note: S&P = Standard & Poor’s; The peer group consists of The Walt Disney Company, Twenty-First Century Fox (now News Corp.), Time Warner, CBS, Discovery Communications, Inc., and Scripps Network Interactive, Inc.

Viacom Stock versus Peers (in %)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **VIAB** | **TWX** | **DIS** | **FOX** | **CBS** |
| 5-year returns | –20.26 | 112.97 | 132.23 | 76.48 | 122.35 |
| 2-year returns | –54.13 | 20.77 | 24.40 | –8.75 | –9.77 |
| 1-year returns | –45.16 | –13.90 | –9.85 | –13.75 | –12.14 |

Note: VIAB = Viacom Inc. Class B shares; TWX = Time Warner Inc.; DIS = The Walt Disney Company; FOX = Twenty-First Century Fox Inc.; CBS = CBS Corporation

Source: *Viacom, Inc., [Annual Report on] Form 10-K, 2015*, accessed March 25, 2016, http://files.shareholder.com/downloads/VIA-B/1702921123x0xS1339947-15-42/1339947/filing.pdf; “Viacom, Inc. Historical Data,” Yahoo! Finance, accessed March 25, 2016, https://finance.yahoo.com/q/hp?s=VIAB+Historical+Prices; and “Viacom,” Yahoo Finance, accessed April 10, 2016.

Exhibit 5: Summary of Eric Jackson’s Charges and Remedies

CHARGES

***A. Stock Performance***

* In the ten years since Viacom was split into CBS and Viacom, CBS stock increased 72%, the S&P 500 increased 59%, while Viacom B stock decreased 3.9%.
* Viacom B’s 1-, 3-, and 5-year stock performance was lower than S&P 500 by a big margin.
* Significant gap in multiple relative to peers—Viacom B shares’ multiple was 6.8x versus peer average of 10.4x.
* Viacom’s debt to earnings ratio was highest compared to peers.

***B. Governance***

* Viacom’s Board was too large, too cozy, and too overpaid for performance.
* Deborah Norville, host of CBS-produced *Inside Edition*, was classified as an independent director by Viacom.
* Almost 75% of Board should have been classified as non-independent.
* Outside directors among highest paid in the media sector.
* Sumner Redstone was absent chair.
* There was a lack of clarity about succession.
* CEO Philippe Dauman and COO Thomas Dooley were far too richly compensated, given lagging 5-year performance; Dauman and Dooley were paid $432 million in total over the previous 5 years.

***C. Strategy***

* Viacom missed the shift to digital—Dauman heavily licensed content to Netflix in 2011 (and thereby trained a generation of Nick viewers to go to Netflix for Dora instead of Nick).
* By suing YouTube in 2010 (and thereby creating an antagonistic relationship), Dauman missed the opportunity to promote Viacom content on YouTube.
* Unlike its peers, Viacom made no investment in digital companies or made and mergers & acquisitions.
* Viacom was going through a creative lull as many creative executives had left.
* All of Viacom’s current hit shows were created prior to Dauman becoming CEO in 2006.

SUGGESTED REMEDIES

* Refresh board of directors; appoint new active chairman
* Appoint new executive leadership
* Explore merger, partnership, or divestment of Paramount
* Spearhead big push into digital
* Conduct massive operating expense reduction

Note: CEO = chief executive officer; COO = chief operating officer.

Source: Eric Jackson, “How Many Photo Ops Does It Take to Cut a Stock in Half? Bringing Viacom Back,” SpringOwl Asset Management, January 19, 2016, accessed April 16, 2016, www.slideshare.net/drericjackson/springowls-99-page-presentation-on-turning-around-viacom.

ENDNOTES

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