

DISH Network CORP
Form 10-K
February 24, 2011
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

(Mark One)

**x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2010

OR

**o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

FOR THE TRANSITION PERIOD FROM TO .

Commission file number: 0-26176

DISH Network Corporation

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(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of incorporation or organization)

88-0336997

(I.R.S. Employer Identification No.)

9601 South Meridian Boulevard

Englewood, Colorado

(Address of principal executive offices)

80112

(Zip Code)

Registrant's telephone number, including area code: **(303) 723-1000**

Securities registered pursuant to Section 12(b) of the Act:

Title of each class

Class A common stock, \$0.01 par value

Name of each exchange on which registered

The Nasdaq Stock Market L.L.C.

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. **T**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

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Large accelerated filer ☒ x

Accelerated filer ☐ o

Non-accelerated filer ☐ o
(Do not check if a smaller reporting company)

Smaller reporting company ☐ o

Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Act). Yes ☐ o No ☒ x

As of June 30, 2010, the aggregate market value of Class A common stock held by non-affiliates of the registrant was \$3.7 billion based upon the closing price of the Class A common stock as reported on the Nasdaq Global Select Market as of the close of business on that date.

As of February 14, 2011, the registrant's outstanding common stock consisted of 204,870,905 shares of Class A common stock and 238,435,208 shares of Class B common stock, each \$0.01 par value.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated into this Form 10-K by reference:

Portions of the registrant's definitive Proxy Statement to be filed in connection with its 2011 Annual Meeting of Shareholders are incorporated by reference in Part III.

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DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

We make forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 throughout this report. Whenever you read a statement that is not simply a statement of historical fact (such as when we describe what we believe, intend, plan, estimate, expect or anticipate will occur and other similar statements), you must remember that our expectations may not be achieved, even though we believe they are reasonable. We do not guarantee that any future transactions or events described herein will happen as described or that they will happen at all. You should read this report completely and with the understanding that actual future results may be materially different from what we expect. Whether actual events or results will conform with our expectations and predictions is subject to a number of risks and uncertainties. For further discussion see *Item 1A. Risk Factors*. The risks and uncertainties include, but are not limited to, the following:

- We face intense and increasing competition from satellite and cable television providers, telecommunications companies and providers of video content via the Internet, especially as the pay-TV industry matures, which may require us to increase subscriber acquisition and retention spending or accept lower subscriber acquisitions and higher subscriber churn.
- Competition from digital media companies that provide/facilitate the delivery of video content via the Internet, could materially adversely affect us.
- If we are unsuccessful in overturning the District Court's ruling on Tivo's motion for contempt, we are not successful in developing and deploying potential new alternative technology and we are unable to reach a license agreement with Tivo on reasonable terms, we would be subject to substantial liability and would be prohibited from offering DVR functionality that would result in a significant loss of subscribers and place us at a significant disadvantage to our competitors.
- If we do not improve our operational performance and customer satisfaction, our gross new subscriber additions may decrease and our subscriber churn may increase.
- If DISH Network gross new subscriber additions decrease, or if subscriber churn, subscriber acquisition costs or retention costs increase, our financial performance will be adversely affected.
- Economic weakness, including higher unemployment and reduced consumer spending, may adversely affect our ability to grow or maintain our business.
- Programming expenses are increasing and could adversely affect our future financial condition and results of operations.

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- We depend on others to provide the programming that we offer to our subscribers and, if we lose access to this programming, our gross new subscriber additions may decline and subscriber churn may increase.
- We may be required to make substantial additional investments to maintain competitive programming offerings.
- Technology in our industry changes rapidly and could cause our services and products to become obsolete. We may have to upgrade or replace subscriber equipment and make substantial investments in our infrastructure to remain competitive.
- Increased distribution of video content via the Internet could expose us to regulatory risk.
- Our business depends on certain intellectual property rights and on not infringing the intellectual property rights of others.
- Any failure or inadequacy of our information technology infrastructure could harm our business.
- We may need additional capital, which may not be available on acceptable terms or at all, to continue investing in our business and to finance acquisitions and other strategic transactions.
- If Voom prevails in its breach of contract suit against us, we could be required to pay substantial damages, which would have a material adverse affect on our financial position and results of operations.

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- A portion of our investment portfolio is invested in securities that have experienced limited or no liquidity and may not be immediately accessible to support our financing needs.
- We rely on EchoStar Corporation, or EchoStar, to design and develop all of our new set-top boxes and certain related components, and to provide transponder capacity, digital broadcast operations and other services to us. Our business would be adversely affected if EchoStar ceases to provide these services to us and we are unable to obtain suitable replacement services from third parties.
- We rely on one or a limited number of vendors, and the inability of these key vendors to meet our needs could have a material adverse effect on our business.
- Our programming signals are subject to theft, and we are vulnerable to other forms of fraud that could require us to make significant expenditures to remedy.
- We depend on third parties to solicit orders for DISH Network services that represent a significant percentage of our total gross subscriber acquisitions.
- Our competitors may be able to leverage their relationships with programmers so that they are able to reduce their programming costs and offer exclusive content that will place them at a competitive advantage to us.
- We depend on the Cable Act for access to programming from cable-affiliate programmers at cost-effective rates.
- We face increasing competition from other distributors of foreign language programming that may limit our ability to maintain our foreign language programming subscriber base.
- Our local programming strategy faces uncertainty because we may not be able to obtain necessary retransmission consents at acceptable rates from local network stations.
- The injunction against our retransmission of distant networks, currently waived, may be reinstated.

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- We are subject to significant regulatory oversight and changes in applicable regulatory requirements, including any adoption or modification of laws or regulations relating to the Internet, which could adversely affect our business.
- We have made a substantial investment in certain 700 MHz wireless licenses and will be required to make significant additional investments or partner with others to commercialize these licenses.
- We have substantial debt outstanding and may incur additional debt.
- We have limited owned and leased satellite capacity and failures or reduced capacity could adversely affect our business.
- Our owned and leased satellites are subject to construction, launch, operational and environmental risks that could limit our ability to utilize these satellites.
- We generally do not have commercial insurance coverage on the satellites we use and could face significant impairment charges if one of our satellites fails.
- We may have potential conflicts of interest with EchoStar due to our common ownership and management.
- We rely on key personnel and the loss of their services may negatively affect our businesses.
- We are party to various lawsuits which, if adversely decided, could have a significant adverse impact on our business, particularly lawsuits regarding intellectual property.
- We may pursue acquisitions and other strategic transactions to complement or expand our business that may not be successful and we may lose up to the entire value of our investment in these acquisitions and transactions.
- Our business depends on Federal Communications Commission, or FCC, licenses that can expire or be revoked or modified and applications for FCC licenses that may not be granted.
- We are subject to digital HD carry-one, carry-all requirements that cause capacity constraints.

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- It may be difficult for a third party to acquire us, even if doing so may be beneficial to our shareholders, because of our ownership structure.
- We are controlled by one principal stockholder who is also our Chairman, President and Chief Executive Officer.
- There can be no assurance that there will not be deficiencies leading to material weaknesses in our internal control over financial reporting.
- We may face other risks described from time to time in periodic and current reports we file with the Securities and Exchange Commission, or SEC.

All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. Investors should consider the risks described herein and should not place undue reliance on any forward-looking statements. We assume no responsibility for updating forward-looking information contained or incorporated by reference herein or in other reports we file with the SEC.

In this report, the words DISH Network, the Company, we, our and us refer to DISH Network Corporation and its subsidiaries, unless the context otherwise requires. EchoStar refers to EchoStar Corporation and its subsidiaries. DDBS refers to DISH DBS Corporation and its subsidiaries, a wholly owned, indirect subsidiary of DISH Network.

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PART I

Item 1. BUSINESS

OVERVIEW

DISH Network Corporation is the nation's third largest pay-TV provider, with approximately 14.133 million customers across the United States as of December 31, 2010. We were organized in 1995 as a corporation under the laws of the State of Nevada and started offering DISH Network subscription television services in March 1996.

Our common stock is publicly traded on the Nasdaq Global Select Market under the symbol DISH. Our principal executive offices are located at 9601 South Meridian Boulevard, Englewood, Colorado 80112 and our telephone number is (303) 723-1000.

On January 1, 2008, we completed the distribution of our technology and set-top box business and certain infrastructure assets (the "Spin-off") into a separate publicly-traded company, EchoStar Corporation ("EchoStar"). DISH Network and EchoStar operate as separate publicly-traded companies, and neither entity has any ownership interest in the other. However, a substantial majority of the voting power of the shares of both companies is owned beneficially by Charles W. Ergen, our Chairman, President and Chief Executive Officer or by certain trusts established by Mr. Ergen for the benefit of his family.

Business Strategy

Our business strategy is to be the best provider of video services in the United States by providing high-quality products, outstanding customer service, and great value. We promote the DISH Network programming packages as providing our subscribers with a better price-to-value relationship than those available from other subscription television providers. We believe that there continues to be unsatisfied demand for high-quality, reasonably priced television programming services.

- *High-Quality Products.* We offer a wide selection of local and national programming, featuring more national and local HD channels than most pay-TV providers. We have been a technology leader in our industry, introducing award-winning DVRs, dual tuner receivers, 1080p video on demand, and external hard drives. To maintain and enhance our competitiveness over the long term, we are promoting a suite of integrated products designed to maximize the convenience and ease of watching TV anytime and anywhere, referred to as TV Everywhere. Our TV Everywhere service utilizes, among other things, online access and Slingbox placeshifting technology.

- *Outstanding Customer Service.* We strive to provide outstanding customer service by improving the quality of the initial installation of subscriber equipment, improving the reliability of our equipment, better educating our customers about our products and services, and

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resolving customer problems promptly and effectively when they arise.

- *Great Value.* We have historically been viewed as the low-cost provider in the pay-TV industry in the U.S. because we seek to offer the lowest everyday prices available to consumers after introductory promotions expire.

Products and Services

Programming. We provide programming which includes more than 280 basic video channels, 60 Sirius Satellite Radio music channels, 30 premium movie channels, 35 regional and specialty sports channels, 2,800 local channels, 250 Latino and international channels, and 55 channels of pay-per-view content. In addition, we offer local HD channels in more than 160 markets and 215 national HD channels. Although we distribute over 2,800 local channels, a subscriber typically may only receive the local channels available in the subscriber's home market. As of December 31, 2010, we provided local channel coverage in standard definition to markets covering 100% of U.S.

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TV households. In addition, we provided local HD channels to markets representing approximately 94% of U.S. TV households.

Receiver Systems. Our subscribers receive programming via equipment that includes a small satellite dish, digital set-top receivers, and remote controls. Some of our advanced receiver models feature DVRs, HD capability, dual tuners (which allow independent viewing on two separate televisions) and Internet-protocol compatibility, which allows consumers to view movies and other content on their televisions via the Internet and a broadband connection. We rely on EchoStar to design and manufacture all of our new receivers and certain related components. See Item 1A Risk Factors.

DISHOnline.com. DISHOnline.com gives DISH Network subscribers the ability to watch television programs, movies, and clips online at no additional charge with their paid subscription and compatible equipment. DISHOnline.com offers more than 150,000 movies, television shows, clips and trailers.

DISH Remote Access. DISH Network's free remote access (DISH Remote Access) gives subscribers the ability to remotely manage their DVRs using compatible mobile devices such as smartphones, tablets and laptops through their broadband-connected receiver.

Google TV. Google TV combines search capabilities and content from the Internet with our DISH Network subscription television services to give DISH Network subscribers the ability to search the Internet, check e-mail, interact with social media, and find additional online programming content while simultaneously watching television.

Content Delivery

Digital Broadcast Operations Centers. The principal digital broadcast operations facilities we use are EchoStar's facilities located in Cheyenne, Wyoming and Gilbert, Arizona. We also use five regional digital broadcast operations facilities owned and operated by EchoStar that allow us to maximize the use of the spot beam capabilities of certain owned and leased satellites. Programming content is delivered to these facilities by fiber or satellite and processed, compressed, encrypted and then uplinked to satellites for delivery to consumers.

In connection with the Spin-off, we entered into a broadcast agreement pursuant to which EchoStar provides certain broadcast services to us, including teleport services such as transmission and downlinking, channel origination services, and channel management services for a period ending on January 1, 2012. We may terminate channel origination services and channel management services for any reason and without any liability upon at least 60 days notice to EchoStar. If we terminate teleport services for a reason other than EchoStar's breach, we are obligated to pay EchoStar the aggregate amount of the remainder of the expected cost of providing the teleport services.

Satellites. Our DISH Network programming is currently delivered to customers using satellites that operate in the Ku band portion of the microwave radio spectrum. The Ku-band is divided into two spectrum segments. The portion of the Ku-band that allows the use of higher power satellites (12.2 to 12.7 GHz over the United States) is known as the Broadcast Satellite Service (BSS) band, which is also referred to as the Direct Broadcast Satellite (DBS) band. The portion of the Ku-band that utilizes lower power satellites (11.7 to 12.2 GHz over the United States

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is known as the Fixed Satellite Service (FSS) band.

Most of our programming is currently delivered using DBS satellites. To accommodate the more bandwidth-intensive HD programming and other needs, we continue to explore opportunities to expand our satellite capacity through the acquisition of new spectrum, the launching of more technologically advanced satellites, and the more efficient use of existing spectrum via, among other things, better modulation and compression technologies.

We own or lease capacity on 13 satellites in geostationary orbit approximately 22,300 miles above the equator. For further information concerning these satellites and satellite anomalies, please see the table and discussion under **Satellites** below.

Conditional Access System. Our conditional access system secures our programming content using encryption so that only paying customers can access our programming. We use microchips embedded in credit card-sized access

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cards, called smart cards, or security chips in our receiver systems to control access to authorized programming content (Security Access Devices).

Our signal encryption has been compromised in the past and may be compromised in the future even though we continue to respond with significant investment in security measures, such as Security Access Device replacement programs and updates in security software, that are intended to make signal theft more difficult. It has been our prior experience that security measures may only be effective for short periods of time or not at all and that we remain susceptible to additional signal theft. During 2009, we completed the replacement of our Security Access Devices and re-secured our system. We expect additional future replacements of these devices will be necessary to keep our system secure. We cannot ensure that we will be successful in reducing or controlling theft of our programming content and we may incur additional costs in the future if our system's security is compromised.

Distribution Channels

While we offer receiver systems and programming through direct sales channels, a majority of our new subscriber acquisitions are generated through independent third parties such as small satellite retailers, direct marketing groups, local and regional consumer electronics stores, nationwide retailers, and telecommunications companies. In general, we pay these independent third parties a mix of upfront and monthly incentives to solicit orders for our services. In addition, we partner with telecommunications companies to bundle DISH Network programming with broadband and voice services on a single bill.

Competition

As of December 31, 2010, our 14.133 million subscribers represent approximately 15% of pay-TV subscribers in the United States. We face substantial competition from established pay-TV providers and increasing competition from companies providing/facilitating the delivery of video content via the Internet to computers, televisions, and mobile devices.

- *Other Direct Broadcast Satellite Operators.* We compete directly with the DirecTV Group, Inc., or DirecTV, the largest satellite TV provider in the U.S. which had over 19.2 million subscribers at the end of 2010, representing approximately 20% of pay-TV subscribers.
- *Cable Television Companies.* We encounter substantial competition in the pay-TV industry from numerous cable television companies that operate via franchise licenses across the U.S. According to the National Cable & Telecommunications Association's 2009 Industry Overview, 98% of the 130 million U.S. housing units are passed by cable. More than 95 million households subscribe to a pay-TV service and approximately 63% of pay-TV subscribers receive their programming from a cable operator. Cable companies are typically able to bundle their video services with broadband Internet access and voice services and many have significant investments in companies that provide programming content.

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- *Telecommunications Companies.* Large telecommunications companies have upgraded older copper wire lines with fiber optic lines in their larger markets. These fiber optic lines provide high capacity bandwidth, enabling telecommunications companies to offer video content that can be bundled with their broadband Internet access and voice services. In particular, AT&T and Verizon have built fiber-optic based networks to provide video services in substantial portions of their service areas.
- *Internet Delivered Video.* We face competition from content providers who distribute video directly to consumers over the Internet. Programming offered over the Internet has become more prevalent as the speed and quality of broadband networks have improved. Significant changes in consumer behavior with regard to the means by which they obtain video entertainment and information in response to this emerging digital media competition could materially adversely affect our business, results of operations and financial condition or otherwise disrupt our business.
- *Wireless Mobile Video.* We also expect to face increasing competition from wireless telecommunications providers who offer mobile video offerings. We expect mobile video offerings will likely become more prevalent in the marketplace as wireless telecommunications providers implement the fourth generation of wireless communications.

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Acquisition of New Subscribers

We incur significant upfront costs to acquire subscribers, including advertising, retailer incentives, equipment and installation. In addition, customer promotions to acquire new subscribers result in less revenue to us over the promotional period. While we attempt to recoup these upfront costs over the lives of their subscriptions, there can be no assurance that we will. We deploy business rules such as credit requirements and contractual commitments, and we strive to provide outstanding customer service, to increase the likelihood of customers keeping their DISH Network service over longer periods of time. Our subscriber acquisition costs may vary significantly from period to period.

Advertising. We use print, radio, television and Internet media, on a local and national basis to motivate potential subscribers to call DISH Network, visit our website or contact independent third party retailers.

Retailer Incentives. We pay retailers an upfront incentive for each new subscriber they bring to DISH Network and, for certain retailers, we pay small monthly incentives for up to 60 months provided, among other things, the customer continuously subscribes to qualified programming.

Equipment. We incur significant upfront costs to provide our new subscribers with in-home equipment, including advanced HD and DVR receivers, which most of our new subscribers lease from us. While we seek to recoup these upfront equipment costs mostly through monthly fees, there can be no assurance that we will be successful in achieving that objective. In addition, upon deactivation of a subscriber we may refurbish and redeploy their equipment which lowers future upfront costs. However, our ability to capitalize on these cost savings may be limited as technological advances and consumer demand for new features may render the returned equipment obsolete.

Installation. We incur significant upfront costs to install satellite dishes and receivers in the homes of our new customers.

New Customer Promotions. We often offer free programming and/or promotional pricing during introductory periods for new subscribers. While such promotional activities have an economic cost and reduce our subscriber-related revenue, they are not included in our definitions of subscriber acquisition costs or the SAC metric.

Customer Retention

We incur significant costs to retain our existing customers, mostly by upgrading their equipment to HD and DVR receivers. As with our subscriber acquisition costs, our retention upgrade spending includes the cost of equipment and installation. In certain circumstances, we also offer free programming and/or promotional pricing for limited periods for existing customers in exchange for a contractual commitment. A component of our retention efforts includes the installation of equipment for customers who move. Our subscriber retention costs may vary significantly from period to period.

Customer Service

Customer Service Centers. We use both internally-operated and outsourced customer service centers to handle calls from prospective and existing customers. We strive to answer customer calls promptly and to resolve issues effectively on the first call. We intend to better use the Internet and other applications to provide our customers with more self-service capabilities over time.

Installation and Other In-Home Service Operations. High-quality installations, upgrades, and in-home repairs are critical to providing good customer service. Such in-home service is performed by both DISH Network employees and a network of independent contractors and includes, among other things, priority technical support, replacement equipment, cabling and power surge repairs for a monthly fee.

Subscriber Management. We presently use, and depend on, CSG Systems International, Inc.'s software system for the majority of DISH Network subscriber billing and related functions.

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From time to time we evaluate opportunities for strategic investments or acquisitions that may complement our current services and products, enhance our technical capabilities, improve or sustain our competitive position, or otherwise offer growth opportunities. We may make investments in or partner with others to expand our business into mobile and portable video, data and voice services.

In 2008, we paid \$712 million to acquire certain 700 MHz wireless licenses, which were granted to us by the FCC in February 2009. To commercialize these licenses and satisfy FCC build-out requirements, we will be required to make significant additional investments or partner with others. Depending on the nature and scope of such commercialization and build-out, any such investment or partnership could vary significantly. Part or all of our licenses may be terminated for failure to satisfy FCC build-out requirements. We are currently performing a market test to evaluate different technologies and consumer acceptance.

SATELLITES

Most of our programming is currently delivered using DBS satellites. We continue to explore opportunities to expand our available satellite capacity through the use of other available spectrum. Increasing our available spectrum is particularly important as more bandwidth intensive HD programming is produced and to address new video and data applications consumers may desire in the future. We currently utilize satellites in geostationary orbit approximately 22,300 miles above the equator detailed in the table below.

Satellites	Launch Date	Degree Orbital Location	Original Useful Life (Years)	Lease Term (Years)
Owned:				
EchoStar I (1)	December 1995	77	12	
EchoStar VII	February 2002	119	12	
EchoStar X	February 2006	110	12	
EchoStar XI	July 2008	110	12	
EchoStar XIV	March 2010	119	15	
EchoStar XV	July 2010	61.5	15	
Leased from EchoStar:				
EchoStar VI (1)	July 2000	77	12	
EchoStar VIII (1)(2)	August 2002	77	12	
EchoStar IX (1)(2)(3)	August 2003	121	12	
EchoStar XII (1)	July 2003	61.5	10	
Nimiq 5 (1)(2)	September 2009	72.7	10	10
Leased from Other Third Party:				
Anik F3	April 2007	118.7	15	15
Ciel II	December 2008	129	10	10
Under Construction:				
Leased from EchoStar:				

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QuetzSat-1	Late 2011	77	10	10
EchoStar XVI	2012	61.5	10	10

(1) See Note 17 in the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K for further discussion of our Related Party Agreements.

(2) We lease a portion of the capacity on these satellites.

(3) Leased on a month to month basis.

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EchoStar XIV. Our EchoStar XIV satellite was launched on March 20, 2010 and commenced commercial operations at the 119 degree orbital location during May 2010. EchoStar XIV has both spot beam capabilities and the ability to provide service to the entire continental United States (CONUS) that has allowed us, among other things, to expand our HD offerings.

EchoStar XV. Our EchoStar XV satellite was launched on July 10, 2010 and commenced commercial operations at the 61.5 degree orbital location during August 2010. EchoStar XV is a CONUS satellite that has allowed us, among other things, to expand our HD offerings. EchoStar XV is expected to be used as an in-orbit spare when EchoStar XVI commences commercial operations during the second half of 2012.

Satellites under Construction

We have agreed to lease capacity on two satellites from EchoStar that are currently under construction.

- **QuetzSat-1.** During 2008, we entered into a ten-year transponder service agreement with EchoStar to lease 24 DBS transponders on QuetzSat-1, a Mexican DBS satellite being constructed by SES Latin America S.A. (SES). QuetzSat-1 is expected to be launched during the second half of 2011 and operate at the 77 degree orbital location. Upon expiration of the initial term, we have the option to renew the transponder service agreement on a year-to-year basis through the end-of-life of the QuetzSat-1 satellite. Upon a launch failure, in-orbit failure or end-of-life of the QuetzSat-1 satellite, and in certain other circumstances, we have certain rights to receive service from EchoStar on a replacement satellite. QuetzSat-1 will enable better bandwidth utilization, provide back-up protection for our existing offerings, and could allow us to offer other value-added services.

- **EchoStar XVI.** During 2009, we entered into a ten-year transponder service agreement with EchoStar to lease all of the capacity on EchoStar XVI, a DBS satellite. EchoStar XVI will replace the satellites currently at the 61.5 degree orbital location and will allow us to offer other value-added services. We will lease all of the satellite capacity from EchoStar on EchoStar XVI after its service commencement date and this lease generally terminates upon the earlier of: (i) the end of life or replacement of the satellite; (ii) the date the satellite fails; (iii) the date the transponder(s) on which service is being provided under the agreement fails; or (iv) ten years following the actual service commencement date. Upon expiration of the initial term, we have the option to renew on a year-to-year basis through the end of life of the satellite. There can be no assurance that any options to renew this agreement will be exercised. EchoStar XVI is expected to be launched during the second half of 2012.

Satellite Anomalies

Operation of our programming service requires that we have adequate satellite transmission capacity for the programming we offer. Moreover, current competitive conditions require that we continue to expand our offering of new programming, particularly by expanding local HD coverage and offering more HD national channels. While we generally have had in-orbit satellite capacity sufficient to transmit our existing channels and some backup capacity to recover the transmission of certain critical programming, our backup capacity is limited.

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In the event of a failure or loss of any of our satellites, we may need to acquire or lease additional satellite capacity or relocate one of our other satellites and use it as a replacement for the failed or lost satellite. Such a failure could result in a prolonged loss of critical programming or a significant delay in our plans to expand programming as necessary to remain competitive and thus may have a material adverse effect on our business, financial condition and results of operations.

Prior to 2010, certain satellites in our fleet experienced anomalies, some of which have had a significant adverse impact on their remaining useful life and/or commercial operation. There can be no assurance that future anomalies will not further impact the remaining useful life and/or commercial operation of any of these satellites. See Long-Lived Satellite Assets below for further discussion of evaluation of impairment and Note 7 in the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K. There can be no assurance that we can recover critical transmission capacity in the event one or more of our in-orbit satellites were to fail. We do

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not anticipate carrying insurance for any of the in-orbit satellites that we use, and we will bear the risk associated with any in-orbit satellite failures. Recent developments with respect to certain of our satellites are discussed below.

Owned Satellites

EchoStar VII. EchoStar VII, which is being used as an in-orbit spare, was designed with four gyros, of which three are required to properly control the positioning of the satellite. During October 2010, EchoStar VII experienced an anomaly which caused one of its gyros to temporarily stop functioning. Testing during December 2010 confirmed that this gyro is functioning again. In addition, during July 2010, EchoStar VII experienced a thruster anomaly. Thrusters control spacecraft location and maintain spacecraft pointing. While these anomalies did not reduce the estimated useful life of the satellite to less than 12 years or impact commercial operation of the satellite, there can be no assurance that future anomalies will not reduce its useful life or impact its commercial operation.

EchoStar X. EchoStar X was designed with 49 spot beams which use up to 42 active 140 watt traveling wave tube amplifiers (TWTAs) and 24 solar array circuits, of which approximately 22 are required to assure full power for the original minimum 12-year useful life of the satellite. During May and September of 2010, EchoStar X experienced anomalies which affected seven solar array circuits reducing the number of functional solar array circuits to 17. While these anomalies did not reduce the estimated useful life of the satellite to less than 12 years or impact commercial operation of the satellite based on the satellite's current configuration, there can be no assurance that future anomalies will not reduce its useful life or impact its commercial operation.

Leased Satellites

EchoStar VI. EchoStar VI was designed with 108 solar array strings, of which approximately 102 are required to assure full power availability for the original minimum 12-year useful life of the satellite. During March and August of 2010, EchoStar VI experienced anomalies resulting in the loss of 24 solar array strings, reducing the number of functional solar array strings to 84. While these anomalies did not reduce the estimated useful life of the satellite to less than 12 years, commercial operation has been impacted and there can be no assurance that future anomalies will not reduce its useful life or further impact its commercial operation. The satellite was designed to operate 32 DBS transponders in CONUS at approximately 125 watts per channel, switchable to 16 DBS transponders operating at approximately 250 watts per channel. The power reduction resulting from the solar array failures currently limits us to operating 24 DBS transponders in CONUS at approximately 125 watts per channel, switchable to 12 DBS transponders operating at approximately 250 watts per channel. The number of transponders to which power can be provided is expected to decline in the future at the rate of approximately one transponder every three years.

EchoStar VIII. EchoStar VIII was designed to operate 32 DBS transponders in CONUS at approximately 120 watts per channel, switchable to 16 DBS transponders operating at approximately 240 watts per channel. EchoStar VIII was also designed with spot-beam technology. This satellite has experienced several anomalies prior to 2011, but none have reduced its useful life or impacted its commercial operation. During January 2011, the satellite experienced an anomaly, which temporarily disrupted electrical power to some components causing an interruption of broadcast service. Testing is being performed to determine if this anomaly will reduce the satellite's useful life or impact its commercial operations. There can be no assurance that this anomaly or any future anomalies will not reduce its useful life or impact its commercial operation.

Long-Lived Satellite Assets

We evaluate our satellite fleet for impairment as one asset group and test for recoverability whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. While certain of the anomalies discussed above, and previously disclosed, may be considered to represent a significant adverse change in the physical condition of an individual satellite, based on the redundancy designed within each satellite and considering the asset grouping, these anomalies are not considered to be significant events that would require evaluation for impairment recognition. Unless and until a specific satellite is abandoned or otherwise determined to have no service potential, the net carrying amount related to the satellite would not be written off.

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GOVERNMENT REGULATIONS

DBS operators are subject to significant government regulation, primarily by the FCC and, to a certain extent, by Congress, other federal agencies and foreign, state and local authorities. Depending upon the circumstances, noncompliance with legislation or regulations promulgated by these entities could result in the suspension or revocation of our licenses or registrations, the termination or loss of contracts or the imposition of contractual damages, civil fines or criminal penalties, any of which could have a material adverse effect on our business, financial condition and results of operations. Furthermore, the adoption or modification of laws or regulations relating to the Internet or other areas of our business could limit or otherwise adversely affect the manner in which we currently conduct our business. If we become subject to new regulations or legislation or new interpretations of existing regulations or legislation that govern Internet network neutrality, we may be required to incur additional expenses or alter our business model. The manner in which legislation governing Internet network neutrality may be interpreted and enforced cannot be precisely determined, which in turn could have an adverse effect on our business, financial condition and results of operations.

The following summary of regulatory developments and legislation in the United States is not intended to describe all present and proposed government regulation and legislation affecting the satellite and video programming distribution industries. Government regulations that are currently the subject of judicial or administrative proceedings, legislative hearings or administrative proposals could change our industry to varying degrees. We cannot predict either the outcome of these proceedings or any potential impact they might have on the industry or on our operations.

FCC Regulation under the Communications Act

FCC Jurisdiction over our Operations. The Communications Act gives the FCC broad authority to regulate the operations of satellite companies. Specifically, the Communications Act gives the FCC regulatory jurisdiction over the following areas relating to communications satellite operations:

- the assignment of satellite radio frequencies and orbital locations, the licensing of satellites and earth stations, the granting of related authorizations, and evaluation of the fitness of a company to be a licensee;
- approval for the relocation of satellites to different orbital locations or the replacement of an existing satellite with a new satellite;
- ensuring compliance with the terms and conditions of such assignments, licenses, authorizations and approvals; including required timetables for construction and operation of satellites;
- avoiding interference with other radio frequency emitters; and
- ensuring compliance with other applicable provisions of the Communications Act and FCC rules and regulations.

To obtain FCC satellite licenses and authorizations, satellite operators must satisfy strict legal, technical and financial qualification requirements. Once issued, these licenses and authorizations are subject to a number of conditions including, among other things, satisfaction of ongoing due diligence obligations, construction milestones, and various reporting requirements. Necessary federal approval of these

applications may not be granted, may not be granted in a timely manner, or may be granted subject to conditions which may be cumbersome.

Overview of our Satellites, Authorizations and Contractual Rights for Satellite Capacity. Our satellites are located in orbital positions, or slots, that are designated by their western longitude. An orbital position describes both a physical location and an assignment of spectrum in the applicable frequency band. Each DBS orbital position has 500 MHz of available Ku-band spectrum that is divided into 32 frequency channels. Through digital compression technology, we can currently transmit between nine and 13 standard definition digital video channels per DBS frequency channel. Several of our satellites also include spot-beam technology which enables us to increase the number of markets where we provide local channels, but reduces the number of video channels that could otherwise be offered across the entire United States.

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The FCC has licensed us to operate a total of 82 DBS frequencies at the following orbital locations:

- 21 DBS frequencies at the 119 degree orbital location, capable of providing service to CONUS;
- 29 DBS frequencies at the 110 degree orbital location, capable of providing service to CONUS; and
- 32 DBS frequencies at the 148 degree orbital location, capable of providing service to the Western United States.

We currently do not have any satellites positioned at the 148 degree orbital location as a result of the retirement of EchoStar V. While we have requested the necessary approval from the FCC for the continued use of this orbital location, there can be no assurance that the FCC will determine that our proposed future use of this orbital location complies fully with all licensing requirements.

In addition, we currently lease or have entered into agreements to lease capacity on satellites using the following spectrum at the following orbital locations:

- 500 MHz of Ku-band FSS spectrum that is divided into 32 frequency channels (each of which is capable of transmitting between five and eight standard definition digital video channels) at the 118.7 degree orbital location, which is a Canadian FSS slot that is capable of providing service to the continental United States, Alaska and Hawaii;
- 32 DBS frequencies at the 129 degree orbital location, which is a Canadian DBS slot that is capable of providing service to most of the United States;
- 32 DBS frequencies at the 61.5 degree orbital location, capable of providing service to most of the United States;
- 24 DBS frequencies at the 77 degree orbital location, which is a Mexican DBS slot that is capable of providing service to most of the United States and Mexico; and
- 32 DBS frequencies at the 72.7 degree orbital location, which is a Canadian DBS slot that is capable of providing service to the United States. We and EchoStar are currently receiving service on 23 of these DBS transponders and will receive service on the remaining nine DBS transponders over a phase-in period that will be completed in 2012.

We also have month-to-month FSS capacity available from EchoStar on satellites located at the 105 and 121 degree orbital locations.

700 MHz Spectrum. In 2008, we paid \$712 million to acquire certain 700 MHz wireless licenses, which were granted to us by the FCC in February 2009. To commercialize these licenses and satisfy FCC build-out requirements, we will be required to make significant additional investments or partner with others. Depending on the nature and scope of such commercialization and build-out, any such investment or partnership could vary significantly. Part or all of our licenses may be terminated for failure to satisfy FCC build-out requirements. We are currently performing a market test to evaluate different technologies and consumer acceptance.

Other Wireless Spectrum. In 2010, we purchased all of South.com L.L.C., which is an entity that holds Multichannel Video Distribution & Data Service (MVDDS) licenses in 37 markets in the United States.

Duration of our DBS Satellite Licenses. Generally speaking, all of our satellite licenses are subject to expiration unless renewed by the FCC. The term of each of our DBS licenses is ten years. Our licenses are currently set to expire at various times. In addition, our special temporary authorization is granted for a period of only 180 days or less, subject again to possible renewal by the FCC. Generally, our FCC licenses and special temporary authorization have been renewed by the FCC on a routine basis but, there can be no assurance that the FCC will continue to do so.

Opposition and other Risks to our Licenses. Several third parties have opposed, and we expect them to continue to oppose, some of our FCC satellite authorizations and pending requests to the FCC for extensions, modifications, waivers and approvals of our licenses. In addition, we may not have fully complied with all of the FCC reporting, filing and other requirements in connection with our satellite authorizations. Consequently, it is possible the FCC could revoke, terminate, condition or decline to extend or renew certain of our authorizations or licenses.

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FCC Actions Affecting our Licenses and Applications. A number of our other applications have been denied or dismissed without prejudice by the FCC, or remain pending. We cannot be sure that the FCC will grant any of our outstanding applications, or that the authorizations, if granted, will not be subject to onerous conditions. Moreover, the cost of building, launching and insuring a satellite can be as much as \$300 million or more. If we are unable to construct and launch any of the satellites for which we have requested authorizations, it may result in further FCC restrictions on our operations.

4.5 Degree Spacing Tweener Satellites. The FCC has proposed to allow so-called tweener DBS operations DBS satellites operating from orbital locations 4.5 degrees (half of the usual nine degrees) away from other DBS satellites. The FCC has already granted authorizations to Spectrum Five and EchoStar for tweener satellites at the 114.5 and 86.5 degree orbital locations, respectively. Certain tweener operations, as proposed, could cause harmful interference into our service and constrain our future operations. The FCC has not completed its rulemaking on the operating and service rules for tweener satellites.

Interference from Other Services Sharing Satellite Spectrum. The FCC has adopted rules that allow non-geostationary orbit fixed satellite services to operate on a co-primary basis in the same frequency band as DBS and Ku-band-based fixed satellite services. The FCC has also authorized the use of MVDDS in the DBS band. MVDDS licenses were auctioned in 2004. Despite regulatory provisions to protect DBS operations from harmful interference, there can be no assurance that operations by other satellites or terrestrial communication services in the DBS band will not interfere with our DBS operations and adversely affect our business.

International Satellite Competition and Interference. DirecTV and Spectrum Five have obtained FCC authority to provide service to the United States from a Canadian DBS orbital slot, and EchoStar has obtained authority to provide service to the United States from both a Mexican and a Canadian DBS orbital slot. Further, we have also received authority to do the same from a Canadian DBS orbital slot at 129 degrees and a Canadian FSS orbital slot at 118.7 degrees. The possibility that the FCC will allow service to the U.S. from additional foreign slots may permit additional competition against us from other satellite providers. It may also provide a means by which to increase our available satellite capacity in the United States. In addition, a number of administrations, such as Great Britain and the Netherlands, have requested to add orbital locations serving the U.S. close to our licensed slots. Such operations could cause harmful interference to our satellites and constrain our future operations.

Rules Relating to Broadcast Services. The FCC imposes different rules for subscription and broadcast services. We believe that because we offer a subscription programming service, we are not subject to many of the regulatory obligations imposed upon broadcast licensees. However, we cannot be certain whether the FCC will find in the future that we must comply with regulatory obligations as a broadcast licensee, and certain parties have requested that we be treated as a broadcaster. If the FCC determines that we are a broadcast licensee, it could require us to comply with all regulatory obligations imposed upon broadcast licensees, which in certain respects are subject to more burdensome regulation than subscription television service providers.

Public Interest Requirements. The FCC imposes certain public interest obligations on our DBS licenses. These obligations require us to set aside four percent of our channel capacity exclusively for noncommercial programming for which we must charge programmers below-cost rates and for which we may not impose additional charges on subscribers. The Satellite Television Extension and Localism Act of 2010 (STELA) requires the FCC to decrease this set-aside to 3.5 percent for satellite carriers who provide retransmission of state public affairs networks in 15 states and are otherwise qualified. The FCC, however, has not yet determined whether we qualify for this decrease in set-aside. The obligation to provide noncommercial programming may displace programming for which we could earn commercial rates and could adversely affect our financial results. We cannot be sure that, if the FCC were to review our methodology for processing public interest carriage requests, computing the channel capacity we must set aside or determining the rates that we charge public interest programmers, it would find them in compliance with the public interest requirements.

Separate Security, Plug and Play. Cable companies are required by law to separate the security from the other functionality of their set-top boxes. Set-top boxes used by DBS providers are not currently subject to such separate security requirement. However, the FCC is considering a possible expansion of that requirement to DBS set-top boxes. Also, the FCC has adopted the so-called plug and play standard for compatibility between digital television sets and cable systems. That standard was developed through negotiations involving the cable and

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consumer electronics industries, but not us. The FCC is considering various proposals to establish two-way digital cable plug and play rules. That proceeding also asks about means to incorporate all pay-TV providers into its plug and play rules. The cable industry and consumer electronics companies have reached a tru2way commercial arrangement to resolve many of the outstanding issues in this docket. We cannot predict whether the FCC will impose rules on our DBS operations that are based on cable system architectures or the private cable/consumer electronics tru2way commercial arrangement. Complying with the separate security and other plug and play requirements would require potentially costly modifications to our set-top boxes and operations. We cannot predict the timing or outcome of this FCC proceeding.

Retransmission Consent. The Copyright Act generally gives satellite companies a statutory copyright license to retransmit local broadcast channels by satellite back into the market from which they originated, subject to obtaining the retransmission consent of local network stations that do not elect must carry status, as required by the Communications Act. If we fail to reach retransmission consent agreements with such broadcasters, we cannot carry their signals. This could have an adverse effect on our strategy to compete with cable and other satellite companies that provide local signals. While we have been able to reach retransmission consent agreements with most of these local network stations, there remain stations with which we have not been able to reach an agreement. We cannot be sure that we will secure these agreements or that we will secure new agreements on acceptable terms (or at all) upon the expiration of our current retransmission consent agreements, some of which are short-term. In recent years, national broadcasters have used their ownership of certain local broadcast stations to attempt to require us to carry additional cable programming in exchange for retransmission consent of their local broadcast stations. These requirements may place constraints on available capacity on our satellites for other programming. Furthermore, the rates we are charged for retransmitting local channels have been increasing. We may be unable to pass these increased programming costs on to our customers, which could have a material adverse effect on our financial condition and results of operations.

Digital HD Carry-One, Carry-All Requirement. To provide any full-power local broadcast signal in any market, we are required to retransmit all qualifying broadcast signals in that market (carry-one, carry-all). The FCC has adopted digital carriage rules that require DBS providers to phase in carry-one, carry-all obligations with respect to the carriage of full-power broadcasters HD signals by February 2013 in markets in which DISH Network elects to provide local channels in HD. In addition, STELA has imposed accelerated HD carriage requirements for noncommercial educational stations on DBS providers that do not have a certain contractual relationship with a certain number of such stations. DISH Network has entered into an agreement with a number of PBS stations to comply with the requirements. DISH Network has also challenged the constitutionality of this provision but has not prevailed in its effort to obtain temporary injunctive relief. The carriage of additional HD signals on our DBS system could cause us to experience significant capacity constraints and prevent us from carrying additional popular national programs and/or carrying those national programs in HD.

In addition, there is a pending rulemaking before the FCC regarding whether to require DBS providers to carry all broadcast stations in a local market in both standard definition and HD if they carry any station in that market in both standard definition and HD. If we were required to carry multiple versions of each broadcast station, we would have to dedicate more of our finite satellite capacity to each broadcast station. We cannot predict the outcome or timing of that rulemaking process.

Distant Signals. Pursuant to STELA, we have been able to obtain a waiver of a court injunction that previously prevented us from retransmitting certain distant network signals under a statutory copyright license. Because of that waiver, we may once again provide distant network signals to eligible subscribers. To qualify for that waiver, we are required to provide local service in all 210 local markets in the U.S. on an ongoing basis. This condition poses a significant strain on our capacity. Moreover, we may lose that waiver if we are found to have failed to provide local service in any of the 210 local markets. If we lose the waiver, the injunction could be reinstated. Furthermore, depending on the severity of the failure, we may also be subject to other sanctions, which may include, among other things, damages. Our compliance with certain conditions for the waiver is subject to examination and review.

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Dependence on Cable Act for Program Access. We purchase a large percentage of our programming from cable-affiliated programmers. The provisions of the Cable Act of 1992, as amended (" Cable Act "), prohibiting exclusive contracting practices with cable-affiliated programmers, were extended for another five-year period in September 2007. Cable companies appealed the FCC ' s decision, and while that decision was upheld by the United States Court

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of Appeals for the District of Columbia Circuit (D.C. Circuit) in March 2010, that court indicated if the market continues to evolve, it is expected that the exclusivity prohibition may no longer be necessary. Any change in the Cable Act and the FCC's rules that permit the cable industry or cable-affiliated programmers to discriminate against competing businesses, such as ours, in the sale of programming could adversely affect our ability to acquire cable-affiliated programming at all or to acquire programming on a cost-effective basis. As a result, we may be limited in our ability to obtain access on nondiscriminatory terms to programming from programmers that are affiliated with cable system operators. In the case of certain types of programming affiliated with Comcast, Time-Warner Cable, and Liberty, the terms of access to the programming are subject to arbitration if we and the programmer cannot reach agreement on terms, subject to FCC review. We cannot be sure that this procedure will result in favorable terms for us or that the FCC conditions that establish this procedure will be allowed to expire on their own terms.

In addition, affiliates of certain cable providers have denied us access to sports programming they feed to their cable systems terrestrially, rather than by satellite. The FCC recently held that new denials of such service are unfair if they have the purpose or effect of significantly hindering us from providing programming to consumers. However, we cannot be sure that we can prevail in a complaint related to such programming and gain access to it. Our continuing failure to access such programming could materially and adversely affect our ability to compete in regions serviced by these cable providers.

MDU Exclusivity. The FCC has found that cable companies should not be permitted to have exclusive relationships with multiple dwelling units (e.g., apartment buildings). In May 2009, the D.C. Circuit upheld the FCC's decision. While the FCC requested comments in November 2007 on whether DBS and Private Cable Operators (PCOs) should be prohibited from having similar relationships with multiple dwelling units, it has yet to make a formal decision. If the cable exclusivity ban were to be extended to DBS providers, our ability to serve these types of buildings and communities would be adversely affected. We cannot predict the timing or outcome of the FCC's consideration of this proposal.

Net Neutrality. The FCC has recently imposed rules of nondiscrimination and transparency upon wireline broadband providers. While this decision provides certain protection from discrimination by wireline broadband providers against our distribution of video content via the Internet, it may still permit wireline broadband providers to provide certain services over their wireline broadband network that are not subject to these requirements. Although the FCC imposed similar transparency requirements on wireless broadband providers, it declined to impose the same nondiscrimination rule. Instead, wireless broadband Internet providers are prohibited from blocking websites and applications that compete with voice and video telephony services. The FCC's net neutrality rules have been challenged in federal court and could be overturned if those challenges are successful. Furthermore, it is uncertain how these requirements may be interpreted and enforced by the FCC; therefore, we cannot predict the practical effect of these rules on our ability to distribute our video content via the Internet.

Comcast/NBC Universal Transaction. Comcast and General Electric have joined their programming properties, including NBC, Bravo and many others, in a venture to be controlled by Comcast. In January 2011, the transaction was approved by the FCC and the Department of Justice. The FCC conditioned its approval on, among other things, Comcast complying with the terms of the FCC's recent order on network neutrality (even if that order is vacated by judicial or legislative action) and Comcast licensing its affiliated content to us, other traditional pay-TV providers and certain providers of video services over the Internet on fair and nondiscriminatory terms and conditions, including, among others, price. If Comcast does not license its affiliated content to us on fair and nondiscriminatory terms and conditions, we can seek arbitration and continue to carry such content while the arbitration is pending. However, it is uncertain how these conditions may be interpreted and enforced by the FCC; therefore, we cannot predict the practical effect of these conditions.

The International Telecommunication Union

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Our DBS system also must conform to the ITU broadcasting satellite service plan for Region 2 (which includes the United States). If any of our operations are not consistent with this plan, the ITU will only provide authorization on a non-interference basis pending successful modification of the plan or the agreement of all affected administrations to the non-conforming operations. Accordingly, unless and until the ITU modifies its broadcasting satellite service plan to include the technical parameters of DBS applicants' operations, our satellites, along with those of other DBS operators, must not cause harmful electrical interference with other assignments that are in conformance with the

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plan. Further, certain of our DBS satellites are not presently entitled to any protection from other satellites that are in conformance with the plan.

Export Control Regulation

The delivery of satellites and related technical information for the purpose of launch by foreign launch services providers is subject to strict export control and prior approval requirements.

PATENTS AND OTHER INTELLECTUAL PROPERTY

Many entities, including some of our competitors, have or may in the future obtain patents and other intellectual property rights that cover or affect products or services that we offer. In general, if a court determines that one or more of our products or services infringes on intellectual property held by others, we may be required to cease developing or marketing those products or services, to obtain licenses from the holders of the intellectual property at a material cost, or to redesign those products or services in such a way as to avoid infringing the patent claims. If those intellectual property rights are held by a competitor, we may be unable to obtain the intellectual property at any price, which could adversely affect our competitive position.

We may not be aware of all intellectual property rights that our products or services may potentially infringe. In addition, patent applications in the United States are confidential until the Patent and Trademark Office either publishes the application or issues a patent (whichever arises first) and, accordingly, our products may infringe claims contained in pending patent applications of which we are not aware. Further, the process of determining definitively whether a claim of infringement is valid often involves expensive and protracted litigation, even if we are ultimately successful on the merits.

We cannot estimate the extent to which we may be required in the future to obtain intellectual property licenses or the availability and cost of any such licenses. Those costs, and their impact on our results of operations, could be material. Damages in patent infringement cases may also be trebled in certain circumstances. To the extent that we are required to pay unanticipated royalties to third parties, these increased costs of doing business could negatively affect our liquidity and operating results. We are currently defending multiple patent infringement actions. We cannot be certain the courts will conclude these companies do not own the rights they claim, that our products do not infringe on these rights, that we would be able to obtain licenses from these persons on commercially reasonable terms or, if we were unable to obtain such licenses, that we would be able to redesign our products to avoid infringement. See Item 3. Legal Proceedings.

ENVIRONMENTAL REGULATIONS

We are subject to the requirements of federal, state, local and foreign environmental and occupational safety and health laws and regulations. These include laws regulating air emissions, water discharge and waste management. We attempt to maintain compliance with all such requirements. We do not expect capital or other expenditures for environmental compliance to be material in 2011 or 2012. Environmental requirements are complex, change frequently and have become more stringent over time. Accordingly, we cannot provide assurance that these

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requirements will not change or become more stringent in the future in a manner that could have a material adverse effect on our business.

SEGMENT REPORTING DATA AND GEOGRAPHIC AREA DATA

Following the Spin-off, we operate in only one reportable segment, the DISH Network segment, which provides a DBS subscription television service in the United States.

EMPLOYEES

We had approximately 22,000 employees at December 31, 2010, most of whom are located in the United States. We generally consider relations with our employees to be good.

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Approximately 64 employees in three of our field offices have voted to have a union represent them in contract negotiations. While we are not currently a party to any collective bargaining agreements, we are currently negotiating collective bargaining agreements at these offices.

WHERE YOU CAN FIND MORE INFORMATION

We are subject to the informational requirements of the Exchange Act and accordingly file our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy statements and other information with the SEC. The public may read and copy any materials filed with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, D.C. 20549. Please call the SEC at (800) SEC-0330 for further information on the operation of the Public Reference Room. As an electronic filer, our public filings are also maintained on the SEC's Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. The address of that website is <http://www.sec.gov>.

WEBSITE ACCESS

Our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act also may be accessed free of charge through our website as soon as reasonably practicable after we have electronically filed such material with, or furnished it to, the SEC. The address of that website is <http://www.dishnetwork.com>.

We have adopted a written code of ethics that applies to all of our directors, officers and employees, including our principal executive officer and senior financial officers, in accordance with Section 406 of the Sarbanes-Oxley Act of 2002 and the rules of the SEC promulgated thereunder. Our code of ethics is available on our corporate website at <http://www.dishnetwork.com>. In the event that we make changes in, or provide waivers of, the provisions of this code of ethics that the SEC requires us to disclose, we intend to disclose these events on our website.

EXECUTIVE OFFICERS OF THE REGISTRANT

(furnished in accordance with Item 401 (b) of Regulation S-K, pursuant to General Instruction G(3) of Form 10-K)

The following table and information below sets forth the name, age and position with DISH Network of each of our executive officers, the period during which each executive officer has served as such, and each executive officer's business experience during the past five years:

Name	Age	Position
Charles W. Ergen	57	Chairman, President, Chief Executive Officer and Director
W. Erik Carlson	41	Executive Vice President, DNS and Service Operations
Thomas A. Cullen	51	Executive Vice President, Sales, Marketing and Programming
James DeFranco	58	Executive Vice President and Director

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R. Stanton Dodge	43	Executive Vice President, General Counsel and Secretary
Bernard L. Han	46	Executive Vice President and Chief Operating Officer
Michael Kelly	49	Executive Vice President, Direct, Commercial and Advertising Sales
Roger J. Lynch	48	Executive Vice President, Advanced Technologies
Robert E. Olson	51	Executive Vice President and Chief Financial Officer
Stephen W. Wood	52	Executive Vice President, Human Resources

Charles W. Ergen. Mr. Ergen has been Chairman of the Board of Directors and Chief Executive Officer of DISH Network since its formation and, during the past five years, has held various executive officer and director positions with DISH Network's subsidiaries. Mr. Ergen also serves as Chairman of EchoStar. Mr. Ergen was appointed President of DISH Network in February 2008. Mr. Ergen, along with his spouse, Cantey Ergen, and James DeFranco, was a co-founder of DISH Network in 1980.

W. Erik Carlson. Mr. Carlson has served as our Executive Vice President, DNS and Service Operations since February 2008 and is responsible for overseeing our residential and commercial installations, customer billing and equipment retrieval and refurbishment operations. Mr. Carlson previously was Senior Vice President of Retail

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Services, a position he held since mid-2006. He joined DISH Network in 1995 and has held progressively larger operating roles over the years.

Thomas A. Cullen. Mr. Cullen has served as our Executive Vice President, Sales, Marketing and Programming since April 2009. Mr. Cullen served as our Executive Vice President, Corporate Development from December 2006 until April 2009. Before joining DISH Network, Mr. Cullen served as President of TensorComm, a venture-backed wireless technology company. From August 2003 to April 2005, Mr. Cullen was with Charter Communications Inc. (Charter), serving as Senior Vice President, Advanced Services and Business Development from August 2003 until he was promoted to Executive Vice President in August 2004.

James DeFranco. Mr. DeFranco is one of our Executive Vice Presidents and has been one of our vice presidents and a member of the Board of Directors since our formation. During the past five years he has held various executive officer and director positions with our subsidiaries. Mr. DeFranco co-founded DISH Network with Charles W. Ergen and Cantey Ergen, in 1980.

R. Stanton Dodge. Mr. Dodge has served as our Executive Vice President, General Counsel and Secretary of DISH Network since June 2007 and is responsible for legal and government affairs, human resources and corporate communication for DISH Network and its subsidiaries. Mr. Dodge also serves as EchoStar's Executive Vice President, General Counsel and Secretary and is responsible for all legal and government affairs for EchoStar and its subsidiaries pursuant to a management services agreement between DISH Network and EchoStar. Since joining DISH Network in November 1996, he has held various positions of increasing responsibility in DISH Network's legal department.

Bernard L. Han. Mr. Han has served as our Executive Vice President and Chief Operating Officer since April 2009 and is in charge of operations, information technology, accounting and finance functions of DISH Network. Mr. Han served as Executive Vice President and Chief Financial Officer of DISH Network from September 2006 until April 2009. Mr. Han also served as EchoStar's Executive Vice President and Chief Financial Officer from January 2008 to June 2010 pursuant to a management services agreement between DISH Network and EchoStar. From October 2002 to May 2005, Mr. Han served as Executive Vice President and Chief Financial Officer of Northwest Airlines, Inc.

Michael Kelly. Mr. Kelly is currently the Executive Vice President, Direct, Commercial and Advertising Sales. Mr. Kelly served as the Executive Vice President of DISH Network Service L.L.C. and Customer Service from February 2004 until December 2005.

Roger J. Lynch. Mr. Lynch has served as our Executive Vice President, Advanced Technologies since November 2009. Mr. Lynch also serves as Executive Vice President, Advanced Technologies at EchoStar. Prior to joining DISH Network, Mr. Lynch served as Chairman and CEO of Video Networks International, Ltd., an IPTV technology company in the United Kingdom from 2002 until 2009.

Robert E. Olson. Mr. Olson has served as our Executive Vice President and Chief Financial Officer since April 2009. Mr. Olson was the Chief Financial Officer of Trane Commercial Systems, the largest operating division of American Standard, from April 2006 to August 2008. From April 2003 to January 2006, Mr. Olson served as the Chief Financial Officer of AT&T's Consumer Services division and later its Business Services division.

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Stephen W. Wood. Mr. Wood has served as our Executive Vice President, Human Resources since May 2006 and is responsible for all human resource functions of DISH Network and its subsidiaries. Prior to joining DISH Network, Mr. Wood served as an Executive Vice President for Gate Gourmet International from 2004 to 2006.

There are no arrangements or understandings between any executive officer and any other person pursuant to which any executive officer was selected as such. Pursuant to the Bylaws of DISH Network, executive officers serve at the discretion of the Board of Directors.

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Item 1A. RISK FACTORS

The risks and uncertainties described below are not the only ones facing us. Additional risks and uncertainties that we are unaware of or that we currently believe to be immaterial may also become important factors that affect us.

If any of the following events occur, our business, financial condition or results of operations could be materially and adversely affected.

We face intense and increasing competition from satellite and cable television providers, telecommunications companies and providers of video content via the Internet, especially as the pay-TV industry matures, which may require us to increase subscriber acquisition and retention spending or accept lower subscriber acquisitions and higher subscriber churn.

Our business is focused on providing pay-TV services and we have traditionally competed against satellite and cable television providers, some of whom have greater financial, marketing and other resources than we do. Many of these competitors offer video services bundled with broadband, telephony services, HD offerings, interactive services and video on demand services that consumers may find attractive. Moreover, mergers and acquisitions, joint ventures and alliances among cable television providers, telecommunications companies and others may result in, among other things, greater financial leverage and increase the availability of offerings from providers capable of bundling television, broadband and telephone services in competition with our services. We and our competitors increasingly must seek to attract a greater proportion of new subscribers from each other's existing subscriber bases rather than from first-time purchasers of pay-TV services. In addition, because other pay-TV providers may be seeking to attract a greater proportion of their new subscribers from our existing subscriber base we may be required to increase retention spending.

Competition has intensified in recent quarters as the pay-TV industry matures and the growth of video being delivered via the Internet and fiber-based pay-TV services offered by telecommunications companies such as Verizon and AT&T continues. These fiber-based pay-TV services have significantly greater capacity, enabling the telecommunications companies to offer substantial HD programming content as well as bundled services. In addition, the recent growth of video content being delivered via the Internet has made alternatives to traditional pay-TV services available to customers. This increasingly competitive environment may require us to increase subscriber acquisition and retention spending or accept lower subscriber acquisitions and higher subscriber churn.

Competition from digital media companies that provide/facilitate the delivery of video content via the Internet, could materially adversely affect us.

Our business is focused on pay-TV services, and we face competition from providers of digital media, including those companies that offer online services distributing movies, television shows and other video programming. Moreover, new technologies have been, and will likely continue to be, developed that further increase the number of competitors we face with respect to video services. For example, online platforms that provide for the distribution and viewing of video programming compete with our pay-TV services. These online platforms may cause our subscribers to disconnect our services. In addition, even if our subscribers do not disconnect our services, they may purchase a certain portion of the services that they would have historically purchased from us through these online platforms, such as pay per view movies, resulting in less revenue to us. Some of these companies have greater financial, marketing and other resources than we do. In particular, programming offered over the Internet has become more prevalent as the speed and quality of broadband and wireless networks have improved. In addition,

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consumers are spending an increasing amount of time accessing video content via the Internet on their mobile devices. These technological advancements and changes in consumer behavior with regard to the means by which they obtain video content could materially adversely affect our business, results of operations and financial condition or otherwise disrupt our business.

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If we are unsuccessful in overturning the District Court's ruling on Tivo's motion for contempt, we are not successful in developing and deploying potential new alternative technology and we are unable to reach a license agreement with Tivo on reasonable terms, we would be subject to substantial liability and would be prohibited from offering DVR functionality that would result in a significant loss of subscribers and place us at a significant disadvantage to our competitors.

In June 2009, the United States District Court granted Tivo's motion for contempt finding that our next-generation DVRs continue to infringe Tivo's intellectual property and awarded Tivo an additional \$103 million in supplemental damages and interest for the period from September 2006 through April 2008. In September 2009, the District Court partially granted Tivo's motion for contempt sanctions. In partially granting Tivo's motion for contempt sanctions, the District Court awarded \$2.25 per DVR subscriber per month for the period from April 2008 to July 2009 (as compared to the award for supplemental damages for the prior period from September 2006 to April 2008, which was based on an assumed \$1.25 per DVR subscriber per month). By the District Court's estimation, the total award for the period from April 2008 to July 2009 is approximately \$200 million (the enforcement of the award has been stayed by the District Court pending DISH Network's appeal of the underlying June 2009 contempt order). As previously disclosed, we increased our accrual for the Tivo litigation to reflect both the supplemental damages award for the period September 2006 to April 2008 and for the estimated cost of alleged software infringement for the period from April 2008 through June 2009.

If we are unsuccessful in overturning the District Court's ruling on Tivo's motion for contempt, we are not successful in developing and deploying potential new alternative technology and we are unable to reach a license agreement with Tivo on reasonable terms, we may be required to eliminate DVR functionality in all but approximately 192,000 digital set-top boxes in the field and cease distribution of digital set-top boxes with DVR functionality. In that event we would be at a significant disadvantage to our competitors who could continue offering DVR functionality, which would likely result in a significant decrease in new subscriber additions as well as a substantial loss of current subscribers. Furthermore, the inability to offer DVR functionality could cause certain of our distribution channels to terminate or significantly decrease their marketing of DISH Network services. The adverse effect on our financial position and results of operations if the District Court's contempt order is upheld is likely to be significant. Additionally, the awards described above do not include damages, contempt sanctions or interest for the period after June 2009. In the event that we are unsuccessful in our appeal, we could also have to pay substantial additional damages, contempt sanctions and interest. Depending on the amount of any additional damage or sanction award or any monetary settlement, we may be required to raise additional capital at a time and in circumstances in which we would normally not raise capital. Therefore, any capital we raise may be on terms that are unfavorable to us, which might adversely affect our financial position and results of operations and might also impair our ability to raise capital on acceptable terms in the future to fund our own operations and initiatives. We believe the cost of such capital and its terms and conditions may be substantially less attractive than our previous financings.

If we are successful in overturning the District Court's ruling on Tivo's motion for contempt, but unsuccessful in defending against any subsequent claim in a new action that our original alternative technology or any potential new alternative technology infringes Tivo's patent, we could be prohibited from distributing DVRs or could be required to modify or eliminate our then-current DVR functionality in some or all set-top boxes in the field. In that event we would be at a significant disadvantage to our competitors who could continue offering DVR functionality and the adverse effect on our business would be material. We could also have to pay substantial additional damages.

Because both we and EchoStar are defendants in the Tivo lawsuit, we and EchoStar are jointly and severally liable to Tivo for any final damages and sanctions that may be awarded by the District Court. We have determined that we are obligated under the agreements entered into in connection with the Spin-off to indemnify EchoStar for substantially all liability arising from this lawsuit. EchoStar contributed an amount equal to its \$5 million intellectual property liability limit under the Receiver Agreement. We and EchoStar have further agreed that EchoStar's \$5 million contribution would not exhaust EchoStar's liability to us for other intellectual property claims that may arise under the Receiver Agreement. We and EchoStar also agreed that we would each be entitled to joint ownership of, and a cross-license to use, any intellectual property developed in connection with any potential new alternative technology.

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If we do not improve our operational performance and customer satisfaction, our gross new subscriber additions may decrease and our subscriber churn may increase.

If we are unable to improve our operational performance and customer satisfaction, we may experience a decrease in gross new subscriber additions and an increase in churn, which could have a material adverse effect on our business, financial condition and results of operations. To address our operational inefficiencies, we need to continue to make significant investments in staffing, training, information systems, and other initiatives, primarily in our call center and in-home service operations. These investments are intended to help combat inefficiencies introduced by the increasing complexity of our business, improve customer satisfaction, reduce churn, increase productivity, and allow us to scale better over the long run. We cannot, however, be certain that our spending will ultimately be successful in addressing our operational inefficiencies. In the meantime, we may continue to incur higher costs as a result of both our operational inefficiencies and levels of spending. While we believe that these costs will be outweighed by longer-term benefits, there can be no assurance when or if we will realize these benefits at all.

If DISH Network gross new subscriber additions decrease, or if subscriber churn, subscriber acquisition costs or retention costs increase, our financial performance will be adversely affected.

We have not always met and may continue to fail to meet our own standards for performing high-quality installations, effectively resolving subscriber issues when they arise, answering subscriber calls in an acceptable timeframe, effectively communicating with our subscriber base, reducing calls driven by the complexity of our business, improving the reliability of certain systems and subscriber equipment, and aligning the interests of certain third party retailers and installers to provide high-quality service.

Most of these factors have affected both gross new subscriber additions as well as existing subscriber churn. Our future gross new subscriber additions and subscriber churn may continue to be negatively impacted by these factors, which could in turn adversely affect our revenue growth and results of operations.

We may incur increased costs to acquire new and retain existing subscribers. Our subscriber acquisition costs could increase as a result of increased spending for advertising and the installation of more HD and DVR receivers, which are generally more expensive than other receivers. Meanwhile, retention costs may be driven higher by a faster rate of upgrading existing subscribers' equipment to HD and DVR receivers. Additionally, certain of our promotions, including, among others, pay-in-advance, allow consumers with relatively lower credit scores to become subscribers. These subscribers typically churn at a higher rate.

Our subscriber acquisition costs and our subscriber retention costs can vary significantly from period to period and can cause material variability to our net income (loss) and free cash flow. Any material increase in subscriber acquisition or retention costs from current levels could have a material adverse effect on our business, financial position and results of operations.

Economic weakness, including higher unemployment and reduced consumer spending, may adversely affect our ability to grow or maintain our business.

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A substantial majority of our revenue comes from residential customers whose spending patterns may be affected by sustained economic weakness and uncertainty. Economic weakness and uncertainty persisted during 2010. Our ability to grow or maintain our business may be adversely affected by sustained economic weakness and uncertainty, including the effect of wavering consumer confidence, high unemployment and other factors that may adversely affect the pay-TV industry. In particular, economic weakness and uncertainty could result in the following:

- ***Fewer gross new subscriber additions and increased churn.*** We could face fewer gross new subscriber additions and increased churn due to, among other things: (i) the sustained weak housing market in the United States combined with lower discretionary spending; (ii) increased price competition for our products and services; and (iii) the potential loss of retailers, who generate a significant portion of our new subscribers, because many of them are small businesses that are more susceptible to the negative effects of economic weakness. In particular, subscriber churn may increase with respect to subscribers who purchase

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our lower tier programming packages and who may be more sensitive to sustained economic weakness, including, among others, our pay-in-advance subscribers.

- ***Lower average monthly revenue per subscriber (ARPU).*** Our ARPU could be negatively impacted by more aggressive introductory offers by our competitors and the growth of video content being delivered via the Internet. Furthermore, due to lower levels of disposable income, our customers may downgrade to lower cost programming packages, elect not to purchase premium services or pay per view movies or may disconnect our services and choose to replace them with less expensive alternatives such as video content delivered via the Internet, including, among others, video on demand.
- ***Higher subscriber acquisition and retention costs.*** Our profits may be adversely affected by increased subscriber acquisition and retention costs necessary to attract and retain subscribers during a period of economic weakness.

Programming expenses are increasing and could adversely affect our future financial condition and results of operations.

Our programming costs currently represent the largest component of our total expense and we expect these costs to continue to increase. The pay-TV industry has continued to experience an increase in the cost of programming, especially local broadcast channels and sports programming. Our ability to compete successfully will depend on our ability to continue to obtain desirable programming and deliver it to our subscribers at competitive prices.

When offering new programming, or upon expiration of existing contracts, programming suppliers have historically attempted to increase the rates they charge us for programming. We expect this practice to continue, which, if successful, would increase our programming costs. As a result, our margins may face further pressure if we are unable to renew our long-term programming contracts on favorable pricing and other economic terms.

In addition, increases in programming costs could cause us to increase the rates that we charge our subscribers, which could in turn cause our existing subscribers to disconnect our service or cause potential new subscribers to choose not to subscribe to our service. Therefore, we may be unable to pass increased programming costs on to our customers, which could have a material adverse effect on our financial condition and results of operations.

We depend on others to provide the programming that we offer to our subscribers and, if we lose access to this programming, our gross new subscriber additions may decline and subscriber churn may increase.

We depend on third parties to provide us with programming services. Our programming agreements have remaining terms ranging from less than one to up to several years and contain various renewal and cancellation provisions. We may not be able to renew these agreements on favorable terms or at all, and these agreements may be canceled prior to expiration of their original term. Certain programmers have, in the past, temporarily limited our access to their programming. For example, during the fourth quarter of 2010, our gross subscriber activations and

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subscriber churn were negatively impacted as a result of multiple programming interruptions related to contract disputes with several content providers. If we are unable to renew any of these agreements or the other parties cancel the agreements, there can be no assurance that we would be able to obtain substitute programming, or that such substitute programming would be comparable in quality or cost to our existing programming. In addition, loss of access to programming could have a material adverse effect on our business, financial condition and results of operations, including, among other things, our gross subscriber additions and subscriber churn rate.

We may be required to make substantial additional investments to maintain competitive programming offerings.

We believe that the availability and extent of HD programming continues to be a significant factor in consumers' choice among pay-TV providers. Other pay-TV providers may have more successfully marketed and promoted their HD programming packages and may also be better equipped and have greater resources to increase their HD offerings to respond to increasing consumer demand for this content. In addition, even though it remains a small portion of the market, consumer demand for 3D televisions and programming will likely increase in the future. We may be required to make substantial additional investments in infrastructure to respond to competitive pressure to

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deliver additional programming, and there can be no assurance that we will be able to compete effectively with programming offerings from other pay-TV providers.

Technology in our industry changes rapidly and could cause our services and products to become obsolete. We may have to upgrade or replace subscriber equipment and make substantial investments in our infrastructure to remain competitive.

Technology in the pay-TV industry changes rapidly as new technologies are developed, which could cause our services and products to become obsolete. Our operating results are dependent to a significant extent upon our ability to continue to introduce new products and services on a timely basis and to reduce costs of our existing products and services. We may not be able to successfully identify new product or service opportunities or develop and market these opportunities in a timely or cost-effective manner. The success of new product development depends on many factors, including proper identification of customer need, cost, timely completion and introduction, differentiation from offerings of competitors and market acceptance. New technologies could also create new competitors for us. For instance, we face increasing consumer demand for the delivery of digital video services via the Internet, including providing TV Everywhere. We expect to continue to face increased threats from companies who use the Internet to deliver digital video services as the speed and quality of broadband and wireless networks continues to improve.

We and our suppliers may not be able to keep pace with technological developments. If the new technologies on which we intend to focus our research and development investments fail to achieve acceptance in the marketplace, our competitive position could be negatively impacted causing a reduction in our revenues and earnings. We may also be at a competitive disadvantage in developing and introducing complex new products and technologies because of the substantial costs we may incur in making these products or technologies available across our installed base of over 14 million subscribers. For example, our competitors could use proprietary technologies that are perceived by the market as being superior. Further, after we have incurred substantial costs, one or more of the technologies under our development, or under development by one or more of our strategic partners, could become obsolete prior to it being widely adopted. In addition, delays in the delivery of components or other unforeseen problems associated with our technology may occur that could materially and adversely affect our ability to generate revenue, offer new services and remain competitive.

Technological innovation is important to our success and depends, to a significant degree, on the work of technically skilled employees. We rely on EchoStar to design and develop set-top boxes with advanced features and functionality and solutions for providing digital video services via the Internet. If EchoStar is unable to attract and retain appropriately technically skilled employees, our competitive position could be materially and adversely affected.

In addition, our competitive position depends in part on our ability to offer new subscribers and upgrade existing subscribers with more advanced equipment, such as receivers with DVR and HD technology and by otherwise making additional infrastructure investments, such as those related to our information technology and call centers. Furthermore, the continued demand for HD programming continues to require investments in additional satellite capacity. We may not be able to pass on to our subscribers the entire cost of these upgrades and infrastructure investments.

Increased distribution of video content via the Internet could expose us to regulatory risk.

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As a result of recent updates to certain of our programming agreements which allow us to, among other things, deliver certain authenticated content via the Internet, we are increasingly distributing content to our subscribers via the Internet. The ability to continue this strategy may depend in part on the FCC's success in implementing rules prohibiting discrimination of content that is distributed over the networks owned by broadband and wireless Internet providers. For more information, see Item 1. Business Government Regulations FCC Regulations under the Communications Act Net Neutrality of this Annual Report on Form 10-K.

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Our business depends on certain intellectual property rights and on not infringing the intellectual property rights of others.

We rely on our patents, copyrights, trademarks and trade secrets, as well as licenses and other agreements with our vendors and other parties, to use our technologies, conduct our operations and sell our products and services. Legal challenges to our intellectual property rights and claims of intellectual property infringement by third parties could require that we enter into royalty or licensing agreements on unfavorable terms, incur substantial monetary liability or be enjoined preliminarily or permanently from further use of the intellectual property in question or from the continuation of our businesses as currently conducted, which could require us to change our business practices or limit our ability to compete effectively or could have an adverse effect on our results of operations. Even if we believe any such challenges or claims are without merit, they can be time-consuming and costly to defend and divert management's attention and resources away from our business. Moreover, because of the rapid pace of technological change, we rely on technologies developed or licensed by third parties, and if we are unable to obtain or continue to obtain licenses from these third parties on reasonable terms, our business, financial position and results of operations could be adversely affected.

Any failure or inadequacy of our information technology infrastructure could harm our business.

The capacity, reliability and security of our information technology hardware and software infrastructure (including our billing systems) are important to the operation of our current business, which would suffer in the event of system failures. Likewise, our ability to expand and update our information technology infrastructure in response to our growth and changing needs is important to the continued implementation of our new service offering initiatives. Our inability to expand or upgrade our technology infrastructure could have adverse consequences, which could include the delayed implementation of new service offerings, service or billing interruptions, and the diversion of development resources. For example, during 2011, we expect to begin implementing new interactive voice response, scheduling of in-home service and customer care systems. During 2011, we also plan to begin development and testing of a new billing system that is likely to be installed in 2012. We are relying on third parties for developing key components of these systems and ongoing service after their implementation. Third parties may experience errors or disruptions that could adversely impact us and over which we may have limited control. Interruption, failure and/or delay in transitioning to any of these new systems could disrupt our operations and damage our reputation thus adversely impacting our ability to provide our services, retain our current subscribers and attract new subscribers. As a result, an unsuccessful transition to these new systems could have a material adverse effect on our business, financial condition and results of operations.

In addition, although we take protective measures and endeavor to modify them as circumstances warrant, our information technology hardware and software infrastructure may be vulnerable to unauthorized access, misuse, computer viruses or other malicious code and other events that could have a security impact. If one or more of such events occur, this potentially could jeopardize our customer and other information processed and stored in, and transmitted through, our information technology hardware and software infrastructure, or otherwise cause interruptions or malfunctions in our operations, which could result in significant losses or reputational damage. We may be required to expend significant additional resources to modify our protective measures or to investigate and remediate vulnerabilities or other exposures, and we may be subject to litigation and financial losses.

We may need additional capital, which may not be available on acceptable terms or at all, to continue investing in our business and to finance acquisitions and other strategic transactions.

We may need to raise additional capital in the future, which may not be available on acceptable terms or at all, to among other things, continue investing in our business, construct and launch new satellites, and to pursue acquisitions and other strategic transactions.

Furthermore, weakness in the equity markets could make it difficult for us to raise equity financing without incurring substantial dilution to our existing shareholders. In addition, sustained economic weakness or weak results of operations may limit our ability to generate sufficient internal cash to fund these investments, capital expenditures, acquisitions and other strategic transactions. As a result, these conditions make it difficult for us to

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accurately forecast and plan future business activities because we may not have access to funding sources necessary for us to pursue organic and strategic business development opportunities.

If Voom prevails in its breach of contract suit against us, we could be required to pay substantial damages, which would have a material adverse affect on our financial position and results of operations.

In January 2008, Voom HD Holdings (Voom) filed a lawsuit against us in New York Supreme Court, alleging breach of contract and other claims arising from our termination of the affiliation agreement governing carriage of certain Voom HD channels on the DISH Network satellite TV service. At that time, Voom also sought a preliminary injunction to prevent us from terminating the agreement. The Court denied Voom's request, finding, among other things, that Voom had not demonstrated that it was likely to prevail on the merits. In April 2010, we and Voom each filed motions for summary judgment. Voom later filed two motions seeking discovery sanctions. On November 9, 2010, the Court issued a decision denying both motions for summary judgment, but granting Voom's motions for discovery sanctions. The Court's decision provides for an adverse inference jury instruction at trial and precludes our damages expert from testifying at trial. We appealed the grant of Voom's motion for discovery sanctions to the New York State Supreme Court, Appellate Division, First Department. On February 15, 2011, the appellate Court granted our motion to stay the trial pending our appeal. Voom is claiming over \$2.5 billion in damages. If we are unsuccessful in our suit with Voom, we may be required to pay substantial damages, which would have a material adverse affect on our financial position and results of operations.

A portion of our investment portfolio is invested in securities that have experienced limited or no liquidity and may not be immediately accessible to support our financing needs.

A portion of our investment portfolio is invested in auction rate securities, mortgage backed securities, and strategic investments, and as a result a portion of our portfolio has restricted liquidity. Liquidity in the markets for these investments has been adversely impacted. If the credit ratings of these securities deteriorate or the lack of liquidity in the marketplace continues, we may be required to record impairment charges. Moreover, the sustained uncertainty of domestic and global financial markets has greatly affected the volatility and value of our marketable investment securities. To the extent we require access to funds, we may need to sell these securities under unfavorable market conditions, record further impairment charges and fall short of our financing needs.

We rely on EchoStar to design and develop all of our new set-top boxes and certain related components, and to provide transponder capacity, digital broadcast operations and other services to us. Our business would be adversely affected if EchoStar ceases to provide these services to us and we are unable to obtain suitable replacement services from third parties.

EchoStar is our sole supplier of digital set-top boxes and digital broadcast operations. In addition, EchoStar is a key supplier of transponder capacity and related services to us. Our digital set-top box purchases are made and digital broadcast operations are received pursuant to contracts that generally expire on January 1, 2012. EchoStar has no obligation to supply digital set-top boxes or digital broadcast operations to us after that date. We may be unable to renew agreements for digital set-top boxes or digital broadcast operations with EchoStar on acceptable terms or at all. Equipment, transponder leasing and digital broadcast operation costs may increase beyond our current expectations. EchoStar's inability to develop and produce, or our inability to obtain, equipment with the latest technology, or our inability to obtain transponder capacity and digital broadcast operations and other services from third parties, could affect our subscriber acquisition and churn and cause related revenue to decline.

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Furthermore, due to the lack of compatibility of our infrastructure with the set-top boxes of a provider other than EchoStar, any transition to a new supplier of set-top boxes could take a significant period of time to complete, cause us to incur significant costs and negatively affect our gross new subscriber additions and subscriber churn. For example, the proprietary nature of the Sling technology and certain other technology used in EchoStar's set-top boxes may significantly limit our ability to obtain set-top boxes with the same or similar features from any other provider of set-top boxes.

If we were to switch to another provider of set-top boxes, we may have to implement additional infrastructure to support the set-top boxes purchased from such new provider, which could significantly increase our costs. In

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addition, differences in, among other things, the user interface between set-top boxes provided by EchoStar and those of any other provider could cause subscriber confusion, which could increase our costs and have a material adverse effect on our gross new subscriber additions and subscriber churn. Furthermore, switching to a new provider of set-top boxes may cause a reduction in our supply of set-top boxes and thus delay our ability to ship set-top boxes, which could have a material adverse effect on our gross new subscriber additions and subscriber churn rate.

We rely on one or a limited number of vendors, and the inability of these key vendors to meet our needs could have a material adverse effect on our business.

We have contracted with a limited number of vendors to provide certain key products or services to us such as information technology support, billing systems, and security access devices. Our dependence on these vendors makes our operations vulnerable to such third parties' failure to perform adequately. In addition, we have historically relied on a single source for certain items. If these vendors are unable to meet our needs because they are no longer in business, they are experiencing shortages or they discontinue a certain product or service we need, our business, financial position and results of operations may be adversely affected. Our inability to develop alternative sources quickly and on a cost-effective basis could materially impair our ability to timely deliver our products to our subscribers or operate our business. Furthermore, our vendors may request changes in pricing, payment terms or other contractual obligations between the parties, which could cause us to make substantial additional investments.

Our programming signals are subject to theft, and we are vulnerable to other forms of fraud that could require us to make significant expenditures to remedy.

Increases in theft of our signal or our competitors' signals could, in addition to reducing new subscriber activations, also cause subscriber churn to increase. We use microchips embedded in credit card-sized cards, called smart cards, or security chips in our receiver systems to control access to authorized programming content (Security Access Devices).

Our signal encryption has been compromised in the past and may be compromised in the future even though we continue to respond with significant investment in security measures, such as Security Access Device replacement programs and updates in security software, that are intended to make signal theft more difficult. It has been our prior experience that security measures may only be effective for short periods of time or not at all and that we remain susceptible to additional signal theft. During 2009, we completed the replacement of our Security Access Devices and re-secured our system. We expect additional future replacements of these devices will be necessary to keep our system secure. We cannot ensure that we will be successful in reducing or controlling theft of our programming content and we may incur additional costs in the future if our system's security is compromised.

We are also vulnerable to other forms of fraud. While we are addressing certain fraud through a number of actions, including terminating retailers that we believe were in violation of DISH Network's business rules, there can be no assurance that we will not continue to experience fraud which could impact our subscriber growth and churn. Sustained economic weakness may create greater incentive for signal theft and other forms of fraud, which could lead to higher subscriber churn and reduced revenue.

We depend on third parties to solicit orders for DISH Network services that represent a significant percentage of our total gross subscriber acquisitions.

Most of our retailers are not exclusive to us and may favor our competitors' products and services over ours based on the relative financial arrangements associated with selling our products and those of our competitors. Furthermore, most of these retailers are significantly smaller than we are and may be more susceptible to sustained economic weaknesses that make it more difficult for them to operate profitably. Because our retailers receive most of their incentive value at activation and not over an extended period of time, our interests in obtaining and retaining subscribers through good customer service may not always be aligned with our retailers. It may be difficult to better align our interests with our resellers because of their capital and liquidity constraints. Loss of these relationships could have an adverse effect on our subscriber base and certain of our other key operating metrics because we may not be able to develop comparable alternative distribution channels.

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Our competitors may be able to leverage their relationships with programmers so that they are able to reduce their programming costs and offer exclusive content that will place them at a competitive advantage to us.

The cost of programming represents the largest percentage of our overall costs. Certain of our competitors own directly or are affiliated with companies that own programming content that may enable them to obtain lower programming costs or offer exclusive programming that may be attractive to prospective subscribers. Unlike our larger cable and satellite competitors, we have not made significant investments in programming providers. For example, Comcast and General Electric have joined their programming properties, including NBC, Bravo and many others that are available in the majority of our programming packages, in a venture to be controlled by Comcast. This transaction may affect us adversely by, among other things, making it more difficult for us to obtain access to their programming networks on nondiscriminatory and fair terms, or at all. The transaction was approved by the FCC and the Department of Justice in January 2011. The FCC conditioned its approval on, among other things, Comcast complying with the terms of the FCC's recent order on network neutrality (even if that order is vacated by judicial or legislative action) and Comcast licensing its affiliated content to us, other traditional pay-TV providers and certain providers of video services over the Internet on fair and nondiscriminatory terms and conditions, including, among others, price. If Comcast does not license its affiliated content to us on fair and nondiscriminatory terms and conditions, we can seek arbitration and continue to carry such content while the arbitration is pending. However, it is uncertain how these conditions may be interpreted and enforced by the FCC; therefore, we cannot predict the practical effect of these conditions.

We depend on the Cable Act for access to programming from cable-affiliate programmers at cost-effective rates.

We purchase a large percentage of our programming from cable-affiliated programmers. The provisions of the Cable Act prohibiting exclusive contracting practices with cable-affiliated programmers were extended for another five-year period in September 2007. Cable companies appealed the FCC's decision, and while that decision was upheld by the D.C. Circuit in March 2010, that court indicated if the market continues to evolve, it is expected that the exclusivity prohibition may no longer be necessary. Any change in the Cable Act and the FCC's rules that permit the cable industry or cable-affiliated programmers to discriminate against competing businesses, such as ours, in the sale of programming could adversely affect our ability to acquire cable-affiliated programming at all or to acquire programming on a cost-effective basis. As a result, we may be limited in our ability to obtain access on nondiscriminatory terms to programming from programmers that are affiliated with cable system operators. In the case of certain types of programming affiliated with Comcast, Time-Warner Cable, and Liberty, the terms of access to the programming are subject to arbitration if we and the programmer cannot reach agreement on terms, subject to FCC review. We cannot be sure that this procedure will result in favorable terms for us or that the FCC conditions that establish this procedure will be allowed to expire on their own terms.

In addition, affiliates of certain cable providers have denied us access to sports programming they feed to their cable systems terrestrially, rather than by satellite. The FCC recently held that new denials of such service are unfair if they have the purpose or effect of significantly hindering us from providing programming to consumers. However, we cannot be sure that we can prevail in a complaint related to such programming, and gain access to it. Our continuing failure to access such programming could materially and adversely affect our ability to compete in regions serviced by these cable providers.

We face increasing competition from other distributors of foreign language programming that may limit our ability to maintain our foreign language programming subscriber base.

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We face increasing competition from other distributors of foreign language programming, including programming distributed over the Internet. There can be no assurance that we will maintain subscribers in our foreign language programming services. In addition, the increasing availability of foreign language programming from our competitors, which in certain cases has resulted from our inability to renew programming agreements on an exclusive basis or at all, could contribute to an increase in our subscriber churn. Our agreements with distributors of foreign language programming have varying expiration dates, and some agreements are on a month-to-month basis. There can be no assurance that we will be able to grow or maintain our foreign language programming subscriber base.

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Our local programming strategy faces uncertainty because we may not be able to obtain necessary retransmission consents at acceptable rates from local network stations.

The Copyright Act generally gives satellite companies a statutory copyright license to retransmit local broadcast channels by satellite back into the market from which they originated, subject to obtaining the retransmission consent of local network station that do not elect to must carry status, as required by the Communications Act. If we fail to reach retransmission consent agreements with such broadcasters, we cannot carry their signals. This could have an adverse effect on our strategy to compete with cable and other satellite companies that provide local signals. While we have been able to reach retransmission consent agreements with most of these local network stations, there remain stations with which we have not been able to reach an agreement. We cannot be sure that we will secure these agreements or that we will secure new agreements on acceptable terms (or at all) upon the expiration of our current retransmission consent agreements, some of which are short-term. In recent years, national broadcasters have used their ownership of certain local broadcast stations to require us to carry additional cable programming in exchange for retransmission consent of their local broadcast stations. These requirements may place constraints on available capacity on our satellites for other programming. Furthermore, the rates we are charged for retransmitting local channels have been increasing. We may be unable to pass these increased programming costs on to our customers, which could have a material adverse effect on our financial condition and results of operations.

The injunction against our retransmission of distant networks, currently waived, may be reinstated.

Pursuant to STELA, we have been able to obtain a waiver of a court injunction that previously prevented us from retransmitting certain distant network signals under a statutory copyright license. Because of that waiver, we may once again provide distant network signals to eligible subscribers. To qualify for that waiver, we are required to provide local service in all 210 local markets in the U.S. on an ongoing basis. This condition poses a significant strain on our capacity. Moreover, we may lose that waiver if we are found to have failed to provide local service in any of the 210 local markets. If we lose the waiver, the injunction could be reinstated. Furthermore, depending on the severity of the failure, we may also be subject to other sanctions, which may include, among other things, damages. Our compliance with certain conditions for the waiver is subject to examination and review.

We are subject to significant regulatory oversight and changes in applicable regulatory requirements, including any adoption or modification of laws or regulations relating to the Internet, which could adversely affect our business.

DBS operators are subject to significant government regulation, primarily by the FCC and, to a certain extent, by Congress, other federal agencies and foreign, state and local authorities. Depending upon the circumstances, noncompliance with legislation or regulations promulgated by these entities could result in the suspension or revocation of our licenses or registrations, the termination or loss of contracts or the imposition of contractual damages, civil fines or criminal penalties, any of which could have a material adverse effect on our business, financial condition and results of operations. Furthermore, the adoption or modification of laws or regulations relating to the Internet or other areas of our business could limit or otherwise adversely affect the manner in which we currently conduct our business. If we become subject to new regulations or legislation or new interpretations of existing regulations or legislation that govern Internet network neutrality, we may be required to incur additional expenses or alter our business model. The manner in which legislation governing Internet network neutrality may be interpreted and enforced cannot be precisely determined, which in turn could have an adverse effect on our business, financial condition and results of operations. You should review the regulatory disclosures under the caption *Item 1. Business Government Regulation FCC Regulation under the Communication Act* of this Annual Report on Form 10-K.

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We have made a substantial investment in certain 700 MHz wireless licenses and will be required to make significant additional investments or partner with others to commercialize these licenses.

In 2008, we paid \$712 million to acquire certain 700 MHz wireless licenses, which were granted to us by the FCC in February 2009. To commercialize these licenses and satisfy FCC build-out requirements, we will be required to make significant additional investments or partner with others. Depending on the nature and scope of such

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commercialization and build-out, any such investment or partnership could vary significantly. Part or all of our licenses may be terminated for failure to satisfy FCC build-out requirements. We are currently performing a market test to evaluate different technologies and consumer acceptance.

There can be no assurance that we will be able to develop and implement a business model that will realize a return on these investments and profitably deploy the spectrum represented by the 700 MHz licenses.

Furthermore, the fair values of wireless licenses may vary significantly in the future. In particular, valuation swings could occur if:

- consolidation in the wireless industry allows or requires wireless carriers to sell significant portions of their wireless spectrum holdings, which could in turn reduce the value of our spectrum holdings; or
- a sudden large sale of spectrum by one or more wireless providers occurs.

In addition, the fair value of wireless licenses could decline as a result of the FCC's pursuit of policies, including auctions, designed to increase the number of wireless licenses available in each of our markets. If the fair value of our 700 MHz licenses were to decline significantly, the value of our 700 MHz licenses could be subject to non-cash impairment charges. We assess potential impairments to our indefinite-lived intangible assets, including our 700 MHz licenses annually to determine whether there is evidence that events or changes in circumstances indicate that an impairment condition may exist.

We have substantial debt outstanding and may incur additional debt.

As of December 31, 2010, our total debt, including the debt of our subsidiaries, was \$6.515 billion. Our debt levels could have significant consequences, including:

- requiring us to devote a substantial portion of our cash to make interest and principal payments on our debt, thereby reducing the amount of cash available for other purposes. As a result, we would have limited financial and operating flexibility in responding to changing economic and competitive conditions;
- limiting our ability to raise additional debt because it may be more difficult for us to obtain debt financing on attractive terms; and

- placing us at a disadvantage compared to our competitors that have less debt.

In addition, we may incur substantial additional debt in the future. The terms of the indentures relating to our senior notes permit us to incur additional debt. If new debt is added to our current debt levels, the risks we now face could intensify.

We have limited owned and leased satellite capacity and failures or reduced capacity could adversely affect our business.

Operation of our programming service requires that we have adequate satellite transmission capacity for the programming we offer. Moreover, current competitive conditions require that we continue to expand our offering of new programming, particularly by expanding local HD coverage and offering more HD national channels. While we generally have had in-orbit satellite capacity sufficient to transmit our existing channels and some backup capacity to recover the transmission of certain critical programming, our backup capacity is limited.

Our ability to earn revenue depends on the usefulness of our satellites, each of which has a limited useful life. A number of factors affect the useful lives of the satellites, including, among other things, the quality of their construction, the durability of their component parts, the ability to continue to maintain proper orbit and control over the satellite's functions, the efficiency of the launch vehicle used, and the remaining on-board fuel following orbit insertion. Generally, the minimum design life of each of our satellites ranges from 12 to 15 years. We can provide no assurance, however, as to the actual useful lives of the satellites. Our operating results could be adversely affected if the useful life of any of our satellites were significantly shorter than 12 years from the launch date.

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In the event of a failure or loss of any of our satellites, we may need to acquire or lease additional satellite capacity or relocate one of our other satellites and use it as a replacement for the failed or lost satellite, any of which could have a material adverse effect on our business, financial condition and results of operations. Such a failure could result in a prolonged loss of critical programming or a significant delay in our plans to expand programming as necessary to remain competitive. A relocation would require FCC approval and, among other things, a showing to the FCC that the replacement satellite would not cause additional interference compared to the failed or lost satellite. We cannot be certain that we could obtain such FCC approval. If we choose to use a satellite in this manner, this use could adversely affect our ability to meet the operation deadlines associated with our authorizations. Failure to meet those deadlines could result in the loss of such authorizations, which would have an adverse effect on our ability to generate revenues.

Our owned and leased satellites are subject to construction, launch, operational and environmental risks that could limit our ability to utilize these satellites.

Construction and launch risks. A key component of our business strategy is our ability to expand our offering of new programming and services, including increased local and HD programming. To accomplish this goal, we need to construct and launch satellites. Satellite construction and launch is subject to significant risks, including construction and launch delays, launch failure and incorrect orbital placement. Certain launch vehicles that may be used by us have either unproven track records or have experienced launch failures in the recent past. The risks of launch delay and failure are usually greater when the launch vehicle does not have a track record of previous successful flights. Launch failures result in significant delays in the deployment of satellites because of the need both to construct replacement satellites, which can take more than three years, and to obtain other launch opportunities. Significant construction or launch delays could materially and adversely affect our ability to generate revenues. If we were unable to obtain launch insurance, or obtain launch insurance at rates we deem commercially reasonable, and a significant launch failure were to occur, it could have a material adverse effect on our ability to generate revenues and fund future satellite procurement and launch opportunities.

In addition, the occurrence of future launch failures may delay the deployment of our satellites and materially and adversely affect our ability to insure the launch of our satellites at commercially reasonable premiums, if at all. Please see further discussion under the caption *We generally do not have commercial insurance coverage on the satellites we use and could face significant impairment charges if one of our satellites fails* below.

Operational risks. Satellites are subject to significant operational risks while in orbit. These risks include malfunctions, commonly referred to as anomalies, that have occurred in our satellites and the satellites of other operators as a result of various factors, such as satellite manufacturers errors, problems with the power systems or control systems of the satellites and general failures resulting from operating satellites in the harsh environment of space.

Although we work closely with the satellite manufacturers to determine and eliminate the cause of anomalies in new satellites and provide for redundancies of many critical components in the satellites, we may experience anomalies in the future, whether of the types described above or arising from the failure of other systems or components.

Any single anomaly or series of anomalies could materially and adversely affect our operations and revenues and our relationship with current customers, as well as our ability to attract new customers for our multi-channel video services. In particular, future anomalies may result in the loss of individual transponders on a satellite, a group of transponders on that satellite or the entire satellite, depending on the nature of the anomaly. Anomalies may also reduce the expected useful life of a satellite, thereby reducing the channels that could be offered using that satellite, or create additional expenses due to the need to provide replacement or back-up satellites. You should review the disclosures relating

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to satellite anomalies set forth under Note 7 in the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K.

Environmental risks. Meteoroid events pose a potential threat to all in-orbit satellites. The probability that meteoroids will damage those satellites increases significantly when the Earth passes through the particulate stream left behind by comets. Occasionally, increased solar activity also poses a potential threat to all in-orbit satellites.

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Some decommissioned spacecraft are in uncontrolled orbits which pass through the geostationary belt at various points, and present hazards to operational spacecraft, including our satellites. We may be required to perform maneuvers to avoid collisions and these maneuvers may prove unsuccessful or could reduce the useful life of the satellite through the expenditure of fuel to perform these maneuvers. The loss, damage or destruction of any of our satellites as a result of an electrostatic storm, collision with space debris, malfunction or other event could have a material adverse effect on our business, financial condition and results of operations.

We generally do not have commercial insurance coverage on the satellites we use and could face significant impairment charges if one of our satellites fails.

Generally, we do not carry launch or in-orbit insurance on the satellites we use. We currently do not carry in-orbit insurance on any of our satellites and generally do not use commercial insurance to mitigate the potential financial impact of launch or in-orbit failures because we believe that the cost of insurance premiums is uneconomical relative to the risk of such failures. If one or more of our in-orbit satellites fail, we could be required to record significant impairment charges.

We may have potential conflicts of interest with EchoStar due to our common ownership and management.

Questions relating to conflicts of interest may arise between EchoStar and us in a number of areas relating to our past and ongoing relationships. Areas in which conflicts of interest between EchoStar and us could arise include, but are not limited to, the following:

- ***Cross officerships, directorships and stock ownership.*** We have significant overlap in directors and executive officers with EchoStar, which may lead to conflicting interests. Two of our officers provide management services to EchoStar pursuant to a management services agreement between EchoStar and us and two executive officers are employees of both us and EchoStar. These individuals may have actual or apparent conflicts of interest with respect to matters involving or affecting each company. Furthermore, our Board of Directors and executive officers include persons who are members of the Board of Directors of EchoStar, including Charles W. Ergen, who serves as the Chairman of EchoStar and us. The executive officers and the members of our Board of Directors who overlap with EchoStar have fiduciary duties to EchoStar's shareholders. For example, there is the potential for a conflict of interest when we or EchoStar look at acquisitions and other corporate opportunities that may be suitable for both companies. In addition, certain of our directors and officers own EchoStar stock and options to purchase EchoStar stock, which they acquired or were granted prior to the Spin-off of EchoStar from us, including Mr. Ergen, who owns approximately 43.8% of the total equity (assuming conversion of only the Class B Common Stock held by Mr. Ergen into Class A Common Stock) and controls approximately 56.0% of the voting power of EchoStar. Mr. Ergen's beneficial ownership of EchoStar excludes 18,900,405 shares of its Class A Common Stock issuable upon conversion of shares of its Class B Common Stock currently held by certain trusts established by Mr. Ergen for the benefit of his family. These trusts beneficially own approximately 33.5% of EchoStar's total equity securities (assuming conversion of only the Class B Common Stock held by such trusts into Class A Common Stock) and possess approximately 36.7% of EchoStar's total voting power. These ownership interests could create actual, apparent or potential conflicts of interest when these individuals are faced with decisions that could have different implications for us and EchoStar.
- ***Intercompany agreements related to the Spin-off.*** We have entered into certain agreements with EchoStar pursuant to which we provide EchoStar with certain management, administrative, accounting, tax, legal and other services, for which EchoStar pays us our cost plus a fixed margin. In addition, we have entered into a number of intercompany agreements covering matters such as tax sharing and EchoStar's responsibility for certain liabilities previously undertaken by us for certain of EchoStar's businesses. We have also entered into certain commercial agreements with EchoStar pursuant to which EchoStar, among other things, sells set-top boxes and related equipment to us at

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specified prices. The terms of certain of these agreements were established while EchoStar was a wholly-owned subsidiary of us and were not the result of arm's length negotiations. The allocation of assets, liabilities, rights, indemnifications and other obligations between EchoStar and us under the separation and other intercompany agreements we entered into with EchoStar in connection with the Spin-off of EchoStar may have been different if agreed to by two unaffiliated parties. Had these agreements been negotiated with unaffiliated third parties, their terms may have been more favorable, or less favorable, to us. In addition, conflicts could arise between us and EchoStar in the interpretation or any extension or renegotiation of these existing agreements.

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- *Additional intercompany transactions.* EchoStar or its affiliates have and will continue to enter into transactions with us or our subsidiaries or other affiliates. Although the terms of any such transactions will be established based upon negotiations between EchoStar and us and, when appropriate, subject to the approval of a committee of the non-interlocking directors or in certain instances non-interlocking management, there can be no assurance that the terms of any such transactions will be as favorable to us or our subsidiaries or affiliates as may otherwise be obtained between unaffiliated parties.
- *Business opportunities.* We have retained interests in various companies that have subsidiaries or controlled affiliates that own or operate domestic or foreign services that may compete with services offered by EchoStar. We may also compete with EchoStar when we participate in auctions for spectrum or orbital slots for our satellites. In addition, EchoStar may in the future use its satellites, uplink and transmission assets to compete directly against us in the subscription television business.

We may not be able to resolve any potential conflicts, and, even if we do so, the resolution may be less favorable to us than if we were dealing with an unaffiliated party.

We also do not have any agreements with EchoStar that would prevent either company from competing with the other.

We rely on key personnel and the loss of their services may negatively affect our businesses.

We believe that our future success will depend to a significant extent upon the performance of Charles W. Ergen, our Chairman, President and Chief Executive Officer and certain other executives. The loss of Mr. Ergen or of certain other key executives could have a material adverse effect on our business, financial condition and results of operations. Although all of our executives have executed agreements limiting their ability to work for or consult with competitors if they leave us, we do not have employment agreements with any of them. Pursuant to a management services agreement with EchoStar entered into at the time of the Spin-off, two of our officers provide services to EchoStar. In addition, Roger J. Lynch also serves as Executive Vice President, Advanced Technologies of EchoStar. To the extent Mr. Lynch and such other officers are performing services for EchoStar, this may divert their time and attention away from our business and may therefore adversely affect our business.

We are party to various lawsuits which, if adversely decided, could have a significant adverse impact on our business, particularly lawsuits regarding intellectual property.

We are subject to various legal proceedings and claims which arise in the ordinary course of business, including among other things, disputes with programmers regarding fees. Many entities, including some of our competitors, have or may in the future obtain patents and other intellectual property rights that cover or affect products or services related to those that we offer. In general, if a court determines that one or more of our products or services infringes on intellectual property held by others, we may be required to cease developing or marketing those products or services, to obtain licenses from the holders of the intellectual property at a material cost, or to redesign those products or services in such a way as to avoid infringing the intellectual property. If those intellectual property rights are held by a competitor, we may be unable to obtain the intellectual property at any price, which could adversely affect our competitive position. Please see further discussion under *Item 1. Business – Patents and Trademarks* of this Annual Report on Form 10-K.

We may not be aware of all intellectual property rights that our services or the products used in connection with our services may potentially infringe. In addition, patent applications in the United States are confidential until the Patent and Trademark Office issues a patent. Therefore, it is difficult to evaluate the extent to which our services or the products used in connection with our services may infringe claims contained in pending patent applications. Further, it is often not possible to determine definitively whether a claim of infringement is valid.

We may pursue acquisitions and other strategic transactions to complement or expand our business that may not be successful and we may lose up to the entire value of our investment in these acquisitions and transactions.

Our future success may depend on opportunities to buy other businesses or technologies that could complement, enhance or expand our current business or products or that might otherwise offer us growth opportunities. We may

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not be able to complete such transactions and such transactions, if executed, pose significant risks and could have a negative effect on our operations. Any transactions that we are able to identify and complete may involve a number of risks, including:

- the diversion of our management's attention from our existing business to integrate the operations and personnel of the acquired or combined business or joint venture;
- possible adverse effects on our operating results during the integration process;
- a high degree of risk involved in these transactions, which could become substantial over time, and higher exposure to significant financial losses if the underlying ventures are not successful; and
- our possible inability to achieve the intended objectives of the transaction.

In addition, we may not be able to successfully or profitably integrate, operate, maintain and manage our newly acquired operations or employees. We may not be able to maintain uniform standards, controls, procedures and policies, and this may lead to operational inefficiencies.

New acquisitions, joint ventures and other transactions may require the commitment of significant capital that would otherwise be directed to investments in our existing businesses or be distributed to shareholders. Commitment of this capital may cause us to defer or suspend any share repurchases that we otherwise may have made.

Our business depends on FCC licenses that can expire or be revoked or modified and applications for FCC licenses that may not be granted.

If the FCC were to cancel, revoke, suspend, restrict, significantly condition, or fail to renew any of our licenses or authorizations, or fail to grant our applications for FCC licenses, it could have a material adverse effect on our business, financial condition and results of operations. Specifically, loss of a frequency authorization would reduce the amount of spectrum available to us, potentially reducing the amount of services available to our subscribers. The materiality of such a loss of authorizations would vary based upon, among other things, the location of the frequency used or the availability of replacement spectrum. In addition, Congress often considers and enacts legislation that affects us and FCC proceedings to implement the Communications Act and enforce its regulations are ongoing. We cannot predict the outcomes of these legislative or regulatory proceedings or their effect on our business.

We are subject to digital HD carry-one, carry-all requirements that cause capacity constraints.

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To provide any full-power local broadcast signal in any market, we are required to retransmit all qualifying broadcast signals in that market (carry-one, carry-all). The FCC has adopted digital carriage rules that require DBS providers to phase in carry-one, carry-all obligations with respect to the carriage of full-power broadcasters HD signals by February 2013 in markets in which DISH Network elects to provide local channels in HD. In addition, STELA has imposed accelerated HD carriage requirements for noncommercial educational stations on DBS providers that do not have a certain contractual relationship with a certain number of such stations. DISH Network has entered into an agreement with a number of PBS stations to comply with the requirements. DISH Network has also challenged the constitutionality of this provision but has not prevailed in its effort to obtain temporary injunctive relief. The carriage of additional HD signals on our DBS system could cause us to experience significant capacity constraints and prevent us from carrying additional popular national programs and/or carrying those national programs in HD.

In addition, there is a pending rulemaking before the FCC regarding whether to require DBS providers to carry all broadcast stations in a local market in both standard definition and HD if they carry any station in that market in both standard definition and HD. If we were required to carry multiple versions of each broadcast station, we would have to dedicate more of our finite satellite capacity to each broadcast station. We cannot predict the outcome or timing of that rulemaking process.

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It may be difficult for a third party to acquire us, even if doing so may be beneficial to our shareholders, because of our ownership structure.

Certain provisions of our certificate of incorporation and bylaws may discourage, delay or prevent a change in control of our company that a shareholder may consider favorable. These provisions include the following:

- a capital structure with multiple classes of common stock: a Class A that entitles the holders to one vote per share, a Class B that entitles the holders to ten votes per share, a Class C that entitles the holders to one vote per share, except upon a change in control of our company in which case the holders of Class C are entitled to ten votes per share;
- a provision that authorizes the issuance of blank check preferred stock, which could be issued by our Board of Directors to increase the number of outstanding shares and thwart a takeover attempt;
- a provision limiting who may call special meetings of shareholders; and
- a provision establishing advance notice requirements for nominations of candidates for election to our Board of Directors or for proposing matters that can be acted upon by shareholders at shareholder meetings.

In addition, pursuant to our certificate of incorporation we have a significant amount of authorized and unissued stock which would allow our Board of Directors to issue shares to persons friendly to current management, thereby protecting the continuity of its management, or which could be used to dilute the stock ownership of persons seeking to obtain control of us.

We are controlled by one principal stockholder who is also our Chairman, President and Chief Executive Officer.

Charles W. Ergen, our Chairman, President and Chief Executive Officer, currently beneficially owns approximately 53.6% of our total equity securities (assuming conversion of only the Class B Common Stock held by Mr. Ergen into Class A Common Stock) and possesses approximately 90.5% of the total voting power. Mr. Ergen's beneficial ownership of shares of Class A Common Stock excludes 4,245,151 shares of Class A Common Stock issuable upon conversion of shares of Class B Common Stock currently held by certain trusts established by Mr. Ergen for the benefit of his family. These trusts beneficially own approximately 2.0% of our total equity securities (assuming conversion of only the Class B Common Stock held by such trusts into Class A Common Stock) and possess approximately 1.6% of the total voting power. Through his voting power, Mr. Ergen has the ability to elect a majority of our directors and to control all other matters requiring the approval of our stockholders. As a result, DISH Network is a controlled company as defined in the Nasdaq listing rules and is, therefore, not subject to Nasdaq requirements that would otherwise require us to have (i) a majority of independent directors; (ii) a nominating committee composed solely of independent directors; (iii) compensation of our executive officers determined by a majority of the independent directors or a compensation committee composed solely of independent directors; and (iv) director nominees selected, or recommended for the Board's selection, either by a majority of the independent directors or a nominating committee composed solely of independent directors.

There can be no assurance that there will not be deficiencies leading to material weaknesses in our internal control over financial reporting.

We periodically evaluate and test our internal control over financial reporting to satisfy the requirements of Section 404 of the Sarbanes-Oxley Act. Our management has concluded that our internal control over financial reporting was effective as of December 31, 2010. If in the future we are unable to report that our internal control over financial reporting is effective (or if our auditors do not agree with our assessment of the effectiveness of, or are unable to express an opinion on, our internal control over financial reporting), investors, customers and business partners could lose confidence in the accuracy of our financial reports, which could in turn have a material adverse effect on our business, investor confidence in our financial results may weaken, and our stock price may suffer.

We may face other risks described from time to time in periodic and current reports we file with the SEC.

Item 1B. UNRESOLVED STAFF COMMENTS

None.

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Item 2. PROPERTIES

The following table sets forth certain information concerning our principal properties, all of which are used by DISH Network, our only business segment.

Description/Use/Location	Owned	Leased From	
		EchoStar (1)	Other Third Party
Corporate headquarters, Englewood, Colorado		X	
Customer call center and general offices, Pine Brook, New Jersey			X
Customer call center and general offices, Tulsa, Oklahoma			X
Customer call center, Alvin, Texas			X
Customer call center, Bluefield, West Virginia	X		
Customer call center, Christiansburg, Virginia	X		
Customer call center, College Point, New York			X
Customer call center, Harlingen, Texas	X		
Customer call center, Hilliard, Ohio			X
Customer call center, Littleton, Colorado		X	
Customer call center, Phoenix, Arizona			X
Customer call center, Thornton, Colorado	X		
Customer call center, warehouse and service center, El Paso, Texas	X		
Service center, Englewood, Colorado		X	
Service center, Spartanburg, South Carolina			X
Warehouse and distribution center, Denver, Colorado			X
Warehouse and distribution center, Sacramento, California	X		
Warehouse, Denver, Colorado	X		
Warehouse, distribution and service center, Atlanta, Georgia			X

(1) See Note 17 in the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K for further discussion of our Related Party Agreements.

In addition to the principal properties listed above, we operate several DISH Network service centers strategically located in regions throughout the United States. Furthermore, we own or lease capacity on 13 satellites which are a major component of our DISH Network DBS System. See further discussion under Item 1. Business Satellites in this Annual Report on Form 10-K.

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Item 3. LEGAL PROCEEDINGS

In connection with the Spin-off, we entered into a separation agreement with EchoStar, which provides, among other things, for the division of certain liabilities, including liabilities resulting from litigation. Under the terms of the separation agreement, EchoStar has assumed certain liabilities that relate to its business including certain designated liabilities for acts or omissions prior to the Spin-off. Certain specific provisions govern intellectual property related claims under which, generally, EchoStar will only be liable for its acts or omissions following the Spin-off and we will indemnify EchoStar for any liabilities or damages resulting from intellectual property claims relating to the period prior to the Spin-off as well as our acts or omissions following the Spin-off.

Acacia

During 2004, Acacia Media Technologies (Acacia) filed a lawsuit against us and EchoStar in the United States District Court for the Northern District of California. The suit also named DirecTV, Comcast, Charter, Cox and a number of smaller cable companies as defendants. Acacia is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein. The suit alleges infringement of United States Patent Nos. 5,132,992; 5,253,275; 5,550,863; 6,002,720; and 6,144,702, which relate to certain systems and methods for transmission of digital data. On September 25, 2009, the District Court granted summary judgment to the defendants on invalidity grounds, and dismissed the action with prejudice. On October 8, 2010, the Federal Circuit Court of Appeals affirmed the dismissal. Acacia may no longer appeal this dismissal since their time to seek en banc review with the Federal Circuit Court of Appeals or petition the United States Supreme Court for certiorari has now expired.

Broadcast Innovation, L.L.C.

During 2001, Broadcast Innovation, L.L.C. (Broadcast Innovation) filed a lawsuit against us, DirecTV, Thomson Consumer Electronics and others in United States District Court in Denver, Colorado. Broadcast Innovation is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein. The suit alleges infringement of United States Patent Nos. 6,076,094 (the 094 patent) and 4,992,066 (the 066 patent). The 094 patent relates to certain methods and devices for transmitting and receiving data along with specific formatting information for the data. The 066 patent relates to certain methods and devices for providing the scrambling circuitry for a pay television system on removable cards. Subsequently, DirecTV and Thomson settled with Broadcast Innovation leaving us as the only defendant.

During 2004, the District Court issued an order finding the 066 patent invalid. Also in 2004, the District Court found the 094 patent invalid in a parallel case filed by Broadcast Innovation against Charter and Comcast. In 2005, the United States Court of Appeals for the Federal Circuit overturned that finding of invalidity with respect to the 094 patent and remanded the Charter case back to the District Court. During June 2006, Charter filed a reexamination request with the United States Patent and Trademark Office. The District Court has stayed the Charter case pending reexamination, and our case has been stayed pending resolution of the Charter case.

We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe any of the asserted patents, we may be subject to substantial damages, which may include treble damages, and/or an injunction that could require us to materially modify certain user-friendly features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Channel Bundling Class Action

During 2007, a purported class of cable and satellite subscribers filed an antitrust action against us in the United States District Court for the Central District of California. The suit also names as defendants DirecTV, Comcast, Cablevision, Cox, Charter, Time Warner, Inc., Time Warner Cable, NBC Universal, Viacom, Fox Entertainment Group and Walt Disney Company. The suit alleges, among other things, that the defendants engaged in a conspiracy to provide customers with access only to bundled channel offerings as opposed to giving customers the ability to purchase channels on an a la carte basis. On October 16, 2009, the District Court granted defendants

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motion to dismiss with prejudice. The plaintiffs have appealed. We intend to vigorously defend this case. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

ESPN

During 2008, we filed a lawsuit against ESPN, Inc., ESPN Classic, Inc., ABC Cable Networks Group, Soapnet L.L.C. and International Family Entertainment (collectively, "ESPN") for breach of contract in New York State Supreme Court. Our complaint alleges that ESPN failed to provide us with certain high-definition feeds of the Disney Channel, ESPN News, Toon and ABC Family. ESPN asserted a counterclaim, and then filed a motion for summary judgment, alleging that we owed approximately \$35 million under the applicable affiliation agreements. We brought a motion to amend our complaint to assert that ESPN was in breach of certain most-favored-nation provisions under the applicable affiliation agreements. On April 15, 2009, the New York State Supreme Court granted our motion to amend the complaint, and granted, in part, ESPN's motion on the counterclaim, finding that we are liable for some of the amount alleged to be owing but that the actual amount owing is disputed. We appealed the partial grant of ESPN's motion to the New York State Supreme Court, Appellate Division, First Department. After the partial grant of ESPN's motion, ESPN sought an additional \$30 million under the applicable affiliation agreements. On March 15, 2010, the New York State Supreme Court affirmed the prior grant of ESPN's motion and ruled that we owe the full amount of approximately \$65 million under the applicable affiliation agreement. There can be no assurance that ESPN will not seek, and that the New York State Supreme Court, Appellate Division, First Department will not award a higher amount. On December 29, 2010, the New York State Supreme Court, Appellate Division, First Department affirmed the partial grant of ESPN's motion on the counterclaim. However, it did not rule on the amount that we owe ESPN pursuant to its counterclaim. The appellate court will determine this amount as part of a separate proceeding. For the year ended December 31, 2010, we recorded \$42 million as a "Litigation accrual" on our Consolidated Balance Sheets and in "Litigation expense" on our Consolidated Statements of Operations and Comprehensive Income (Loss), which reflects our estimated exposure for ESPN's counterclaim. We intend to vigorously prosecute and defend this case.

Finisar Corporation

Finisar Corporation ("Finisar") obtained a \$100 million verdict in the United States District Court for the Eastern District of Texas against DirecTV for patent infringement. Finisar, an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein, alleged that DirecTV's electronic program guide and other elements of its system infringe United States Patent No. 5,404,505 (the "505 patent").

During 2006, we and EchoStar, together with NagraStar L.L.C., filed a Complaint for Declaratory Judgment in the United States District Court for the District of Delaware against Finisar that asks the Court to declare that we do not infringe, and have not infringed, any valid claim of the "505 patent." Finisar brought counterclaims against us, EchoStar and NagraStar alleging that we infringed the "505 patent." During April 2008, the Federal Circuit reversed the judgment against DirecTV and ordered a new trial. On remand, the District Court granted summary judgment in favor of DirecTV and during January 2010, the Federal Circuit affirmed the District Court's grant of summary judgment, and dismissed the action with prejudice. Finisar then agreed to dismiss its counterclaims against us, EchoStar and NagraStar without prejudice. We also agreed to dismiss our Declaratory Judgment action without prejudice.

Ganas L.L.C.

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During August 2010, Ganas, L.L.C. (Ganas) filed suit against DISH DBS Corporation, our indirect wholly owned subsidiary, Sabre Holdings Corporation, SAP America, Inc., SAS Institute Inc., Scottrade, Inc., TD Ameritrade, Inc., The Charles Schwab Corporation, Tivo Inc., Unicoi Systems Inc., Xerox Corporation, Adobe Systems Inc., AOL Inc., Apple Inc., Axibase Corporation, DirecTV, E*Trade Securities L.L.C., Exinda Networks, Fidelity Brokerage Services L.L.C., Firsttrade Securities Inc., Hewlett-Packard Company, iControl Inc., International Business Machines Corporation and JPMorgan Chase & Co. in the United States District Court for the Eastern District of Texas alleging infringement of United States Patent Nos. 7,136,913, 7,325,053, and 7,734,756. The patents relate to hypertext transfer protocol and simple object access protocol. Ganas is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein.

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We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe any of the asserted patents, we may be subject to substantial damages, which may include treble damages, and/or an injunction that could require us to materially modify certain features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Katz Communications

During 2007, Ronald A. Katz Technology Licensing, L.P. (Katz) filed a patent infringement action against us in the United States District Court for the Northern District of California. The suit alleges infringement of 19 patents owned by Katz. The patents relate to interactive voice response, or IVR, technology.

We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe any of the asserted patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to materially modify certain user-friendly features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

NorthPoint Technology

On July 2, 2009, NorthPoint Technology, Ltd. filed suit against us, EchoStar and DirecTV in the United States District Court for the Western District of Texas alleging infringement of United States Patent No. 6,208,636 (the 636 patent). The 636 patent relates to the use of multiple low-noise block converter feedhorns, or LNBFs, which are antennas used for satellite reception.

We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe the asserted patent, we may be subject to substantial damages, which may include treble damages, and/or an injunction that could require us to materially modify certain features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Olympic Developments

On January 20, 2011, Olympic Developments AG, LLC (Olympic) filed suit against us, Atlantic Broadband, Inc., Bright House Networks, LLC, Cable One, Inc., Cequel Communications Holdings I, LLC, CSC Holdings, LLC, GCI Communication Corp., Insight Communications Company, Inc., Knology, Inc., Mediacom Communications Corporation and RCN Telecom Services, LLC in the United States District Court for the Central District of California alleging infringement of United States Patent Nos. 5,475,585 and 6,246,400. The patents relate to on-demand services. Olympic is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein.

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We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe the asserted patents, we may be subject to substantial damages, which may include treble damages, and/or an injunction that could require us to materially modify certain features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Personalized Media Communications

During 2008, Personalized Media Communications, Inc. (PMC) filed suit against us, EchoStar and Motorola, Inc. in the United States District Court for the Eastern District of Texas alleging infringement of United States Patent Nos. 4,694,490; 5,109,414; 4,965,825; 5,233,654; 5,335,277; and 5,887,243, which relate to satellite signal processing. PMC is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein.

We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe any of the asserted patents, we may be subject to substantial damages, which may include treble damages, and/or an injunction

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that could require us to materially modify certain user-friendly features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Retailer Class Actions

During 2000, lawsuits were filed by retailers in Colorado state and federal courts attempting to certify nationwide classes on behalf of certain of our retailers. The plaintiffs requested that the Courts declare certain provisions of, and changes to, alleged agreements between us and the retailers invalid and unenforceable, and to award damages for lost incentives and payments, charge backs and other compensation. On September 20, 2010, we agreed to a settlement of both lawsuits that provides, among other things, for mutual releases of the claims underlying the litigation, payment by us of up to \$60 million, and the option for certain class members to elect to reinstate certain monthly incentive payments, which the parties agreed have an aggregate maximum value of \$23 million. We cannot predict with any degree of certainty how many class members will elect to reinstate these monthly incentive payments. As a result, we recorded \$60 million as a *Litigation accrual* on our Consolidated Balance Sheets and in *Litigation expense* for the year ended December 31, 2010 on our Consolidated Statements of Operations and Comprehensive Income (Loss). On February 9, 2011, the court granted final approval of the settlement; however, our payment of the settlement amount is still subject to the satisfaction of certain conditions, including the lapse of all applicable appeal periods.

Suomen Colorize Oy

During October 2010, Suomen Colorize Oy (*Suomen*) filed suit against DISH Network L.L.C., our indirect wholly owned subsidiary, and EchoStar in the United States District Court for the Middle District of Florida alleging infringement of United States Patent No. 7,277,398. Suomen is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein. The abstract of the patent states that the claims are directed to a method and terminal for providing services in a telecommunication network.

We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe the asserted patent, we may be subject to substantial damages, which may include treble damages, and/or an injunction that could require us to materially modify certain features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Technology Development Licensing

On January 22, 2009, Technology Development and Licensing L.L.C. (*TDL*) filed suit against us and EchoStar in the United States District Court for the Northern District of Illinois alleging infringement of United States Patent No. Re. 35,952, which relates to certain favorite channel features. TDL is an entity that seeks to license an acquired patent portfolio without itself practicing any of the claims recited therein. In July 2009, the Court granted our motion to stay the case pending two re-examination petitions before the Patent and Trademark Office.

We intend to vigorously defend this case. In the event that a court ultimately determines that we infringe the asserted patent, we may be subject to substantial damages, which may include treble damages, and/or an injunction that could require us to materially modify certain user-friendly

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features that we currently offer to consumers. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Tivo Inc.

During January 2008, the United States Court of Appeals for the Federal Circuit affirmed in part and reversed in part the April 2006 jury verdict concluding that certain of our digital video recorders, or DVRs, infringed a patent held by Tivo. As of September 2008, we had recorded a total accrual of \$132 million on our Consolidated Balance Sheets to reflect the April 2006 jury verdict, supplemental damages through September 2006 and pre-judgment interest awarded by the Texas court, together with the estimated cost of potential further software infringement prior to implementation of our alternative technology, discussed below, plus interest subsequent to entry of the judgment. In its January 2008 decision, the Federal Circuit affirmed the jury's verdict of infringement on Tivo's software.

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claims, and upheld the award of damages from the District Court. The Federal Circuit, however, found that we did not literally infringe Tivo's hardware claims, and remanded such claims back to the District Court for further proceedings. On October 6, 2008, the Supreme Court denied our petition for certiorari. As a result, approximately \$105 million of the total \$132 million accrual was released from an escrow account to Tivo.

We also developed and deployed next-generation DVR software. This improved software was automatically downloaded to our current customers' DVRs, and is fully operational (our original alternative technology). The download was completed as of April 2007. We received written legal opinions from outside counsel that concluded our original alternative technology does not infringe, literally or under the doctrine of equivalents, either the hardware or software claims of Tivo's patent. Tivo filed a motion for contempt alleging that we are in violation of the Court's injunction. We opposed this motion on the grounds that the injunction did not apply to DVRs that have received our original alternative technology, that our original alternative technology does not infringe Tivo's patent, and that we were in compliance with the injunction.

In June 2009, the United States District Court granted Tivo's motion for contempt, finding that our original alternative technology was not more than colorably different than the products found by the jury to infringe Tivo's patent, that our original alternative technology still infringed the software claims, and that even if our original alternative technology was non-infringing, the original injunction by its terms required that we disable DVR functionality in all but approximately 192,000 digital set-top boxes in the field. The District Court also amended its original injunction to require that we inform the court of any further attempts to design around Tivo's patent and seek approval from the court before any such design-around is implemented. The District Court awarded Tivo \$103 million in supplemental damages and interest for the period from September 2006 through April 2008, based on an assumed \$1.25 per subscriber per month royalty rate. We posted a bond to secure that award pending appeal of the contempt order. On July 1, 2009, the Federal Circuit Court of Appeals granted a permanent stay of the District Court's contempt order pending resolution of our appeal.

The District Court held a hearing on July 28, 2009 on Tivo's claims for contempt sanctions. Tivo sought up to \$975 million in contempt sanctions for the period from April 2008 to June 2009 based on, among other things, profits Tivo alleges we made from subscribers using DVRs. We opposed Tivo's request arguing, among other things, that sanctions are inappropriate because we made good faith efforts to comply with the Court's injunction. We also challenged Tivo's calculation of profits. On September 4, 2009, the District Court partially granted Tivo's motion for contempt sanctions and awarded \$2.25 per DVR subscriber per month for the period from April 2008 to July 2009 (as compared to the award for supplemental damages for the prior period from September 2006 to April 2008, which was based on an assumed \$1.25 per DVR subscriber per month). By the District Court's estimation, the total award for the period from April 2008 to July 2009 is approximately \$200 million. The District Court also awarded Tivo its attorneys' fees and costs incurred during the contempt proceedings. Enforcement of these awards has been stayed by the District Court pending resolution of our appeal of the underlying June 2009 contempt order. On February 8, 2010, we and Tivo submitted a stipulation to the District Court that the attorneys' fees and costs, including expert witness fees and costs, that Tivo incurred during the contempt proceedings amounted to \$6 million. During the year ended December 31, 2009, we increased our total accrual by \$361 million to reflect the supplemental damages and interest for the period from implementation of our original alternative technology through April 2008 and for the estimated cost of alleged software infringement (including contempt sanctions for the period from April 2008 through June 2009) for the period from April 2008 through December 2009 plus interest. During the years ended December 31, 2010 and 2009, we recorded \$124 million and \$361 million, respectively, of Litigation expense on our Consolidated Statements of Operations and Comprehensive Income (Loss). During the year ended December 31, 2008, we did not record any litigation expense related to this case. Our total accrual at December 31, 2010 was \$517 million and is included in Litigation accrual on our Consolidated Balance Sheets.

In light of the District Court's finding of contempt, and its description of the manner in which it believes our original alternative technology infringed the '389 patent, we are also developing and testing potential new alternative technology in an engineering environment. As part of EchoStar's development process, EchoStar downloaded several of our design-around options to less than 1,000 subscribers for beta testing. On March 11, 2010, we requested that the District Court approve the implementation of one of our design-around options on an expedited basis. There can be no assurance that the District Court will approve this request.

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Oral argument on our appeal of the contempt ruling took place on November 2, 2009, before a three-judge panel of the Federal Circuit Court of Appeals. On March 4, 2010, the Federal Circuit affirmed the District Court's contempt order in a 2-1 decision. On May 14, 2010, our petition for en banc review of that decision by the full Federal Circuit was granted and the opinion of the three-judge panel was vacated. Oral argument occurred on November 9, 2010. There can be no assurance that the full Federal Circuit will reverse the decision of the three-judge panel. Tivo has stated that it will seek additional damages for the period from June 2009 to the present. Although we have accrued our best estimate of damages, contempt sanctions and interest through December 31, 2010, there can be no assurance that Tivo will not seek, and that the court will not award, an amount that exceeds our accrual.

On October 6, 2010, the Patent and Trademark Office (the PTO) issued an office action confirming the validity of certain of the software claims of United States Patent No. 6,233,389 (the 389 patent). However, the PTO only confirmed the validity of the 389 patent after Tivo made statements that we believe narrow the scope of its claims. The claims that were confirmed thus should not have the same scope as the claims that we were found to have infringed and which underlie the contempt ruling that we are now appealing. Therefore, we believe that the PTO's conclusions are relevant to the issues on appeal. The PTO's conclusions support our position that our original alternative technology does not infringe and that we acted in good faith to design around Tivo's patent.

If we are unsuccessful in overturning the District Court's ruling on Tivo's motion for contempt, we are not successful in developing and deploying potential new alternative technology and we are unable to reach a license agreement with Tivo on reasonable terms, we may be required to eliminate DVR functionality in all but approximately 192,000 digital set-top boxes in the field and cease distribution of digital set-top boxes with DVR functionality. In that event we would be at a significant disadvantage to our competitors who could continue offering DVR functionality, which would likely result in a significant decrease in new subscriber additions as well as a substantial loss of current subscribers. Furthermore, the inability to offer DVR functionality could cause certain of our distribution channels to terminate or significantly decrease their marketing of DISH Network services. The adverse effect on our financial position and results of operations if the District Court's contempt order is upheld is likely to be significant. Additionally, the supplemental damage award of \$103 million and further award of approximately \$200 million does not include damages, contempt sanctions or interest for the period after June 2009. In the event that we are unsuccessful in our appeal, we could also have to pay substantial additional damages, contempt sanctions and interest. Depending on the amount of any additional damage or sanction award or any monetary settlement, we may be required to raise additional capital at a time and in circumstances in which we would normally not raise capital. Therefore, any capital we raise may be on terms that are unfavorable to us, which might adversely affect our financial position and results of operations and might also impair our ability to raise capital on acceptable terms in the future to fund our own operations and initiatives. We believe the cost of such capital and its terms and conditions may be substantially less attractive than our previous financings.

If we are successful in overturning the District Court's ruling on Tivo's motion for contempt, but unsuccessful in defending against any subsequent claim in a new action that our original alternative technology or any potential new alternative technology infringes Tivo's patent, we could be prohibited from distributing DVRs or could be required to modify or eliminate our then-current DVR functionality in some or all set-top boxes in the field. In that event we would be at a significant disadvantage to our competitors who could continue offering DVR functionality and the adverse effect on our business would be material. We could also have to pay substantial additional damages.

Because both we and EchoStar are defendants in the Tivo lawsuit, we and EchoStar are jointly and severally liable to Tivo for any final damages and sanctions that may be awarded by the District Court. We have determined that we are obligated under the agreements entered into in connection with the Spin-off to indemnify EchoStar for substantially all liability arising from this lawsuit. EchoStar contributed an amount equal to its \$5 million intellectual property liability limit under the Receiver Agreement. We and EchoStar have further agreed that EchoStar's \$5 million contribution would not exhaust EchoStar's liability to us for other intellectual property claims that may arise under the Receiver Agreement. We and EchoStar also agreed that we would each be entitled to joint ownership of, and a cross-license to use, any intellectual property developed in connection with any potential new alternative technology.

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Voom

In January 2008, Voom HD Holdings ("Voom") filed a lawsuit against us in New York Supreme Court, alleging breach of contract and other claims arising from our termination of the affiliation agreement governing carriage of certain Voom HD channels on the DISH Network satellite TV service. At that time, Voom also sought a preliminary injunction to prevent us from terminating the agreement. The Court denied Voom's request, finding, among other things, that Voom had not demonstrated that it was likely to prevail on the merits. In April 2010, we and Voom each filed motions for summary judgment. Voom later filed two motions seeking discovery sanctions. On November 9, 2010, the Court issued a decision denying both motions for summary judgment, but granting Voom's motions for discovery sanctions. The Court's decision provides for an adverse inference jury instruction at trial and precludes our damages expert from testifying at trial. We appealed the grant of Voom's motion for discovery sanctions to the New York State Supreme Court, Appellate Division, First Department. On February 15, 2011, the appellate Court granted our motion to stay the trial pending our appeal. Voom is claiming over \$2.5 billion in damages. We intend to vigorously defend this case. We cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages.

Other

In addition to the above actions, we are subject to various other legal proceedings and claims which arise in the ordinary course of business, including, among other things, disputes with programmers regarding fees. In our opinion, the amount of ultimate liability with respect to any of these actions is unlikely to materially affect our financial position, results of operations or liquidity.

PART II

Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters

Market Information. Our Class A common stock is quoted on the Nasdaq Global Select Market under the symbol "DISH". The high and low closing sale prices of our Class A common stock during 2010 and 2009 on the Nasdaq Global Select Market (as reported by Nasdaq) are set forth below. The sales prices of our Class A common stock reported below are not adjusted to reflect the dividend paid on December 2, 2009, discussed below.

2010	High	Low
First Quarter	\$ 21.80	\$ 17.75
Second Quarter	23.15	18.15
Third Quarter	20.84	17.44
Fourth Quarter	20.81	17.97

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2009		High		Low
First Quarter	\$	13.91	\$	9.07
Second Quarter		17.92		11.54
Third Quarter		19.30		14.50
Fourth Quarter		22.15		17.28

As of February 14, 2011, there were approximately 10,715 holders of record of our Class A common stock, not including stockholders who beneficially own Class A common stock held in nominee or street name. As of February 14, 2011, 234,190,057 of the 238,435,208 outstanding shares of our Class B common stock were held by Charles W. Ergen, our Chairman, President and Chief Executive Officer and the remaining 4,245,151 were held in trusts established by Mr. Ergen for the benefit of his family. There is currently no trading market for our Class B common stock.

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Dividend. On December 2, 2009, we paid a cash dividend of \$2.00 per share, or approximately \$894 million, on our outstanding Class A and Class B common stock to shareholders of record at the close of business on November 20, 2009.

While we currently do not intend to declare additional dividends on our common stock, we may elect to do so from time to time. Payment of any future dividends will depend upon our earnings and capital requirements, restrictions in our debt facilities, and other factors the Board of Directors considers appropriate. We currently intend to retain our earnings, if any, to support future growth and expansion although we expect to repurchase shares of our common stock from time to time. See further discussion under Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources in this Annual Report on Form 10-K.

Securities Authorized for Issuance Under Equity Compensation Plans. See Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters in this Annual Report on Form 10-K.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The following table provides information regarding purchases of our Class A common stock made by us for the period from October 1, 2010 through December 31, 2010.

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Approximate Dollar Value of Shares that May Yet be Purchased Under the Plans or Programs (1)
(In thousands, except share data)				
October 1, 2010 - October 31, 2010		\$		\$ 893,317
November 1, 2010		\$		\$ 893,317
November 2, 2010 - November 30, 2010		\$		\$ 1,000,000
December 1, 2010 - December 31, 2010	21,974	\$ 18.01	21,974	\$ 999,604
Total	21,974	\$ 18.01	21,974	\$ 999,604

(1) Our Board of Directors previously authorized stock repurchases of up to \$1.0 billion of our Class A common stock. On November 2, 2010, our Board of Directors extended the plan and authorized an increase in the maximum dollar value of shares that may be repurchased under the plan, such that we are currently authorized to repurchase up to \$1.0 billion of our outstanding shares of our Class A common stock through and including December 31, 2011. Purchases under our repurchase program may be made through open market purchases, privately negotiated transactions, or Rule 10b5-1 trading plans, subject to market conditions and other factors. We may elect not to purchase the maximum amount of shares allowable under this program and we may also enter into additional share repurchase programs authorized by our Board of Directors.

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Item 6. SELECTED FINANCIAL DATA

The selected consolidated financial data as of and for each of the five years ended December 31, 2010 have been derived from, and are qualified by reference to our Consolidated Financial Statements. Certain prior year amounts have been reclassified to conform to the current year presentation. See further discussion under Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations Explanation of Key Metrics and Other Items in this Annual Report on Form 10-K. This data should be read in conjunction with our Consolidated Financial Statements and related Notes thereto for the three years ended December 31, 2010, and Management's Discussion and Analysis of Financial Condition and Results of Operations included elsewhere in this report.

Balance Sheet Data	2010	2009	As of December 31, 2008 (In thousands)	2007	2006
Cash, cash equivalents and current marketable investment securities	\$ 2,940,377	\$ 2,139,336	\$ 559,132	\$ 2,788,196	\$ 3,032,570
Total assets	9,632,153	8,295,343	6,460,047	10,086,529	9,768,696
Long-term debt and capital lease obligations (including current portion)	6,514,936	6,496,564	5,007,756	6,125,704	6,967,321
Total stockholders' equity (deficit)	(1,133,443)	(2,091,688)	(1,949,106)	639,989	(219,383)

Statements of Operations Data	2010	2009	For the Years Ended December 31, 2008 (In thousands, except per share amounts)	2007	2006
Total revenue	\$ 12,640,744	\$ 11,664,151	\$ 11,617,187	\$ 11,090,375	\$ 9,818,486
Total costs and expenses	10,699,916	10,277,221	9,561,007	9,516,971	8,601,115
Operating income (loss)	\$ 1,940,828	\$ 1,386,930	\$ 2,056,180	\$ 1,573,404	\$ 1,217,371
Net income (loss) attributable to DISH Network common shareholders	\$ 984,729	\$ 635,545	\$ 902,947	\$ 756,054	\$ 608,272
Basic net income (loss) per share attributable to DISH Network common shareholders	\$ 2.21	\$ 1.42	\$ 2.01	\$ 1.69	\$ 1.37
Diluted net income (loss) per share attributable to DISH Network common shareholders	\$ 2.20	\$ 1.42	\$ 1.98	\$ 1.68	\$ 1.37
Cash dividend per common share	\$	\$ 2.00	\$	\$	\$

Other Data	2010	2009	For the Years Ended December 31, 2008	2007	2006
DISH Network subscribers, as of period end (in millions)	14.133	14.100	13.678	13.780	13.105
DISH Network subscriber additions, gross (in millions)	3.052	3.118	2.966	3.434	3.516
DISH Network subscriber additions, net (in millions)	0.033	0.422	(0.102)	0.675	1.065
Average monthly subscriber churn rate	1.76%	1.64%	1.86%	1.70%	1.64%
Average monthly revenue per subscriber (ARPU)	\$ 73.32	\$ 70.04	\$ 69.27	\$ 65.83	\$ 62.78
	\$ 776	\$ 697	\$ 720	\$ 656	\$ 686

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Average subscriber acquisition cost
per subscriber (SAC)

Net cash flows from (in thousands):

Operating activities	\$	2,139,802	\$	2,194,543	\$	2,188,344	\$	2,616,720	\$	2,279,242
Investing activities	\$	(1,477,521)	\$	(2,605,556)	\$	(1,597,471)	\$	(2,470,832)	\$	(2,148,968)
Financing activities	\$	(127,453)	\$	418,283	\$	(1,411,841)	\$	(976,016)	\$	1,022,147

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Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with the audited consolidated financial statements and notes to the financial statements included elsewhere in this annual report. This management's discussion and analysis is intended to help provide an understanding of our financial condition, changes in financial condition and results of our operations and contains forward-looking statements that involve risks and uncertainties. The forward-looking statements are not historical facts, but rather are based on current expectations, estimates, assumptions and projections about our industry, business and future financial results. Our actual results could differ materially from the results contemplated by these forward-looking statements due to a number of factors, including those discussed in this report, including under the caption "Item 1A. Risk Factors" in this Annual Report on Form 10-K.

EXECUTIVE SUMMARY

Overview

DISH Network added approximately 33,000 net new subscribers during the year ended December 31, 2010, compared to approximately 422,000 net new subscribers during the same period in 2009. This decrease primarily resulted from increased churn. Our average monthly subscriber churn rate for the year ended December 31, 2010 was 1.76%, compared to 1.64% for the same period in 2009. Churn increased during the year as a result of the increasingly competitive nature of our industry, the current economic conditions, multiple programming interruptions related to contract disputes with several content providers during the fourth quarter of 2010, and our 2010 price increases. In general, our churn rate is impacted by the quality of subscribers acquired in past quarters, our ability to provide strong customer service, and our ability to control piracy. Historically, we have experienced slightly higher churn in the months following the expiration of commitments for new subscribers. In February 2008, we extended our new subscriber commitment from 18 to 24 months. Consequently, during the second half of 2009, churn was positively impacted by, among other things, this increase in our new subscriber commitment period.

During the year ended December 31, 2010, DISH Network added approximately 3.052 million gross new subscribers compared to approximately 3.118 million gross new subscribers during the same period in 2009, a decrease of 2.1%. Our gross activations in 2010 were negatively impacted relative to 2009 by increased competitive pressures, including the aggressive marketing and the effectiveness of certain competitors' promotional offers, which included an increased level of discounts.

Programming costs continue to represent an increasing percentage of our Subscriber-related expenses. Going forward, our margins may face further pressure if we are unable to renew our long-term programming contracts on favorable pricing and other economic terms. Additionally, our gross new subscriber additions and subscriber churn rate may be negatively impacted if we are unable to renew our long-term programming contracts before they expire. During the fourth quarter of 2010, our gross subscriber activations and subscriber churn were negatively impacted as a result of multiple programming interruptions related to contract disputes with several content providers.

As the pay-TV industry matures, we and our competitors increasingly must seek to attract a greater proportion of new subscribers from each other's existing subscriber bases rather than from first-time purchasers of pay-TV services. Some of our competitors have been especially aggressive by offering discounted programming and services for both new and existing subscribers. Furthermore, although we seek to remain the low cost provider in the pay-TV industry in the U.S., our price increases during 2010 along with our inability to effectively market our low cost

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position contributed to increased churn. In addition, programming offered over the Internet has become more prevalent as the speed and quality of broadband networks have improved. Significant changes in consumer behavior with regard to the means by which they obtain video entertainment and information in response to digital media competition could materially adversely affect our business, results of operations and financial condition or otherwise disrupt our business.

While economic factors have impacted the entire pay-TV industry, our relative performance has also been driven by issues specific to DISH Network. In the past, our subscriber growth has been adversely affected by signal theft and other forms of fraud and by operational inefficiencies at DISH Network.

To combat signal theft and improve the security of our broadcast system, we completed the replacement of our security access devices to re-secure our system during 2009. We expect that additional future replacements of these

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devices will be necessary to keep our system secure. To combat other forms of fraud, we continue to monitor our third party distributors to ensure adherence to our business rules.

While we have made improvements in responding to and dealing with customer service issues, we continue to focus on the prevention of these issues, which is critical to our business, financial position and results of operations. To address our operational inefficiencies, we continue to focus on simplifying and standardizing our operations. For example, we have streamlined our hardware offerings and continue to make significant investments in staffing, training, information systems, and other initiatives, primarily in our call center and in-home service operations. These investments are intended to help combat inefficiencies introduced by the increasing complexity of our business, improve customer satisfaction, reduce churn, increase productivity and allow us to scale better over the long run. We cannot, however, be certain that our increased spending will ultimately be successful in yielding such returns.

We have been investing more in advanced technology equipment as part of our subscriber acquisition and retention efforts. Initiatives to transmit certain programming only in MPEG-4 and to activate most new subscribers only with MPEG-4 receivers have accelerated our deployment of MPEG-4 receivers. To meet current demand, we have increased the rate at which we upgrade existing subscribers to HD and DVR receivers. While these efforts may increase our subscriber acquisition and retention costs, we believe that they will help mitigate subscriber churn in the future and reduce costs over the long run.

We are also continuing to change equipment for certain subscribers to make more efficient use of transponder capacity in support of HD and other initiatives. We expect to continue these initiatives through 2011. We believe that the benefit from the increase in available transponder capacity outweighs the short-term cost of these equipment changes.

To maintain and enhance our competitiveness over the long term, we are promoting a suite of integrated products designed to maximize the convenience and ease of watching TV anytime and anywhere, referred to as TV Everywhere. TV Everywhere utilizes, among other things, online access and Slingbox placeshifting technology. There can be no assurance that these integrated products will positively affect our results of operations or our gross new subscriber additions.

Liquidity Drivers

Like many companies, we make general investments in property such as satellites, information technology and facilities that support our overall business. As a subscriber-based company, however, we also make subscriber-specific investments to acquire new subscribers and retain existing subscribers. While the general investments may be deferred without impacting the business in the short-term, the subscriber-specific investments are less discretionary. Our overall objective is to generate sufficient cash flow over the life of each subscriber to provide an adequate return against the upfront investment. Once the upfront investment has been made for each subscriber, the subsequent cash flow is generally positive.

There are a number of factors that impact our future cash flow compared to the cash flow we generate at a given point in time. The first factor is how successful we are at retaining our current subscribers. As we lose subscribers from our existing base, the positive cash flow from that base is correspondingly reduced. The second factor is how successful we are at maintaining our subscriber-related margins. To the extent our

Subscriber-related expenses grow faster than our Subscriber-related revenue, the amount of cash flow that is generated per existing subscriber is reduced. The third factor is the rate at which we acquire new subscribers. The faster we acquire new subscribers, the more our positive ongoing

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cash flow from existing subscribers is offset by the negative upfront cash flow associated with new subscribers. Finally, our future cash flow is impacted by the rate at which we make general investments and any cash flow from financing activities.

Our subscriber-specific investments to acquire new subscribers have a significant impact on our cash flow. While fewer subscribers might translate into lower ongoing cash flow in the long-term, cash flow is actually aided, in the short-term, by the reduction in subscriber-specific investment spending. As a result, a slow down in our business due to external or internal factors does not introduce the same level of short-term liquidity risk as it might in other industries.

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Availability of Credit and Effect on Liquidity

The ability to raise capital has generally existed for DISH Network despite the weak economic conditions. Because of the cash flow of our company and the absence of any material debt payments until October 2011, modest fluctuations in the cost of capital will not impact our current operational plans. Currently, we have no existing lines of credit, nor have we historically.

Future Liquidity

Our Subscriber-related expenses as a percentage of Subscriber-related revenue was 53.2% during the year ended December 31, 2010 compared to 55.1% during the same period in 2009. ARPU was positively impacted by price increases in February and June 2010. Subscriber-related expenses continued to be negatively impacted by increased programming costs and initiatives to improve customer service. We continue to focus on addressing operational inefficiencies specific to DISH Network, which we believe will contribute to long-term subscriber growth.

If we are unsuccessful in overturning the District Court's ruling on Tivo's motion for contempt, we are not successful in developing and deploying potential new alternative technology and we are unable to reach a license agreement with Tivo on reasonable terms, we may be required to eliminate DVR functionality in all but approximately 192,000 digital set-top boxes in the field and cease distribution of digital set-top boxes with DVR functionality. In that event we would be at a significant disadvantage to our competitors who could continue offering DVR functionality, which would likely result in a significant decrease in new subscriber additions as well as a substantial loss of current subscribers. Furthermore, the inability to offer DVR functionality could cause certain of our distribution channels to terminate or significantly decrease their marketing of DISH Network services. The adverse effect on our financial position and results of operations if the District Court's contempt order is upheld is likely to be significant. Additionally, the supplemental damage award of \$103 million and further award of approximately \$200 million does not include damages, contempt sanctions or interest for the period after June 2009. In the event that we are unsuccessful in our appeal, we could also have to pay substantial additional damages, contempt sanctions and interest. Depending on the amount of any additional damage or sanction award or any monetary settlement, we may be required to raise additional capital at a time and in circumstances in which we would normally not raise capital. Therefore, any capital we raise may be on terms that are unfavorable to us, which might adversely affect our financial position and results of operations and might also impair our ability to raise capital on acceptable terms in the future to fund our own operations and initiatives. We believe the cost of such capital and its terms and conditions may be substantially less attractive than our previous financings.

If we are successful in overturning the District Court's ruling on Tivo's motion for contempt, but unsuccessful in defending against any subsequent claim in a new action that our original alternative technology or any potential new alternative technology infringes Tivo's patent, we could be prohibited from distributing DVRs or could be required to modify or eliminate our then-current DVR functionality in some or all set-top boxes in the field. In that event we would be at a significant disadvantage to our competitors who could continue offering DVR functionality and the adverse effect on our business would be material. We could also have to pay substantial additional damages.

Because both we and EchoStar are defendants in the Tivo lawsuit, we and EchoStar are jointly and severally liable to Tivo for any final damages and sanctions that may be awarded by the District Court. We have determined that we are obligated under the agreements entered into in connection with the Spin-off to indemnify EchoStar for substantially all liability arising from this lawsuit. EchoStar contributed an amount equal to its \$5 million intellectual property liability limit under the Receiver Agreement. We and EchoStar have further agreed that EchoStar's \$5 million contribution would not exhaust EchoStar's liability to us for other intellectual property claims that may arise under the Receiver Agreement. We and EchoStar also agreed that we would each be entitled to joint ownership of, and a cross-license to use, any intellectual property developed in connection with any potential new alternative technology.

If Voom prevails in its breach of contract suit against us, we could be required to pay substantial damages, which would have a material adverse affect on our financial position and results of operations. In January 2008, Voom HD Holdings (Voom) filed a lawsuit against us in New York Supreme Court, alleging breach of contract and other

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claims arising from our termination of the affiliation agreement governing carriage of certain Voom HD channels on the DISH Network satellite TV service. At that time, Voom also sought a preliminary injunction to prevent us from terminating the agreement. The Court denied Voom's request, finding, among other things, that Voom had not demonstrated that it was likely to prevail on the merits. In April 2010, we and Voom each filed motions for summary judgment. Voom later filed two motions seeking discovery sanctions. On November 9, 2010, the Court issued a decision denying both motions for summary judgment, but granting Voom's motions for discovery sanctions. The Court's decision provides for an adverse inference jury instruction at trial and precludes our damages expert from testifying at trial. We appealed the grant of Voom's motion for discovery sanctions to the New York State Supreme Court, Appellate Division, First Department. On February 15, 2011, the appellate Court granted our motion to stay the trial pending our appeal. Voom is claiming over \$2.5 billion in damages.

We entered into an \$87.5 million Credit Facility with DBSD North America on February 1, 2011. The Credit Facility remains subject to approval by the Bankruptcy Court. In addition, on February 1, 2011 we committed to acquire 100% of the equity of reorganized DBSD North America for approximately \$1.0 billion subject to certain adjustments, including interest accruing on DBSD North America's existing debt. This transaction is to be completed upon satisfaction of certain conditions, including approval by the FCC and DBSD North America's emergence from bankruptcy. See Note 18 in the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K for further discussion.

The Spin-off. On January 1, 2008, we completed the distribution of our technology and set-top box business and certain infrastructure assets (the "Spin-off") into a separate publicly-traded company, EchoStar. DISH Network and EchoStar operate as separate publicly-traded companies, and neither entity has any ownership interest in the other. However, a substantial majority of the voting power of the shares of both companies is owned beneficially by Charles W. Ergen, our Chairman, President and Chief Executive Officer or by certain trusts established by Mr. Ergen for the benefit of his family.

EXPLANATION OF KEY METRICS AND OTHER ITEMS

Subscriber-related revenue. Subscriber-related revenue consists principally of revenue from basic, premium movie, local, HD programming, pay-per-view, Latino and international subscription television services, equipment rental fees and other hardware related fees, including fees for DVRs, equipment upgrade fees and additional outlet fees from subscribers with multiple receivers, advertising services, fees earned from our in-home service operations and other subscriber revenue. Certain of the amounts included in Subscriber-related revenue are not recurring on a monthly basis.

Equipment sales and other revenue. Equipment sales and other revenue principally includes the non-subsidized sales of DBS accessories to retailers and other third-party distributors of our equipment domestically and to DISH Network subscribers.

Equipment sales, services and other revenue - EchoStar. Equipment sales, services and other revenue - EchoStar includes revenue related to equipment sales, professional services, and other agreements with EchoStar.

Subscriber-related expenses. Subscriber-related expenses principally include programming expenses, costs incurred in connection with our in-home service and call center operations, billing costs, refurbishment and repair costs related to receiver systems, subscriber retention and other variable subscriber expenses.

Satellite and transmission expenses - EchoStar. Satellite and transmission expenses - EchoStar includes the cost of leasing satellite and transponder capacity from EchoStar and the cost of digital broadcast operations provided to us by EchoStar, including satellite uplinking/downlinking, signal processing, conditional access management, telemetry, tracking and control, and other professional services.

Satellite and transmission expenses - other. Satellite and transmission expenses - other includes executory costs associated with capital leases and costs associated with transponder leases and other related services.

Equipment, services and other cost of sales. Equipment, services and other cost of sales principally includes the cost of non-subsidized sales of DBS accessories to retailers and other third-party distributors of our equipment

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domestically and to DISH Network subscribers. In addition, this category includes costs related to equipment sales, professional services, and other agreements with EchoStar.

Subscriber acquisition costs. In addition to leasing receivers, we generally subsidize installation and all or a portion of the cost of our receiver systems to attract new DISH Network subscribers. Our Subscriber acquisition costs include the cost of our receiver systems sold to retailers and other third-party distributors of our equipment, the cost of receiver systems sold directly by us to subscribers, including net costs related to our promotional incentives, costs related to our direct sales efforts and costs related to installation and acquisition advertising. We exclude the value of equipment capitalized under our lease program for new subscribers from Subscriber acquisition costs.

SAC. Subscriber acquisition cost measures are commonly used by those evaluating companies in the pay-TV industry. We are not aware of any uniform standards for calculating the average subscriber acquisition costs per new subscriber activation, or SAC, and we believe presentations of SAC may not be calculated consistently by different companies in the same or similar businesses. Our SAC is calculated as Subscriber acquisition costs, plus the value of equipment capitalized under our lease program for new subscribers, divided by gross new subscriber additions. We include all the costs of acquiring subscribers (e.g., subsidized and capitalized equipment) as our management believes it is a more comprehensive measure of how much we are spending to acquire subscribers. We also include all new DISH Network subscribers in our calculation, including DISH Network subscribers added with little or no subscriber acquisition costs.

General and administrative expenses. General and administrative expenses consists primarily of employee-related costs associated with administrative services such as legal, information systems, accounting and finance, including non-cash, stock-based compensation expense. It also includes outside professional fees (e.g., legal, information systems and accounting services) and other items associated with facilities and administration.

Interest expense, net of amounts capitalized. Interest expense, net of amounts capitalized primarily includes interest expense, prepayment premiums and amortization of debt issuance costs associated with our senior debt and convertible subordinated debt securities (net of capitalized interest), and interest expense associated with our capital lease obligations.

Other, net. The main components of Other, net are gains and losses realized on the sale of investments, impairment of marketable and non-marketable investment securities, unrealized gains and losses from changes in fair value of marketable and non-marketable strategic investments accounted for at fair value, and equity in earnings and losses of our affiliates.

Earnings before interest, taxes, depreciation and amortization (EBITDA). EBITDA is defined as Net income (loss) attributable to DISH Network common shareholders plus Interest expense, net of amounts capitalized net of Interest income, Taxes and Depreciation and amortization. This non-GAAP measure is reconciled to Net income (loss) attributable to DISH Network common shareholders in our discussion of Results of Operations below.

DISH Network subscribers. We include customers obtained through direct sales, third-party retailers and other third-party distribution relationships in our DISH Network subscriber count. We also provide DISH Network service to hotels, motels and other commercial accounts. For certain of these commercial accounts, we divide our total revenue for these commercial accounts by an amount approximately equal to the retail price of our America's Top 120 programming package (but taking into account, periodically, price changes and other factors), and include

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the resulting number, which is substantially smaller than the actual number of commercial units served, in our DISH Network subscriber count.

Average monthly revenue per subscriber (ARPU). We are not aware of any uniform standards for calculating ARPU and believe presentations of ARPU may not be calculated consistently by other companies in the same or similar businesses. We calculate average monthly revenue per subscriber, or ARPU, by dividing average monthly Subscriber-related revenue for the period (total Subscriber-related revenue during the period divided by the number of months in the period) by our average DISH Network subscribers for the period. Average DISH Network subscribers are calculated for the period by adding the average DISH Network subscribers for each month and

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dividing by the number of months in the period. Average DISH Network subscribers for each month are calculated by adding the beginning and ending DISH Network subscribers for the month and dividing by two.

Average monthly subscriber churn rate. We are not aware of any uniform standards for calculating subscriber churn rate and believe presentations of subscriber churn rates may not be calculated consistently by different companies in the same or similar businesses. We calculate subscriber churn rate for any period by dividing the number of DISH Network subscribers who terminated service during the period by the average DISH Network subscribers for the same period, and further dividing by the number of months in the period. When calculating subscriber churn, the same methodology for calculating average DISH Network subscribers is used as when calculating ARPU.

Free cash flow. We define free cash flow as Net cash flows from operating activities less Purchases of property and equipment, as shown on our Consolidated Statements of Cash Flows.

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Statements of Operations Data	For the Years Ended December 31,		Variance	
	2010	2009 (In thousands)	Amount	%
Revenue:				
Subscriber-related revenue	\$ 12,543,794	\$ 11,538,729	\$ 1,005,065	8.7
Equipment sales and other revenue	59,770	97,863	(38,093)	(38.9)
Equipment sales, services and other revenue - EchoStar	37,180	27,559	9,621	34.9
Total revenue	12,640,744	11,664,151	976,593	8.4
Costs and Expenses:				
Subscriber-related expenses	6,676,145	6,359,329	316,816	5.0
% of Subscriber-related revenue	53.2%	55.1%		
Satellite and transmission expenses - EchoStar	418,358	319,752	98,606	30.8
% of Subscriber-related revenue	3.3%	2.8%		
Satellite and transmission expenses - Other	40,249	33,672	6,577	19.5
% of Subscriber-related revenue	0.3%	0.3%		
Equipment, services and other cost of sales	76,406	121,238	(44,832)	(37.0)
Subscriber acquisition costs	1,653,494	1,539,562	113,932	7.4
General and administrative expenses	625,843	602,611	23,232	3.9
% of Total revenue	5.0%	5.2%		
Litigation expense	225,456	361,024	(135,568)	(37.6)
Depreciation and amortization	983,965	940,033	43,932	4.7
Total costs and expenses	10,699,916	10,277,221	422,695	4.1
Operating income (loss)	1,940,828	1,386,930	553,898	39.9