

EHOSTAR COMMUNICATIONS CORP

Form 10-K/A

March 29, 2004

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

Form 10-K/A
(Amendment No. 1)

(Mark One)

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2003
OR

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

EchoStar Communications Corporation

(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: None

Securities registered pursuant to Section 12(g) of the Act: Class A Common Stock, \$0.01 par value

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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K 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. []

Indicate by check mark whether the registrant is an accelerated filer (as defined by Rule 12b-2 of the Exchange Act).

Yes [X] No []

As of March 22, 2004, the aggregate market value of Class A Common Stock held by non-affiliates* of the Registrant approximated \$8.2 billion based upon the closing price of the Class A Common Stock as reported on the Nasdaq National Market as of the close of business on that date.

As of March 22, 2004, the Registrant's outstanding Common stock consisted of 240,585,644 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 the Annual Meeting of Shareholders of Registrant to be held May 6, 2004 are incorporated by reference in Part III herein.

* Without acknowledging that any individual director or executive officer of the Company is an affiliate, the shares over which they have voting control have been included as owned by affiliates solely for purposes of this computation.

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EchoStar Communications Corporation (EchoStar) is filing this Form 10-K/A to amend its Annual Report on Form 10-K for the year ended December 31, 2003 (the Form 10-K) solely to correct the number of shares of its Class A Common Stock outstanding as of March 22, 2004 set forth on the cover of the Form 10-K. While this Form 10-K/A also sets forth the complete text of the Form 10-K, it does not change any other information contained in the Form 10-K as originally filed on March 26, 2004.

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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 document. 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 correct, 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 document 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. The risks and uncertainties include, but are not limited to the following:

we face intense and increasing competition from the satellite and cable television industry, new competitors may enter the subscription television business, and new technologies may increase competition;

DISH Network subscriber growth may decrease, subscriber turnover may increase and subscriber acquisition costs may increase;

satellite programming signals have been pirated and will continue to be pirated in the future; pirating could cause us to lose subscribers and revenue, and result in higher costs to us;

programming costs may increase beyond our current expectations; we may be unable to obtain or renew programming agreements on acceptable terms or at all; existing programming agreements could be subject to cancellation;

weakness in the global or U.S. economy may harm our business generally, and adverse local political or economic developments may occur in some of our markets;

the regulations governing our industry may change;

our satellite launches may be delayed or fail, or our satellites may fail in orbit prior to the end of their scheduled lives;

we currently do not have traditional commercial insurance covering losses incurred from the failure of satellite launches and/or in-orbit satellites and we may be unable to settle outstanding claims with insurers;

service interruptions arising from technical anomalies on satellites or on-ground components of our DBS system, or caused by war, terrorist activities or natural disasters, may cause customer cancellations or otherwise harm our business;

we may be unable to obtain needed retransmission consents, Federal Communications Commission (FCC) authorizations or export licenses, and we may lose our current or future authorizations;

we are party to various lawsuits which, if adversely decided, could have a significant adverse impact on our business;

we may be unable to obtain patent licenses from holders of intellectual property or redesign our products to avoid patent infringement;

sales of digital equipment and related services to international direct-to-home service providers may decrease;

we are highly leveraged and subject to numerous constraints on our ability to raise additional debt;

acquisitions, business combinations, strategic partnerships, divestitures and other significant transactions may involve additional uncertainties;

terrorist attacks, consequences of the war in Iraq, and the possibility of war or hostilities relating to other countries, and changes in international political conditions as a result of these events may continue to affect the U.S. and the global economy and may increase other risks; and

we may face other risks described from time to time in periodic and current reports we file with the Securities and Exchange Commission (SEC).

All cautionary statements made herein should be read as being applicable to all forward-looking statements wherever they appear. In this connection, investors should consider the risks described herein and should not place undue reliance on any forward-looking statements.

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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 document, the words we, our and us refer to EchoStar Communications Corporation and its subsidiaries, unless the context otherwise requires. EDBS refers to EchoStar DBS Corporation and its subsidiaries.

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PART I

Item 1. BUSINESS

OVERVIEW

Our Business

Echostar Communications Corporation, through its DISH Network, is a leading provider of satellite delivered digital television to customers across the United States. DISH Network services include hundreds of video, audio and data channels, interactive television channels, digital video recording, high definition television (HDTV), international programming, professional installation and 24-hour customer service.

We started offering subscription television services on the DISH Network in March 1996. As of December 31, 2003, the DISH Network had approximately 9.425 million subscribers. We currently have nine in-orbit satellites which enable us to offer over 1,000 video and audio channels to consumers across the United States. Since we use many of these channels for local programming, no particular consumer could subscribe to all channels, but all are available using small consumer dishes. We believe that the DISH Network offers programming packages that have a better price-to-value relationship than packages currently offered by most other subscription television providers. As of December 31, 2003, there were over 22.0 million subscribers to direct broadcast satellite and other direct-to-home satellite services in the United States. We believe that there are more than 94.0 million pay television subscribers in the United States, and there continues to be significant unsatisfied demand for high quality, reasonably priced television programming services.

DISH Network and EchoStar Technologies Corporation

The operations of EchoStar Communications Corporation (ECC, and together with its subsidiaries, EchoStar, the Company, we, us, and/or our) include two interrelated business units:

The DISH Network which provides a direct broadcast satellite subscription television service we refer to as DBS in the United States; and

EchoStar Technologies Corporation (ETC) which designs and develops DBS set-top boxes, antennae and other digital equipment for the DISH Network. We refer to this equipment collectively as EchoStar receiver systems. ETC also designs, develops and distributes similar equipment for international satellite service providers.

Since 1994, we have deployed substantial resources to develop the EchoStar DBS System. The EchoStar DBS System consists of our FCC-allocated DBS spectrum, nine in-orbit satellites (EchoStar I through EchoStar IX), EchoStar receiver systems, digital broadcast operations centers, customer service facilities, and other assets utilized in our operations. Our principal business strategy is to continue developing our subscription television service in the United States to provide consumers with a fully competitive alternative to cable television service.

Other Information

We were organized in 1995 as a corporation under the laws of the State of Nevada. Our common stock is publicly traded on the Nasdaq National 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.

Recent Developments

Gemstar-TV Guide International transaction. On March 2, 2004, we announced a long-term patent license and distribution agreement with Gemstar-TV Guide International, Inc. This transaction includes a one-time cash payment by us of \$190.0 million for use of Gemstar intellectual property and technology, use of the TV Guide brand on our interactive program guides, and for distribution arrangements with Gemstar to provide for the launch and

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carriage of the TV Guide Channel as well as the extension of an existing distribution agreement for carriage of the TVG Network. We also signed an agreement to resolve all outstanding litigation between us and Gemstar.

Also on March 2, 2004, we announced an agreement to acquire Gemstar's Superstar/Netlink Group LLC (SNG), UVTV distribution, and SpaceCom businesses and related assets for approximately \$48.0 million in cash. Our purchase of these businesses is subject to certain regulatory approvals and customary conditions. The effectiveness of the patent license, distribution agreements and settlement agreement are subject to certain conditions, including the closing of the SNG sale.

Repurchase and Redemption of the 9 3/8% Senior Notes. During the fourth quarter of 2003, EDBS repurchased in open market transactions approximately \$201.6 million of the original \$1.625 billion principal amount of its 9 3/8% Senior Notes due 2009. The difference between the market price paid and the principal amount of approximately \$12.7 million and unamortized debt issuance costs related to the repurchased notes of approximately \$1.6 million were recorded as charges to earnings during the fourth quarter of 2003. Effective February 2, 2004, EDBS redeemed the remaining \$1.423 billion principal amount of the notes at 104.688%, for a total of approximately \$1.490 billion. The premium paid of approximately \$66.7 million and unamortized debt issuance costs of approximately \$10.8 million were recorded as charges to earnings in February 2004.

DISH NETWORK

Programming

Programming Packages. We use a value-based strategy in structuring the content and pricing of programming packages available from the DISH Network. For example, we currently sell our entry-level America's Top 60 programming package to consumers in digital format for \$24.99 per month. This programming package includes 60 of the most popular video channels. Satellite-delivered local channels are currently available separately for an additional \$5.99 per month in 110 of the largest markets in the United States, representing over 85% of all of U.S. television households. We estimate cable operators charge over \$35 per month, on average, for their entry-level expanded basic service that typically consists of approximately 55 analog channels, including local channels. We believe that our America's Top 120 programming package, which is similar to an expanded basic cable package plus a digital music service and which we currently sell for \$34.99 per month, also compares favorably to similar cable television programming. Based on cable industry statistics, we estimate that cable operators would typically charge as much as \$45.00 per month for a similar package, including local channels. In addition to the above mentioned programming packages, we also offer our America's Top 180 programming package for \$44.99 per month and our America's Everything Pak, which combines our America's Top 180 programming package and all four movie packages, which are discussed below, for \$77.99 per month. Certain of our current new subscriber promotions include local programming in the qualifying programming packages for no additional fee.

Movie Packages. We currently offer each of our four movie packages, which include up to 10 movie channels per package, starting at \$11.99 per month. We believe we currently offer more movie channels than cable typically offers at a comparable price.

DISH Latino Programming Packages. We also offer Spanish-language programming packages. For example, we believe that our DISH Latino package, which includes more than 30 Spanish-language programming channels for \$24.99 per month, is one of the most attractive Spanish-language packages available in the United States. We also offer DISH Latino Dos, which includes 120 English and Spanish-language programming channels for \$34.99 per month. Additionally, we offer DISH Latino Max with more than 160 Spanish and English-language channels for \$44.99 per month.

International Programming. Currently, we offer approximately 60 foreign-language channels including Arabic, South Asian, Hindi, Russian, Chinese, Greek and many others. DISH Network remains the pay-TV leader in delivering foreign-language programming to customers in the United States at superior values. We believe foreign-language programming is a valuable niche product that attracts a number of new subscribers who are unable to get similar programming elsewhere.

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Sales, Marketing and Distribution

Sales Channels. Independent distributors, retailers and consumer electronics stores currently sell EchoStar receiver systems and solicit orders for DISH Network programming services. While we also sell receiver systems and programming directly, independent retailers are responsible for most of our sales. These independent retailers are primarily local retailers who specialize in TV and home entertainment systems. We also sell EchoStar receiver systems through nationwide retailers such as Costco, Sears and Wal-Mart, and certain regional consumer electronic chains. In addition, RadioShack Corporation sells EchoStar receiver systems and DISH Network programming services through its 5,200 corporate stores and in approximately 1,000 dealer franchise stores nationwide.

We currently have an agreement with JVC to distribute our receiver systems under its label through certain of its nationwide retailers, and an agreement with Thomson multimedia, Inc. to distribute our receiver systems under the EchoStar and RCA label through certain of its nationwide retailers.

We offer our distributors and retailers what we believe are competitive incentive programs. Through these programs, qualified distributors and retailers receive, among other things, commissions upon new subscriber activations and monthly residual incentives dependent, among other things, on continued consumer subscription to qualified programming.

Marketing. We use regional and national broadcast and print advertising to promote the DISH Network. We also offer point-of-sale literature, product displays, demonstration kiosks and signage for retail outlets. We provide guides that describe DISH Network products and services to our retailers and distributors at nationwide educational seminars and directly by mail. Our mobile sales and marketing team visits retail outlets regularly to reinforce training and ensure that these outlets quickly fulfill point-of-sale needs. Additionally, we dedicate a DISH Network channel and provide a retailer specific website to provide information about special services and promotions that we offer from time to time.

Promotional Subsidies. Our future success in the subscription television industry depends on, among other factors, our ability to acquire and retain DISH Network subscribers. We provide varying levels of subsidies and incentives to attract customers, including free or subsidized receiver systems, installations, antenna, programming and other items. This marketing strategy emphasizes our long-term business strategy of maximizing future revenue by selling DISH Network programming to a large potential subscriber base and rapidly increasing our subscriber base. Since we subsidize consumer up-front costs, we incur significant costs each time we acquire a new subscriber. Although there can be no assurance, we believe that on average we will be able to fully recoup the up-front costs of subscriber acquisition from future subscription television services revenue.

During July 2000, we began offering our DISH Network subscribers the option to lease receiver systems. Our current equipment lease promotion, the Digital Home Advantage program, offers consumers the ability to lease up to three receiver systems and connect up to four televisions with one of several qualifying programming packages starting at \$29.99 per month, including local programming, where available. We expect this marketing strategy will reduce the cost of acquiring future subscribers because we retain ownership of the receiver systems. Upon termination of service, Digital Home Advantage subscribers are required to return the receiver and certain other equipment to us. While we do not recover all of the equipment upon termination of service, equipment that is recovered after deactivation is reconditioned and re-deployed at a much lower cost than new equipment.

We base our marketing promotions, among other things, on current competitive conditions. In some cases, if competition increases, or we determine for any other reason that it is necessary to increase our subscriber acquisition costs to attract new customers, our profitability and costs of operation would be adversely affected.

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Digital Video Recording and Interactive Services

We continue to expand our offerings to include interactive services. DISH Network customers can also purchase or lease receivers with built-in hard disk drives that permit viewers to pause and record live programs without the need for videotape. We now offer receivers capable of storing up to 180 hours of programming and expect to increase storage capacity on future receiver models. We also currently offer receivers that provide a wide variety of innovative interactive television services and applications.

Broadband Strategic Alliances

Since 2002, we have entered into agreements to combine DISH Network satellite television service with the Internet access capabilities and, in certain instances, the communications services of Earthlink, Qwest Communications International Inc. and Sprint to offer bundled service packages to consumers.

During July 2003, we announced an agreement with SBC to co-brand our DISH Network service with SBC's telephony, high-speed data and other communications services. SBC Communications is marketing the bundled service, which became available to consumers in early 2004, and is responsible for integrated order-entry, customer service and billing.

SBC purchases set-top box equipment from us to sell to bundled service customers. SBC also outsources installation and certain customer service functions to us for a fee. As part of the agreement, SBC will pay us certain development and implementation fees.

Satellites

Overview of Our Satellites and FCC Authorizations. We presently have nine satellites in geostationary orbit approximately 22,300 miles above the equator. Each of our satellites has a minimum design life of 12 years and is equipped to operate as follows:

EchoStar I and EchoStar II each have 16 transponders that operate at approximately 130 watts of power.

Subject to the anomalies described below, EchoStar III and EchoStar IV each have 32 transponders that operate at approximately 120 watts per channel, switchable to 16 transponders operating at over 230 watts per channel.

EchoStar V has 32 transponders that operate at approximately 110 watts per channel, switchable to 16 transponders operating at approximately 220 watts per channel.

Each of EchoStar VI, EchoStar VII and EchoStar VIII has 32 transponders that operate at approximately 120 watts per channel, switchable to 16 transponders operating at approximately 240 watts per channel. EchoStar VII and EchoStar VIII also include spot-beam technology. The use of spot-beams on EchoStar VII and EchoStar VIII 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. Each transponder can transmit multiple digital video, audio and data channels.

EchoStar IX, which commenced operations at the 121 degree location during October 2003, has 32 Ku-band transponders that operate at approximately 110 watts per channel, in addition to a Ka-band payload. EchoStar IX provides expanded video and audio channels to DISH Network subscribers who install a specially-designed dish. The Ka-band spectrum is being used to test and verify potential future

broadband initiatives and to initiate those services.

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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. The FCC has divided each DBS orbital position into 32 frequency channels. Each transponder on our satellites can exploit one frequency channel. Through digital compression technology, we can currently transmit between nine and eleven digital video channels from each transponder, on average. The FCC licensed us to operate 96 direct broadcast satellite frequencies at various orbital positions including:

21 frequencies at the 119 degree orbital location and 29 frequencies at the 110 degree orbital location, both capable of providing service to the entire continental United States;

11 frequencies at the 61.5 degree orbital location, capable of providing service to the Eastern and Central United States;

32 frequencies at the 148 degree orbital location, capable of providing service to the Western United States;

3 frequencies at the 157 degree orbital location, capable of providing service to the Western United States. We currently broadcast the majority of our programming from the 110 and 119 degree locations. The majority of our customers have satellite receiver systems that are equipped to receive signals from both of these locations.

Satellite Anomalies. EchoStar I and EchoStar II are both Series 7000 class satellites designed and manufactured by Lockheed Martin Corporation. While both of those satellites are currently functioning properly in orbit, a similar Lockheed Series 7000 class satellite owned by Loral Skynet recently experienced total in-orbit failure. While we currently do not have sufficient information available to reach any conclusions as to whether other satellites of the Series 7000 class might be at increased risk of suffering a similar malfunction, no telemetry or other data indicates EchoStar I or EchoStar II would be expected to experience a similar failure. During December 2003, a spare Traveling Wave Tube Amplifier (TWTA) was switched in to support operations on transponder 25 on EchoStar I due to degraded operation of the primary TWTA. There are a total of 23 remaining TWTA s available to support the 16 operational transponders on EchoStar I. During 2003, one of the spare TWTA s on EchoStar II which had been found to be suspect during original In Orbit Test Operations in 1996 was declared failed. There are a total of 23 remaining TWTA s available to support the 16 operational transponders on EchoStar II. EchoStar I and II are currently located at the 148 west orbital location.

During January 2004, a TWTA pair on EchoStar III failed, resulting in a loss of service on one of our licensed transponders. Including the seven TWTA pairs that malfunctioned in prior years, these anomalies have resulted in the failure of a total of 16 TWTA s on the satellite to date. While originally designed to operate a maximum of 32 transponders at any given time, the satellite was equipped with a total of 44 TWTA s to provide redundancy. EchoStar III can now operate a maximum of 28 transponders but due to redundancy switching limitations and the specific channel authorizations, currently it can only operate on 17 of the 19 FCC authorized frequencies at the 61.5 degree west orbital location.

During 2000, 2001 and 2002, EchoStar V experienced anomalies resulting in the loss of three solar array strings, and during January 2003, EchoStar V experienced anomalies resulting in the loss of an additional solar array string. The satellite has a total of approximately 96 solar array strings and approximately 92 are required to assure full power availability for the estimated 12-year design life of the satellite. In addition, during January 2003, EchoStar V experienced an anomaly in a spacecraft electronic component which affects the ability to receive telemetry from certain on-board equipment. Other methods of communication have been established to alleviate the effects of the failed component. An investigation of the solar array and electronic component anomalies, none of which have impacted commercial operation of the satellite, is continuing. In July 2001, EchoStar V experienced the loss of one of its three momentum wheels. Two momentum wheels are utilized during normal operations and a spare wheel was switched in at the time. A second momentum wheel experienced an anomaly in December 2003 and was switched out

resulting in operation of the spacecraft in a modified mode utilizing thrusters to maintain spacecraft pointing. While this operating mode provides adequate performance, it results in an increase in fuel usage and a corresponding reduction of spacecraft life. This operating mode is not expected to reduce the estimated design life of the satellite to less than 12 years.

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The investigation into the anomaly is continuing. Until the root causes of these anomalies are finally determined, there can be no assurance future anomalies will not cause further losses which could impact commercial operation of the satellite.

During 2002, two of the thrusters on EchoStar VIII experienced anomalous events and are not currently in use. During March 2003, an additional thruster on EchoStar VIII experienced an anomalous event and is not currently in use. The satellite is equipped with a total of 12 thrusters that help control spacecraft location, attitude, and pointing and is currently operating using a combination of the other nine thrusters. This workaround requires more frequent maneuvers to maintain the satellite at its specified orbital location, which are less efficient and therefore result in accelerated fuel use. In addition, the workaround has resulted in certain gyroscopes being utilized for aggregate periods of time substantially in excess of their originally qualified limits. However, neither of these workarounds are expected to reduce the estimated design life of the satellite to less than 12 years. An investigation of the thruster anomalies, including the development of additional workarounds for long term operations, is continuing. None of these events has impacted commercial operation of the satellite to date. Until the root cause of these anomalies has been finally determined, there can be no assurance that these or future anomalies will not cause further losses which could impact commercial operation of the satellite.

EchoStar VIII is equipped with two solar arrays which convert solar energy into power for the satellite. Those arrays rotate continuously to maintain optimal exposure to the sun. During June and July 2003, EchoStar VIII experienced anomalies that temporarily halted rotation of one of the solar arrays. In December 2003 the other array experienced a similar anomaly. Both arrays are currently fully functional, but rotating in a mode recommended by the satellite manufacturer which allows full rotation but is different than the originally prescribed mode. An investigation of the solar array anomalies, none of which have impacted commercial operation of the satellite, is continuing. Until the root cause of these anomalies is finally determined, there can be no assurance future anomalies will not cause losses which could impact commercial operation of the satellite.

During September 2003, a single battery cell on EchoStar VIII exhibited reduced capacity. There are 72 battery cells on EchoStar VIII and all loads can be maintained for the full design life of the satellite with up to two battery cells fully failed. An investigation of the battery cell anomaly, which has not impacted commercial operation of the satellite, is underway. Until the root cause of the anomaly is determined, there can be no assurance future anomalies will not cause losses which could impact commercial operation of the satellite.

Satellite Insurance. We currently do not carry launch and/or in-orbit insurance for any of our nine in-orbit satellites. To satisfy insurance covenants related to EDBS senior notes, we have reclassified an amount equal to the depreciated cost of five of our satellites from cash and cash equivalents to cash reserved for satellite insurance on our balance sheet. As of December 31, 2003, cash reserved for satellite insurance totaled approximately \$176.8 million. Effective February 2, 2004, as a result of the redemption of EDBS 9 3/8% Senior Notes due 2009, our obligation to reserve for satellite insurance declined to the depreciated cost of three of our satellites. As an indirect result of this redemption, during February 2004, we were able to reduce our reserve and reclassify approximately \$57.2 million, representing the depreciated cost of two of our satellites, from cash reserved for satellite insurance to cash and cash equivalents. We will continue to reserve cash for satellite insurance on our balance sheet until such time, if ever, as we can again insure our satellites on acceptable terms and for acceptable amounts, or until the indenture covenants requiring the insurance are no longer applicable.

We believe we have in-orbit satellite capacity sufficient to expeditiously recover transmission of most programming in the event one of our in-orbit satellites fails. However, the cash reserved for satellite insurance is not adequate to fund the construction, launch and insurance for a replacement satellite in the event of a complete loss of a satellite. Programming continuity cannot be assured in the event of multiple satellite losses.

In September 1998, we filed a \$219.3 million insurance claim for a total loss under the launch insurance policies covering EchoStar IV. The insurance carriers offered us a total of approximately \$88.0 million, or 40% of the total policy amount, in settlement of the EchoStar IV insurance claim. We are currently in arbitration with the insurers regarding this claim. See Item 3 Legal Proceedings.

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Certain Other Risks to Our Satellites. Meteoroid events pose a potential threat to all in-orbit geosynchronous satellites including our DBS satellites. While the probability that our satellites will be damaged by meteoroids is very small, that probability increases significantly when the Earth passes through the particulate stream left behind by various comets.

Occasionally, increased solar activity poses a potential threat to all in-orbit geosynchronous satellites including our direct broadcast satellites. The probability that the effects from this activity will damage our satellites or cause service interruptions is generally very small.

Some decommissioned spacecraft are in uncontrolled orbits which pass through the geostationary belt at various points, and present hazards to operational spacecraft including our direct broadcast satellites. The locations of these hazards are generally well known and may require us to perform maneuvers to avoid collisions.

Satellites under Construction and Leased Satellites. EchoStar X, which is expected to be launched during 2005, is being built by Lockheed Martin Commercial Space Systems and will be used for expanded DISH Network video services.

During March 2003 we entered into a satellite service agreement with SES Americom for all of the capacity on a new FSS satellite, which may be located at the 105 degree orbital location or certain other orbital locations. We also agreed to lease all of the capacity on an existing in-orbit FSS satellite at the 105 degree orbital location beginning August 1, 2003 and continuing at least until the new satellite is launched. We intend to use the capacity on the satellites to offer a combination of programming including local network channels in additional markets, together with satellite-delivered, high-speed internet services. During August 2003, we exercised our option under the SES Americom agreement to also lease for an initial ten-year term all of the capacity on a new DBS satellite at an orbital location to be determined at a future date. We anticipate that this satellite will be launched during the fourth quarter of 2005.

During February 2004, we entered into two additional satellite service agreements for capacity on FSS satellites. Pending the successful launch and entry into service of the previously described new FSS satellite, the satellite under the first of these agreements is scheduled for launch during the first half of 2005. We intend to use this additional satellite as backup in the case of any unexpected events related to the initial operational deployment of the satellite at the 105 degree orbital location, and may also utilize the satellite to offer local network channels in additional markets, together with satellite-delivered, high-speed internet services. The satellite under the second of these agreements is planned for launch during the second half of 2006 and is contingent upon, among other things, obtaining necessary regulatory approvals. There can be no assurance that we will obtain these approvals or that the satellite will ultimately be launched. It is our intent to use the capacity on this satellite to offer additional value-added services.

Components of a DBS System

Overview. In order to provide programming services to DISH Network subscribers, we have entered into agreements with video, audio and data programmers, who deliver their programming content to our digital broadcast operations centers in Cheyenne, Wyoming and Gilbert, Arizona, via commercial satellites, fiber optic networks or microwave transmissions. We monitor those signals for quality, and can add promotional messages, public service programming, advertising, and other information. Equipment at our digital broadcast operations centers then digitizes, compresses, encrypts and combines the signal with other necessary data, such as conditional access information. We then uplink or transmit the signals to one or more of our satellites and broadcast directly to DISH Network subscribers.

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In order to receive DISH Network programming, a subscriber needs:

- a satellite antenna, which people sometimes refer to as a dish, and related components;
- a satellite receiver or set-top box; and
- a television set.

EchoStar Receiver Systems. EchoStar receiver systems include a small satellite dish, a digital satellite receiver that decrypts and decompresses signals for television viewing, a remote control, and other related components. We offer a number of set-top box models. Our standard system comes with an infrared universal remote control, an on-screen interactive program guide and V-chip type technology for parental control. Our premium models include a hard disk drive enabling additional features such as digital video recording of up to 180 hours of programming, a UHF/infrared universal remote, and an expansion port for future upgradeability. Certain of our standard and premium systems allow independent satellite TV viewing on two separate televisions. We also offer a variety of specialized products including HDTV receivers. Set-top boxes communicate with our authorization center through telephone lines to, among other things, report the purchase of pay-per-view movies and other events. DISH Network reception equipment is incompatible with competitors' systems.

Although we internally design and engineer our receiver systems, we outsource manufacturing to high-volume contract electronics manufacturers. Sanmina-SCI Corporation (formerly known as SCI Systems, Inc.) is the primary manufacturer of our receiver systems. JVC also manufactures some of our receiver systems. In addition, during 2002, we signed manufacturing agreements with RCA/Thomson and Celetron USA, Inc.

Conditional Access System. We use conditional access technology to encrypt our programming so only those who pay can receive it. We use microchips embedded in credit card-sized access cards, or smart cards to control access to authorized programming content. ECC owns 50% of NagraStar LLC, a joint venture that provides us with smart cards. Nagra USA owns the other 50% of NagraStar. NagraStar purchases these smart cards from NagraCard SA, a Swiss company which is an affiliate of Nagra USA. These smart cards, which we can update or replace periodically, are a key element in preserving the security of our conditional access system. When a consumer orders a particular channel, we send a message by satellite that instructs the smart card to permit decryption of the programming for viewing by that consumer. The set-top box then decompresses the programming and sends it to the consumer's television.

Theft of subscription television programming has been widely reported and our signal encryption has been pirated and could be further compromised in the future. Theft of our programming reduces future potential revenue and increases our net subscriber acquisition costs. In addition, theft of our competitors' programming can also increase our churn. Compromises of our encryption technology could also adversely affect our ability to contract for video and audio services provided by programmers. It is illegal to create, sell or otherwise distribute mechanisms or devices to circumvent that encryption. We continue to respond to compromises of our encryption system with security measures intended to make signal theft of our programming more difficult. In order to combat piracy and maintain the functionality of active set-top boxes that have been sold to subscribers, we intend to replace older generation smart cards with newer generation smart cards in the future. However, there can be no assurance that these security measures or any future security measures we may implement will be effective in reducing piracy of our programming signals.

Installation. While many consumers have the skills necessary to install our equipment in their homes, we believe that most installations are best performed by professionals, and that on time, quality installations are important to our success. Consequently, we have expanded our installation business, which is conducted through our DISH Network Service LLC subsidiary. We use both employees and independent contractors for professional installations.

Independent installers are held to DISH Network Service LLC service standards to attempt to ensure each DISH Network customer receives the same quality installation and service. Our offices and independent installers are strategically located throughout the continental United States. Although there can be no assurance, we believe that our internal installation business helps to improve quality control, decrease wait time on service calls and new installations and helps us better accommodate anticipated subscriber growth.

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Digital Broadcast Operations Centers. Our principal digital broadcast operations center is located in Cheyenne, Wyoming. We also own a digital broadcast operations center in Gilbert, Arizona which we use as back up to our main facility located in Cheyenne and to support the increase in the number of markets in which we offer local network channels by satellite. Almost all of the functions necessary to provide satellite-delivered services occur at the digital broadcast operations centers. The digital broadcast operations centers use fiber optic lines and downlink antennas to receive programming and other data. These centers then uplink programming content to our direct broadcast satellites. Equipment at our digital broadcast operations centers performs substantially all compression and encryption of DISH Network's programming signals.

Customer Service Centers. We currently own or operate nine customer service centers fielding substantially all of our customer service calls. Potential and existing subscribers can call a single telephone number to receive assistance for hardware, programming, billing, installation and technical support. We continue to work to automate simple phone responses and to increase Internet-based customer assistance in order to better manage customer service costs.

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

Competition for Our Dish Network Business

We compete in the subscription television service industry against other satellite, cable television and land-based system operators offering video, audio and data programming and entertainment services. Many of these competitors have substantially greater financial, marketing and other resources than we have. Our ability to increase earnings depends, in part, on our ability to compete with these operators.

Cable Television. Cable television operators have a large, established customer base, and many have significant investments in, and access to, programming. Of the 97% of United States television households in which cable television service was available as of December 31, 2003, approximately 64% subscribed to cable. Cable television operators continue to leverage their advantages relative to us by, among other things, bundling their analog video service with expanded digital video services delivered terrestrially or via satellite, offering efficient 2-way high-speed Internet access, and telephone service on upgraded cable systems, providing service to multiple television sets within the same household at a lesser incremental cost to the consumer, and providing local and other programming in a larger number of geographic areas. As a result of these and other factors, we may not be able to continue to expand our subscriber base or compete effectively against cable television operators.

DirecTV and other DBS and Direct-to-Home System Operators. During December 2003, an affiliate of News Corporation acquired a 34% controlling interest in The DirecTV Group (formerly known as Hughes Electronics Corporation), the owner of DirecTV. News Corporation's diverse world-wide satellite, content and other related businesses may provide competitive advantages to DirecTV with respect to the acquisition of programming, content and other assets valuable to our industry.

DirecTV's satellite receivers are sold in a significantly greater number of consumer electronics stores than ours. As a result of this and other factors, our services are less well known to consumers than those of DirecTV. Due to this relative lack of consumer awareness and other factors, we are at a competitive marketing disadvantage compared to DirecTV.

According to SEC filings made by DirecTV Holdings LLC, DirecTV owns a fleet of seven high powered DBS satellites, has 46 DBS frequencies that are capable of full coverage of the continental United States, offered more than 800 channels of combined video and audio programming and has approximately 12.2 million subscribers. We believe DirecTV continues to be in an advantageous position relative to our company with regard to, among other things,

certain programming packages, and, possibly, volume discounts for programming offers.

Furthermore, other companies in the United States have conditional permits or have leased transponders for a comparatively small number of DBS frequencies that can be used to provide service to portions of the United States, and Rainbow DBS Company LLC (an affiliate of one of the largest cable providers in the United States) has recently launched its own DBS satellite. New entrants such as Rainbow DBS may have a competitive advantage over us in

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deploying some new products and technologies because of the substantial costs we would be required to incur to make new products or technologies available across our installed base of over 9 million subscribers.

VHF/UHF Broadcasters. Most areas of the United States can receive traditional terrestrial VHF/UHF television broadcasts of between 3 and 10 channels. These broadcasters provide local, network and syndicated programming. The local content nature of the programming may be important to the consumer, and VHF/UHF programming is typically provided free of charge. In addition, the FCC has allocated additional digital spectrum to licensed broadcasters. At least during a transition period, each existing television station will be able to retain its present analog frequencies and also transmit programming on a digital channel that may permit multiple programming services per channel. Our business could be adversely affected by continued free broadcast of local and other programming and increased program offerings by traditional broadcasters.

New Technologies and Competitors. New technologies also could have a material adverse effect on the demand for our DBS services. For example, new and advanced local multi-point video distribution services are currently being implemented. In addition, entities such as regional telephone companies, which are likely to have greater resources than we have, are implementing and supporting digital video compression over existing telephone lines and digital wireless cable. These companies are also developing video-over-fiber technologies that have the potential to dramatically increase the amount and quality of video programming distributed via the internet. Our ability to compete successfully with these and other new technologies will be impacted by, among other things, increasing demand for high definition television, or HDTV, programming. We may have difficulty developing competitive HDTV-related technology and securing adequate spectrum capacity for transmission of HDTV signals.

In addition to the challenges posed by new technologies, mergers, joint ventures, and alliances among franchise, wireless or private cable television operators, regional Bell operating companies and others may result in the creation of new or more integrated providers capable of offering bundled cable television and telecommunications services in competition with us. We may not be able to compete successfully with existing competitors or new entrants in the market for subscription television services.

ECHOSTAR TECHNOLOGIES CORPORATION

EchoStar Technologies Corporation (ETC), one of our wholly-owned subsidiaries, internally designs and develops EchoStar receiver systems. Our satellite receivers have won numerous awards from the Consumer Electronics Manufacturers Association, retailers and industry trade publications. We outsource the manufacture of EchoStar receiver systems to third parties who manufacture the receivers in accordance with our specifications.

The primary purpose of our ETC division is to support the DISH Network. However, in addition to supplying EchoStar receiver systems for the DISH Network, ETC also sells similar digital satellite receivers internationally, either directly to television service operators or to our independent distributors worldwide. This has created a source of additional business for us and synergies that directly benefit DISH Network. For example, our satellite receivers are designed around the Digital Video Broadcasting standard, which is widely used in Europe and Asia. The same employees who design EchoStar receiver systems for the DISH Network are also involved in designing set-top boxes sold to international TV customers. Consequently, we benefit from the possibility that ETC's international projects may result in improvements in design and economies of scale in the production of EchoStar receiver systems for the DISH Network.

We believe that direct-to-home satellite service is particularly well-suited for countries without extensive cable infrastructure, and we are actively soliciting new business for ETC. However, there can be no assurance that ETC will be able to develop additional international business or maintain its existing customers.

Through 2003, our primary international customer was Bell ExpressVu, a subsidiary of Bell Canada, Canada's national telephone company. We currently have certain binding purchase orders from Bell ExpressVu, and we are actively trying to secure new orders from other potential international customers. However, we cannot guarantee at this time that those negotiations will be successful. Our future international revenue depends largely on the success of these and other international operators, which in turn, depends on other factors, such as the level of consumer acceptance of direct-to-home satellite TV products and the increasing intensity of competition for international subscription television subscribers.

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ETC's business also includes our Atlanta-based EchoStar Data Networks Corporation and our UK-based Eldon Technology Limited subsidiaries. EchoStar Data Networks is a supplier of technology for distributing Internet and other content over satellite networks. Eldon Technology designs and tests various software and other technology used in digital televisions and set-top boxes, strengthening our product design capabilities for satellite receivers and integrated televisions in both the international and United States markets.

Competition for Our ETC Business

Through ETC, we compete with a substantial number of foreign and domestic companies, many of which have significantly greater resources, financial or otherwise, than we have. We expect new competitors to enter this market because of rapidly changing technology. Our ability to anticipate these technological changes and introduce enhanced products expeditiously will be a significant factor in our ability to remain competitive. We do not know if we will be able to successfully introduce new products and technologies on a timely basis in order to remain competitive.

GOVERNMENT REGULATION

We are subject to comprehensive regulation by the Federal Communications Commission (FCC). We are also regulated by other federal agencies, state and local authorities and the International Telecommunication Union (ITU). Depending upon the circumstances, noncompliance with legislation or regulations promulgated by these entities could result in suspension or revocation of our licenses or authorizations, the termination or loss of contracts or the imposition of contractual damages, civil fines or criminal penalties.

The following summary of regulatory developments and legislation is not intended to describe all present and proposed government regulation and legislation affecting the video programming distribution industry. 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 of 1934, as amended, which we refer to as 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;

licensing of satellites, 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 and authorizations, including required timetables for construction and operation of satellites and other due diligence requirements;

avoiding interference with other radio frequency emitters; and

ensuring compliance with other applicable provisions of the Communications Act and FCC rules and regulations governing the operation of satellite communications providers and multi-channel video distributors.

In order to obtain FCC satellite licenses and authorizations, communication satellite operators must satisfy strict legal, technical and financial qualification requirements. Once issued, these licenses and authorizations are subject

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to a number of conditions including, among other things, satisfaction of ongoing due diligence obligations, construction milestones, and various reporting requirements.

Our Basic DBS Frequency Licenses and Authorizations. Most of our programming is transmitted to our customers on frequencies in the 12.2 to 12.7 GHz range, which we refer to as the DBS frequencies. We are licensed or authorized by the FCC to operate DBS frequencies at the following orbital locations:

11 frequencies at the 61.5 degree orbital location;

29 frequencies at the 110 degree orbital location;

21 frequencies at the 119 degree orbital location;

32 frequencies at the 148 degree orbital location; and

3 frequencies at the 157 degree orbital location.

We also sublease six transponders (corresponding to six frequencies) at the 61.5 degree orbital location from licensee Dominion Video Satellite, Inc.

Our Satellites. We currently own and operate eight DBS satellites (EchoStar I through EchoStar VIII) and one Fixed-Satellite Service (FSS) Ku/Ka-band satellite (EchoStar IX). Our satellites operate at the following orbital locations:

EchoStar V and EchoStar VII operate at the 119 degree orbital location;

EchoStar VI and EchoStar VIII operate at the 110 degree orbital location;

EchoStar III operates at the 61.5 degree orbital location;

EchoStar I and II operate at the 148 degree orbital location;

EchoStar IV operates at the 157 degree orbital location;

EchoStar IX operates at the 121 degree orbital location.

EchoStar IV is not equipped to operate on all three of our licensed frequencies at the 157 degree orbital location. It is therefore currently operating on a different three-channel configuration at that location under a Special Temporary Authority (STA). The STA expired on February 15, 2004. While we have requested both an extension of the STA and a modification of our license to permit that configuration, we cannot be sure that the FCC will grant these requests.

Duration of our Satellite Licenses and Authorizations. Generally speaking, all of our satellite licenses are subject to expiration unless renewed by the FCC. While under a recent FCC rulemaking the term of certain satellite licenses has been extended from 10 to 15 years, the term of DBS licenses remains at 10 years; our licenses are currently set to expire at various times starting as early as 2006. In addition, our special temporary authorizations are granted for periods of only 180 days or less, subject again to possible renewal by the FCC.

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Opposition and other Risks to our Licenses and Authorizations. 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 have not filed, or have not timely filed, certain reports required in connection with our satellite authorizations. Because of this opposition and our failure to comply with certain requirements of our authorizations, it is possible the FCC could revoke, terminate, condition or decline to extend or renew certain of our authorizations or licenses.

On January 16, 2004, the Court of Appeals for the D.C. Circuit heard arguments in a challenge brought by Advanced Communications Corporation (Advanced), the former holder of DBS permits at the 110 degrees and 148 degrees west orbital locations, against the FCC's 1995 cancellation of its permits. While previous appeals by Advanced have failed, we cannot be certain that Advanced will not ultimately be successful. If it is successful, certain of our licenses to operate core DBS satellites from those orbital locations may be at risk in further FCC proceedings.

Our FSS Licenses. In addition to our DBS licenses and authorizations, we have received conditional licenses from the FCC to operate Fixed-Satellite Service (FSS) satellites in the Ka-band and the Ku-band, including licenses to operate EchoStar IX (a hybrid Ka/Ku-band satellite) at the 121 degree orbital location. EchoStar also recently received Ka-band licenses at the 97 and 123 degree orbital locations. Use of these licenses and conditional authorizations is subject to certain technical and due diligence requirements, including the requirement to construct and launch satellites according to specific milestones and deadlines. Our projects to construct and launch Ku-band, extended Ku-band and Ka-band satellites are in various stages of development.

Risks to our Ka-Band and Ku-Band Authorizations. On March 15, 2004, we relinquished our license for a Ku-band satellite at the 83 degree orbital location and declined our license for a Ka-band satellite at the 125 degree orbital location. With respect to our license for a Ka-band system at the 83 degree orbital location, the FCC requires construction, launch and operation of the satellite system to be completed by June 25, 2005. The FCC has stated that it may cancel our corresponding authorizations if we fail to file adequate reports or to demonstrate progress in the construction of that satellite system. In addition, some companies with interests adverse to ours are challenging our licenses. Our Ka-band licenses at the 83 and 121 degree orbital locations allow us to use only 500 MHz of Ka-band spectrum in each direction, while certain other licensees have been authorized to use 1000 MHz in each direction. Our Ka-band licenses at the 123 and 97 degree orbital locations are for the full 1000 MHz in each direction. With respect to these licenses, the FCC requires construction, launch and operation of the satellites to be completed by December of 2008 and March 2009 respectively. ITU deadlines, however, require satellites to be operating at those slots by June of 2005. There can be no assurance that we will develop acceptable plans to meet these deadlines, or that we will be able to utilize the orbital slot.

VisionStar. We also own a 90% interest in VisionStar, Inc. (VisionStar), which holds a Ka-band license at the 113 degree orbital location. VisionStar did not complete construction or launch of the satellite by the required milestone deadlines and has requested an extension of those milestones from the FCC. Failure to receive an extension would render the license invalid.

Recent FCC Rulemaking Affecting our Licenses and Applications. The FCC has recently changed its system for processing applications to a first-come, first-served process. Since that change became effective, we have filed or refiled, and have pending before the FCC, new applications for as many as nine satellites in several different frequency bands. Several of our direct or indirect competitors have filed petitions to deny or dismiss certain of our pending applications or have requested that conditions be placed on authorizations we requested. We have received Ka-band licenses for the 97, 123 and 125 degree orbital locations, while a number of other applications have been dismissed without prejudice by the FCC. 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 \$250 million or more, and we cannot be sure that we

will be able to construct and launch all of satellites for which we have requested authorizations. The FCC has also imposed a \$5 million bond requirement for all future satellite licenses, which would be forfeited by a licensee that does not meet its diligence milestones for a particular satellite. We have already posted a bond for the Ka-band license we recently received at the 123 degree orbital location and must post a bond for our Ka-band licenses at the 97 degree orbital location or forfeit our license for that location.

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New Satellite License Auction Proceedings. The FCC has proposed to auction licenses for DBS frequencies at the 61.5 degree, 157 degree, 166 degree and 175 degree orbital locations. Rainbow, a DBS licensee with a satellite at the 61.5 degree orbital location, has argued that we should not be eligible to bid for two available channels at the 61.5 degree orbital location. If this argument is accepted by the FCC, it will prevent us from acquiring these channels and making more productive use of the satellite operating at that orbital location. On January 15, 2004, the FCC affirmed that it had the necessary auction authority and that no eligibility restrictions were warranted for the 157, 166 and 175 degree licenses. It deferred the question of eligibility restrictions that would preclude us from bidding for the 61.5 degree license to a separate order.

Expansion DBS Spectrum. The FCC has also allocated additional expansion spectrum for DBS services commencing in 2007. This could create significant additional competition in the market for subscription television services. We filed applications for such additional spectrum during March 2002 but cannot predict whether the FCC will grant these applications.

Other Services in the DBS band. The FCC has also adopted rules that allow non-geostationary orbit fixed satellite services to operate on a co-primary basis in the same frequency as direct broadcast satellite and Ku-band-based fixed satellite services. In the same rulemaking, the FCC authorized use of the DBS spectrum that we use by terrestrial communication services. The FCC recently auctioned licenses for these terrestrial services during January, 2004. We are a passive investor in one of the winning bidders in the auction, but we cannot be sure that licenses will in fact be awarded to that bidder. Also, there can be no assurance that operations by non-geostationary orbit fixed satellite services or terrestrial communication services in the DBS band will not interfere with our DBS operations.

Proposals to allow 4.5 Degree Spacing. During April 2002, SES Americom, Inc. requested a declaratory ruling that it is in the public interest for SES Americom to offer satellite capacity for third party direct-to-home services to consumers in the United States and certain British Overseas Territories in the Caribbean. SES Americom proposes to employ a satellite licensed by the Government of Gibraltar to operate in the same uplink and downlink frequency bands as us, from an orbital position located in between two orbital locations where EchoStar and DirecTV have already positioned satellites. DirecTV, which opposes SES's petition, has itself filed a petition for rulemaking for standards to permit such 4.5 degree spacing. On January 23, 2004, we filed comments in response to DirecTV's petition for rulemaking. We stated in these filings that we believe 4.5 degree spacing is feasible and noted that we ourselves have filed applications for satellites located 4.5 degrees from existing DBS satellites. We acknowledged, however, that such narrow spacing presents risks of interference with current DBS operations. DirecTV has recently requested FCC authority to provide service to the United States from a Canadian orbital slot. The possibility that the FCC will allow service to the U.S. from closer-spaced DBS slots and from foreign slots may permit additional competition against us from other DBS providers.

Rules Relating to Alaska and Hawaii. The holders of DBS authorizations issued after January 19, 1996 must provide DBS service to Alaska and Hawaii if such service is technically feasible from the authorized orbital location. Our authorizations at the 110 degree, 148 degree and 157 degree orbital locations were received after January 19, 1996. While we provide service to Alaska and Hawaii from both the 110 and 119 degree orbital locations, those states have expressed the view that our service should more closely resemble our service to the mainland United States and otherwise needs improvement. Further, the satellite we currently operate at the 148 and 157 degree orbital locations are not able to provide service to Alaska and/or Hawaii. We received temporary waivers of the service requirement for the 148 degree orbital location subject to several conditions and have requested a similar waiver for the 157 degree orbital location. However, the FCC could revoke these waivers or reject our request for a new waiver at any time.

The FCC has also concluded a rulemaking which seeks to streamline and revise its rules governing DBS operators. In connection with this rulemaking, the FCC clarified its geographic service requirements to introduce a requirement that we provide programming packages to residents of Hawaii and Alaska that are reasonably comparable to what we offer

in the contiguous 48 states. We cannot be sure that this requirement will not affect us adversely by requiring us to devote additional resources to serving these two states.

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Other Communications Act Provisions

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 are generally subject to more burdensome regulation than subscription television service providers.

Public Interest Requirements. Under a requirement of the Cable Act, the FCC imposed public interest requirements on DBS licensees. These rules require us to set aside four percent of 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. This could displace programming for which we could earn commercial rates and could adversely affect our financial results. The FCC has generally not reviewed all aspects of our methodology for processing carriage requests, computing the channel capacity we must set aside or determining the rates that we charge public interest programmers. We cannot be sure that, if the FCC were to review these methodologies, it would find them in compliance with the public interest requirements. Certain parties have challenged certain aspects of our methodology in a pending proceeding, and we have recently received a letter from the FCC's Enforcement Bureau regarding these issues. We cannot be sure that the Commission will not take enforcement action against us, which may result in fines and/or changes to our methodology for compliance with these rules.

Other Open Access Requirements. The FCC has also commenced a proceeding regarding distribution of high-speed Internet access services and interactive television services. We cannot be sure that the FCC will not ultimately impose open access obligations on us, which could be very onerous, and could create a significant strain on our capacity and ability to provide other services.

Plug and Play. The FCC has recently 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 consumer electronics industries but not us, and we are concerned that it imposes certain encoding rules on all multichannel video programming distributors, including us, and that the standard and its implementation process favor cable systems. We have filed a petition for review of the FCC's "plug and play" order with the federal Court of Appeals for the District of Columbia Circuit on various grounds, but we cannot be sure that the court will not uphold the FCC's decision. The FCC has also recently adopted the "broadcast flag" method for copy-protecting content broadcast digitally over the air. The cable industry has requested that certain requirements established by the FCC also extend to DBS set-top boxes. It is too early to fully assess the risks to us from the adoption of these standards and the possible extension of these requirements to DBS boxes.

The Satellite Home Viewer Improvement Act

Retransmission of Distant Networks. The Copyright Act, as amended by the Satellite Home Viewer Improvement Act, or SHVIA, permits satellite retransmission of distant network channels only to unserved households. An example of a distant station retransmission is a Los Angeles network station retransmitted by satellite to a subscriber outside of Los Angeles. That subscriber qualifies as an unserved household if he or she cannot receive, over the air, a signal of sufficient intensity (Grade B intensity) from a local station affiliated with the same network.

SHVIA also established a process whereby consumers predicted to be served by a local station may request that this station waive the unserved household limitation so that the requesting consumer may receive distant signals by satellite. If the waiver request is denied, SHVIA entitles the consumer to request an actual test, with the cost to be

borne by either the satellite carrier, such as us, or the broadcast station depending on the results. The testing process required by the statute can be very costly.

In addition, SHVIA has affected and continues to affect us adversely in several other respects. The legislation prohibits us from carrying more than two distant signals for each broadcasting network and leaves the FCC's Grade B intensity standard unchanged without future legislation. The FCC rules mandated by SHVIA require us to delete

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substantial programming (including sports programming) from these signals. Although we have implemented certain measures in our effort to comply with these rules, these requirements have significantly hampered and may further hamper our ability to retransmit distant network and superstation signals. The burdens the rules impose upon us may become so onerous that we may be required to substantially alter or stop retransmitting many or all superstation signals. In addition, the FCC's sports blackout requirements, which apply to all distant network signals, may require costly upgrades to our system.

The statutory license for retransmitting distant stations is set to expire on December 31, 2004, and we cannot be sure that Congress will extend that license. If the license is not extended, we will be unable to retransmit distant stations altogether.

Opposition to Our Delivery of Distant Signals. See Item 3 - Legal Proceedings - Distant Network Litigation for information regarding opposition to our delivery of distant signals.

Retransmission of Local Networks. SHVIA, 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 the local network station. If we fail to reach retransmission consent agreements with broadcasters we cannot carry their signals. This could have an adverse effect on our strategy to compete with cable and other satellite companies, which provide local signals.

While we have been able to reach retransmission consent agreements with most local network stations in markets where we currently offer local channels by satellite, roll-out of local channels in additional cities will require that we obtain additional retransmission agreements. We cannot be sure that we will secure these agreements or that we will secure new agreements upon the expiration of our current retransmission consent agreements, some of which are short term. SHVIA requires broadcasters to negotiate retransmission consent agreements in good faith but FCC rules implementing that obligation provide very few limitations on broadcasters' actions.

Must Carry and Other Requirements. SHVIA also imposes must carry requirements on DBS providers and the FCC has adopted detailed must carry rules applicable to us. These rules generally require that satellite distributors carry all the local broadcast stations requesting carriage in a timely and appropriate manner in areas where they choose to offer local programming, not just the four major networks. Since we have limited capacity, the number of markets in which we can offer local programming is reduced by the must carry rules because we are required to carry large numbers of stations in each market we serve. The legislation also includes provisions that could expose us to material monetary penalties, and permanent prohibitions on the sale of all local and distant network channels, based on inadvertent violations of the legislation, prior law, or the FCC rules. Imposition of these penalties would have a material adverse effect on our business operations generally.

Several must carry complaints by broadcasters against us are pending at the FCC. The FCC has ruled against us in certain of these proceedings, and we cannot be sure that the FCC will rule in our favor in other pending or future proceedings. Such a ruling could result in a decrease in the number of local areas where we can offer local network programming. This in turn could increase churn in those markets and preclude us from offering local network channels in new markets, thereby reducing our competitiveness.

Furthermore, we cannot be sure that the FCC will not interpret or implement its rules in such a manner as to inhibit our use of our two-dish solution to comply with the must carry requirements. The National Association of Broadcasters and Association of Local Television Stations filed an emergency petition during 2002 asking the FCC to modify or clarify its rules to prohibit or hamper our compliance plan. In response, during April 2002, a bureau of the FCC issued a declaratory ruling and order finding that our compliance plan violated certain provisions of SHVIA and the FCC's must carry regulations. Challenges to the April 2002 order have been filed by various parties, including one

by us, and are presently pending.

During April 2002, the FCC bureau also issued an order granting in part numerous complaints filed against us by individual broadcast stations that claimed violations of the must carry requirements similar to those addressed in the prior April 2002 order. Depending upon the ultimate outcome of these proceedings (including the extent to which our compliance reports are accepted), further orders by the bureau or the FCC itself could result in a decrease in the number of local areas where we will be able to offer local network programming until new satellites are

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launched. This, in turn, could significantly increase the churn of subscribers in those areas where local network programming is no longer offered and impair our ability to gain new subscribers in those areas, which could materially adversely affect our financial performance. We could also be exposed to damage claims by local stations if we are found by any court to have violated the must carry requirements. These damage claims could materially adversely affect our financial position.

Finally, while the FCC has decided for now not to impose must carry obligations on satellite carriers for high definition television stations or dual digital/analog carriage obligations i.e., additional requirements in connection with the carriage of digital television stations that go beyond carriage of one signal (whether analog or standard definition digital) for each station, the FCC still has pending rulemaking proceedings on these matters. These proceedings may result in further, even more onerous, digital carriage requirements.

Dependence on Cable Act for Program Access

We purchase a substantial percentage of our programming from cable-affiliated programmers. The Cable Act's provisions prohibiting exclusive contracting practices with cable affiliated programmers have been extended from October 2002 to October 2007, but this extension could be reversed. Upon expiration of those provisions, many popular programs may become unavailable to us, causing a loss of customers and adversely affecting our revenues and financial performance. Any change in the Cable Act and the FCC's rules that would 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 programming at all or to acquire programming on a cost-effective basis. We believe that the FCC generally has not shown a willingness to enforce the program access rules aggressively. As a result, we may be limited in our ability to obtain access (or non-discriminatory access) to programming from programmers that are affiliated with the cable system operators.

Affiliates of certain cable providers have denied us access to sports programming they feed to their cable systems terrestrially, rather than by satellite. To the extent that cable operators deliver additional programming terrestrially in the future, they may assert that this additional programming is also exempt from the program access laws. These restrictions on our access to programming could materially adversely affect our ability to compete in regions serviced by these cable providers.

The International Telecommunication Union

Our DBS system also must conform to the International Telecommunication Union, or ITU, broadcasting satellite service plan. 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 plan. Further, DBS satellites are not presently entitled to any protection from other satellites that are in conformance with the plan. The United States government has filed modification requests with the ITU for EchoStar I, EchoStar II and EchoStar III. The ITU has requested certain technical information in order to process the requested modifications. We have cooperated, and continue to cooperate, with the FCC in the preparation of its responses to the ITU requests. We cannot predict when the ITU will act upon these requests for modification or if they will be granted.

Export Control Regulation

We are required to obtain import and general destination export licenses from the United States government to receive and deliver components of direct-to-home satellite TV systems. In addition, 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.

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PATENTS AND TRADEMARKS

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 infringes on intellectual property held by others, we may be required to cease developing or marketing those products, to obtain licenses from the holders of the intellectual property, or to redesign those products 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 may potentially infringe. In addition, patent applications in the United States are confidential until the Patent and Trademark Office issues a patent 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 net income, could be material. Damages in patent infringement cases may also include treble damages 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 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 2004 or 2005. Environmental requirements are complex, change frequently and have become more stringent over time. Accordingly, we cannot provide assurance that these 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

For operating segment and principal geographic area data for 2003, 2002 and 2001 see Note 11 in the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K.

EMPLOYEES

We had approximately 15,000 employees at December 31, 2003, most of whom are located in the United States. We generally consider relations with our employees to be good.

Although a total of approximately 100 employees in three of our field offices have voted to unionize, we are not currently a party to any collective bargaining agreements. However, we are currently negotiating collective bargaining agreements at these offices.

WHERE YOU CAN FIND MORE INFORMATION

We, as a reporting company, 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 Securities and Exchange Commission (SEC). The Public may read and copy any materials filed with the SEC at the SEC s Public Reference Room at 450 Fifth Street, NW, Washington, DC 20549.

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Please call the SEC at (800) SEC-0330 for further information on the Public Reference Room. As an electronic filer, our public filings are 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.echostar.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 Securities and Exchange Commission promulgated thereunder. Our code of ethics is available on our corporate website at www.echostar.com. In the event that we make changes in, or provide waivers from, 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 sets forth the name, age and offices with EchoStar 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	51	Chairman, Chief Executive Officer and Director
Michael T. Dugan	55	President, Chief Operating Officer
James DeFranco	51	Executive Vice President and Director
Michael Kelly	42	Executive Vice President, DISH Network Service LLC and Customer Service Operations
Steven B. Schaver	50	President, EchoStar International Corporation
David K. Moskowitz	45	Senior Vice President, General Counsel, Secretary and Director
Mark W. Jackson	43	Senior Vice President, EchoStar Technologies Corporation
Michael R. McDonnell	40	Senior Vice President and Chief Financial Officer
Michael Schwimmer	43	Senior Vice President, Programming

O. Nolan Daines 44 Senior Vice President, Broadband

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

Michael T. Dugan. Mr. Dugan is the President and Chief Operating Officer of EchoStar. In that capacity, Mr. Dugan is responsible for, among other things, all operations at EchoStar. He was elected to EchoStar's Board of Directors during May 2002. Until April 2000, he was President of EchoStar Technologies Corporation. Previously he was the Senior Vice President of the Consumer Products Division of ECC. Mr. Dugan has been with EchoStar since 1990.

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James DeFranco. Mr. DeFranco, currently the Executive Vice President of EchoStar, has been a Vice President and a Director of EchoStar since its formation and, during the past five years, has held various executive officer and director positions with EchoStar's subsidiaries. Mr. DeFranco, along with Mr. Ergen and Mr. Ergen's spouse, was a co-founder of EchoStar in 1980.

Michael Kelly. Mr. Kelly is the Executive Vice President of DISH Network Service LLC and Customer Service Operations. Until February 2004, he served as Senior Vice President of DISH Network Service LLC. Mr. Kelly joined EchoStar in March 2000 as Senior Vice President of International Programming upon consummation of EchoStar's acquisition of Kelly Broadcasting Systems, Inc. From January 1991 until March 2000, Mr. Kelly served as President of Kelly Broadcasting Systems, Inc. where he was responsible for all components of the business, including operations, finance, and international and domestic business development.

Steven B. Schaver. Mr. Schaver was named President of EchoStar International Corporation in April 2000. Mr. Schaver also served as EchoStar's Chief Financial Officer from February 1996 through August 2000 and served as EchoStar's Chief Operating Officer from November 1996 until April 2000.

David K. Moskowitz. Mr. Moskowitz is the Senior Vice President, Secretary and General Counsel of EchoStar. Mr. Moskowitz joined EchoStar in March 1990. He was elected to EchoStar's Board of Directors during 1998. Mr. Moskowitz is responsible for all legal affairs and certain business functions for EchoStar and its subsidiaries.

Mark W. Jackson. Mr. Jackson was named Senior Vice President of EchoStar Technologies Corporation in April 2000. Mr. Jackson served as Senior Vice President of Satellite Services from December 1997 until April 2000.

Michael R. McDonnell. Mr. McDonnell joined EchoStar in August 2000 as Senior Vice President and Chief Financial Officer. Mr. McDonnell is responsible for all accounting and finance functions of the Company. Prior to joining EchoStar, Mr. McDonnell was a Partner with PricewaterhouseCoopers LLP, serving on engagements for companies in the technology and information communications industries.

Michael Schwimmer. Mr. Schwimmer was named Senior Vice President of Programming in February 2002. From July 1997 to February 2002, Mr. Schwimmer served as Vice President of Programming.

O. Nolan Daines. Mr. Daines joined EchoStar as Senior Vice President in September 2002 and is currently responsible for EchoStar's broadband initiatives including strategic alliances with telecommunication partners. Mr. Daines was appointed to EchoStar's Board of Directors in March 1998 and served on EchoStar's Audit Committee until September 2002. In addition, until May 2002, Mr. Daines served as a member of EchoStar's Executive Compensation Committee. In 1993, Mr. Daines founded DiviCom, Inc., where he held various executive officer positions from the formation of DiviCom until October 1999.

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 EchoStar, executive officers serve at the discretion of the Board of Directors.

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The following table sets forth certain information concerning our principal properties:

Description/Use/Location	Segment(s) Using Property	Approximate Square Footage	Owned or Leased
Corporate headquarters, Englewood, Colorado	All	476,000	Owned
EchoStar Technologies Corporation engineering offices and service center, Englewood, Colorado	ETC	150,000	Owned
EchoStar Technologies Corporation engineering offices, Englewood, Colorado	ETC	63,000	Owned
Digital broadcast operations center, Cheyenne, Wyoming	DISH Network	123,000	Owned
Digital broadcast operations center, Gilbert, Arizona	DISH Network	120,000	Owned
Customer service center, Littleton, Colorado	DISH Network	202,000	Owned
Customer service center and warehouse, El Paso, Texas	DISH Network	171,000	Owned
Customer service center, McKeesport, Pennsylvania	DISH Network	106,000	Leased
Customer service center, Christiansburg, Virginia	DISH Network	103,000	Owned
Customer service center and general offices, Pine Brook, New Jersey	DISH Network	67,000	Leased
Customer service center, Thornton, Colorado	DISH Network	55,000	Owned
Customer service center, Harlingen, Texas	DISH Network	54,000	Owned
Customer service center, Bluefield, West Virginia	DISH Network	50,000	Owned
Warehouse and distribution center, Atlanta, Georgia	DISH Network	144,000	Leased
Warehouse and distribution center, Denver, Colorado	DISH Network	133,000	Leased
Warehouse and distribution center, Sacramento, California	DISH Network	82,000	Owned
Warehouse and distribution center, Dallas, Texas	DISH Network	80,000	Leased
Engineering offices and warehouse, Almelo, The Netherlands	Other	55,000	Owned

Item 3. Legal Proceedings

WIC Premium Television Ltd.

During July 1998, WIC Premium Television Ltd. (WIC), an Alberta corporation, filed a lawsuit against us in the Federal Court of Canada Trial Division. General Instrument Corporation, HBO, Warner Communications, Inc., Showtime and United States Satellite Broadcasting Company, Inc. were also named as defendants.

During September 1998, WIC filed another lawsuit against us in the Court of Queen s Bench of Alberta Judicial District of Edmonton. WIC is authorized to broadcast certain copyrighted work, such as movies and concerts, to residents of Canada. WIC alleged that the defendants engaged in, promoted, and/or allowed satellite dish equipment from the United States to be sold in Canada and to Canadian residents and that some of the defendants allowed and profited from Canadian residents purchasing and viewing subscription television programming that is only authorized for viewing in the United States. During December 2003, the matter was dismissed with no impact on our business.

Distant Network Litigation

Until July 1998, we obtained feeds of distant broadcast network channels (ABC, NBC, CBS and FOX) for distribution to our customers through PrimeTime 24. In December 1998, the United States District Court for the Southern District of Florida entered a nationwide permanent injunction requiring PrimeTime 24 to shut off distant network channels to many of its customers, and henceforth to sell those channels to consumers in accordance with the injunction.

In October 1998, we filed a declaratory judgment action against ABC, NBC, CBS and FOX in the United States District Court for the District of Colorado. We asked the Court to find that our method of providing distant network programming did not violate the Satellite Home Viewer Act and hence did not infringe the networks copyrights. In November 1998, the networks and their affiliate association groups filed a complaint against us in Miami Federal Court

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alleging, among other things, copyright infringement. The Court combined the case that we filed in Colorado with the case in Miami and transferred it to the Miami Federal Court.

In February 1999, the networks filed a Motion for Temporary Restraining Order, Preliminary Injunction and Contempt Finding against DirecTV, Inc. in Miami related to the delivery of distant network channels to DirecTV customers by satellite. DirecTV settled that lawsuit with the networks. Under the terms of the settlement between DirecTV and the networks, some DirecTV customers were scheduled to lose access to their satellite-provided distant network channels by July 31, 1999, while other DirecTV customers were to be disconnected by December 31, 1999. Subsequently, substantially all providers of satellite-delivered network programming other than us agreed to this cut-off schedule, although we do not know if they adhered to this schedule.

In April 2002, we reached a private settlement with ABC, Inc., one of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. In November 2002, we reached a private settlement with NBC, another of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. On March 10, 2004, we reached a private settlement with CBS, another of the plaintiffs in the litigation and jointly filed a stipulation of dismissal. We have also reached private settlements with many independent stations and station groups. We were unable to reach a settlement with five of the original eight plaintiffs Fox and the associations affiliated with each of the four networks.

A trial took place during April 2003 and the Court issued its final judgment in June 2003. The District Court found that with one exception our current distant network qualification procedures comply with the law. We have revised our procedures to comply with the District Court's Order. Although the plaintiffs asked the District Court to enter an injunction precluding us from selling any local or distant network programming, the District Court refused. While the networks did not claim monetary damages and none were awarded, they are seeking approximately \$10.0 million of attorney fees.

The District Court's injunction requires us to use a computer model to re-qualify, as of June 2003, all of our subscribers who receive ABC, NBC, CBS or Fox programming by satellite from a market other than the city in which the subscriber lives. The Court also invalidated all waivers historically provided by network stations. These waivers, which have been provided by stations for the past several years through a third party automated system, allow subscribers who believe the computer model improperly disqualified them for distant network channels to none-the-less receive those channels by satellite. Further, even though the Satellite Home Viewer Improvement Act provides that certain subscribers who received distant network channels prior to October 1999 can continue to receive those channels through December 2004, the District Court terminated the right of our grandfathered subscribers to continue to receive distant network channels.

We believe the District Court made a number of errors and appealed the District Court's decision. Plaintiffs cross-appealed. The Court of Appeals granted our request to stay the injunction until our appeal is decided. Oral argument occurred on February 26, 2004. It is not possible to predict how or when the Court of Appeals will rule on the merits of our appeal.

In the event the Court of Appeals upholds the injunction, and if we do not reach private settlement agreements with additional stations, we will attempt to assist subscribers in arranging alternative means to receive network channels, including migration to local channels by satellite where available, and free off air antenna offers in other markets. However, we cannot predict with any degree of certainty how many subscribers will cancel their primary DISH Network programming as a result of termination of their distant network channels. We could be required to terminate distant network programming to all subscribers in the event the plaintiffs prevail on their cross-appeal and we are permanently enjoined from delivering all distant network channels. Termination of distant network programming to subscribers would result, among other things, in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

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Gemstar

During October 2000, Starsight Telecast, Inc., a subsidiary of Gemstar-TV Guide International, Inc. (Gemstar), filed a suit for patent infringement against us and certain of our subsidiaries in the United States District Court for the Western District of North Carolina, Asheville Division. The suit alleges infringement of United States Patent No. 4,706,121 (the 121 Patent) which relates to certain electronic program guide functions.

In December 2000, we filed suit against Gemstar-TV Guide (and certain of its subsidiaries) in the United States District Court for the District of Colorado alleging violations by Gemstar of various federal and state anti-trust laws and laws governing unfair competition. Gemstar filed counterclaims alleging infringement of United States Patent Nos. 5,923,362 and 5,684,525 that relate to certain electronic program guide functions. In addition, Gemstar asserted new patent infringement counterclaims regarding United States Patent Nos. 4,908,713 and 5,915,068. These patents relate to on-screen programming of VCRs.

In February 2001, Gemstar filed patent infringement actions against us in the District Court in Atlanta, Georgia and with the ITC. These suits allege infringement of United States Patent Nos. 5,252,066, 5,479,268 and 5,809,204, all of which relate to certain electronic program guide functions. In addition, the ITC action alleged infringement of the 121 Patent which was also asserted in the North Carolina case previously discussed. On March 1, 2004, we entered into a number of agreements with Gemstar including a settlement agreement which provides for the resolution of the aforementioned disputes between us and Gemstar. The effectiveness of the settlement is subject to certain conditions, including the previously discussed closing of the SNG sale.

During 2000, Superguide Corp. (Superguide) also filed suit against us, DirecTV and others in the United States District Court for the Western District of North Carolina, Asheville Division, alleging infringement of United States Patent Nos. 5,038,211, 5,293,357 and 4,751,578 which relate to certain electronic program guide functions, including the use of electronic program guides to control VCRs. Superguide sought injunctive and declaratory relief and damages in an unspecified amount. It is our understanding that these patents may be licensed by Superguide to Gemstar. Gemstar was added as a party to this case and asserted these patents against us. We examined these patents and believe that they are not infringed by any of our products or services. A Markman ruling interpreting the patent claims was issued by the Court and in response to that ruling, we filed motions for summary judgment of non-infringement for each of the asserted patents. Gemstar filed a motion for summary judgment of infringement with respect to one of the patents. During July 2002, the Court issued a Memorandum of Opinion on the summary judgment motions. In its Opinion, the Court ruled that none of our products infringe the 5,038,211 and 5,293,357 patents. With respect to the 4,751,578 patent, the Court ruled that none of our current products infringed that patent and asked for additional information before it could rule on certain low-volume products that are no longer in production. During July 2002, the Court summarily ruled that the aforementioned low-volume products did not infringe any of the asserted patents. Accordingly, the Court dismissed the case and awarded us our court costs and the case was appealed to the United States Court of Appeals for the Federal Circuit. On February 12, 2004, the Federal Circuit affirmed in part and reversed in part the District Court's findings and remanded the case back to the District Court for further proceedings. We will continue to vigorously defend this case. In the event that a Court ultimately determines that we infringe on any of the aforementioned 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 electronic programming guide and related features that we currently offer to consumers. It is not possible to make a firm assessment of the probable outcome of the suit or to determine the extent of any potential liability or damages.

Broadcast Innovation, LLC

In November of 2001, Broadcast Innovation, LLC filed a lawsuit against EchoStar, DirecTV, Thomson Consumer Electronics and others in Federal District Court in Denver, Colorado. 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. We examined these patents and believe that they are not infringed by any of our products or services.

Subsequently, DirecTV and Thomson settled with Broadcast Innovation leaving EchoStar as the only defendant. On January 23, 2004, the judge issued an order finding the 066 patent invalid as being indefinite in violation of 35 U.S.C. Sec. 112. Motions with respect to the infringement, invalidity and construction

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of the 094 patent remain pending. We will continue to vigorously defend this case. In the event that a Court ultimately determines that we infringe on any of the aforementioned 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. It is not possible to make a firm assessment of the probable outcome of the suit or to determine the extent of any potential liability or damages.

TiVo Inc.

In January of 2004, TiVo Inc. filed a lawsuit against us in the United States District Court for the Eastern District of Texas. We have not yet filed our answer. The suit alleges infringement of United States Patent No. 6,233,389 (the 389 patent). The 389 patent relates to certain methods and devices for providing what the patent calls time-warping . We have examined this patent and do not believe that it is infringed by any of our products or services. We intend to vigorously defend this case. In the event that a Court ultimately determines that we infringe this 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 features that we currently offer to consumers. It is not possible to make a firm assessment of the probable outcome of the suit or to determine the extent of any potential liability or damages.

California Actions

A purported class action was filed against us in the California State Superior Court for Alameda County during 2001 by Andrew A. Werby. The complaint related to late fees, among other things. The matter was settled with no material impact on our business.

A purported class action relating to the use of terms such as crystal clear digital video, CD-quality audio, and on-screen program guide, and with respect to the number of channels available in various programming packages was also filed against us in the California State Superior Court for Los Angeles County in 1999 by David Pritikin and by Consumer Advocates, a nonprofit unincorporated association. The complaint alleges breach of express warranty and violation of the California Consumer Legal Remedies Act, Civil Code Sections 1750, et seq., and the California Business & Professions Code Sections 17500 & 17200. A hearing on the plaintiffs motion for class certification and our motion for summary judgment was held during June 2002. At the hearing, the Court issued a preliminary ruling denying the plaintiffs motion for class certification. However, before issuing a final ruling on class certification, the Court granted our motion for summary judgment with respect to all of the plaintiffs claims. Subsequently, we filed a motion for attorney s fees which was denied by the Court. The plaintiffs filed a notice of appeal of the court s granting of our motion for summary judgment and we cross-appealed the Court s ruling on our motion for attorney s fees. On December 5, 2003, the Court of Appeal affirmed in part; and reversed in part, the lower court s decision granting summary judgment in our favor. Specifically, the Court found there were triable issues of fact as to whether we may have violated the alleged consumer statutes with representations concerning the number of channels and the program schedule. However, the Court found no triable issue of fact as to whether the representations crystal clear digital video or CD quality audio constituted a cause of action. Moreover, the Court affirmed that the reasonable consumer standard was applicable to each of the alleged consumer statutes. Plaintiff argued the standard should be the least sophisticated consumer. The Court also affirmed the dismissal of Plaintiffs breach of warranty claim. Plaintiff filed a Petition for Review with the California Supreme Court and we responded. On March 24, 2004, the California Supreme Court denied Plaintiff s Petition for Review. Therefore, the action has been remanded to the trial court pursuant to the instructions of the Court of Appeal. It is too early in the litigation to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability against us.

State Investigation

During April 2002, two state attorneys general commenced a civil investigation concerning certain of our business practices. Over the course of the next six months, 11 additional states ultimately joined the investigation. The states alleged failure to comply with consumer protection laws based on our call response times and policies, advertising and customer agreement disclosures, policies for handling consumer complaints, issuing rebates and refunds and charging cancellation fees to consumers, and other matters. We cooperated fully in the investigation. During May 2003, we

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entered into an Assurance of Voluntary Compliance with the states which ended their investigation. The states have released all claims related to the matters investigated.

Retailer Class Actions

We have been sued by retailers in three separate purported class actions. During October 2000, two separate lawsuits were filed in the Arapahoe County District Court in the State of Colorado and the United States District Court for the District of Colorado, respectively, by Air Communication & Satellite, Inc. and John DeJong, et al. on behalf of themselves and a class of persons similarly situated. The plaintiffs are attempting to certify nationwide classes on behalf of certain of our satellite hardware retailers. The plaintiffs are requesting the Courts to 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. We are vigorously defending against the suits and have asserted a variety of counterclaims. The United States District Court for the District of Colorado stayed the Federal Court action to allow the parties to pursue a comprehensive adjudication of their dispute in the Arapahoe County State Court. John DeJong, d/b/a Nexwave, and Joseph Kelley, d/b/a Keltronics, subsequently intervened in the Arapahoe County Court action as plaintiffs and proposed class representatives. We have filed a motion for summary judgment on all counts and against all plaintiffs. The plaintiffs have filed a motion for additional time to conduct discovery to enable them to respond to our motion. The Court has not ruled on either of the two motions. It is too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Satellite Dealers Supply, Inc. (SDS) filed a lawsuit against us in the United States District Court for the Eastern District of Texas during September 2000, on behalf of itself and a class of persons similarly situated. The plaintiff was attempting to certify a nationwide class on behalf of sellers, installers, and servicers of satellite equipment who contract with us and who allege that we: (1) charged back certain fees paid by members of the class to professional installers in violation of contractual terms; (2) manipulated the accounts of subscribers to deny payments to class members; and (3) misrepresented, to class members, the ownership of certain equipment related to the provision of our satellite television service. During September 2001, the Court granted our motion to dismiss. The plaintiff moved for reconsideration of the Court's order dismissing the case. The Court denied the plaintiff's motion for reconsideration. The trial court denied our motions for sanctions against SDS. Both parties perfected appeals before the Fifth Circuit Court of Appeals. On appeal, the Fifth Circuit upheld the dismissal for lack of personal jurisdiction. The Fifth Circuit vacated and remanded the district court's denial of our motion for sanctions and instructed the district court to decide the issue again and to issue a written opinion, which it had failed to do the first time. It is not possible to make a firm assessment of the probable outcome on that issue or to determine the extent of any recovery of sanctions.

StarBand Shareholder Lawsuit

On August 20, 2002, a limited group of shareholders in StarBand filed an action in the Delaware Court of Chancery against EchoStar and EchoBand Corporation, together with four EchoStar executives who sat on the Board of Directors for StarBand, for alleged breach of the fiduciary duties of due care, good faith and loyalty, and also against EchoStar and EchoBand Corporation for aiding and abetting such alleged breaches. Two of the individual defendants, Charles W. Ergen and David K. Moskowitz, are members of our Board of Directors. The action stems from the defendants' involvement as directors, and EchoBand's position as a shareholder, in StarBand, a broadband Internet satellite venture in which we invested. On July 28, 2003, the Court granted the defendants' motion to dismiss on all counts. The Plaintiffs have since filed a notice of appeal. Oral argument on the appeal was held on January 6, 2004. EchoStar is waiting for the decision on appeal to the Delaware Supreme Court. It is not possible to make a firm assessment of the probable outcome of the appeal or to determine the extent of any potential liability or damages.

Shareholder Derivative Action

During October 2002, a purported shareholder filed a derivative action against members of our Board of Directors in the United States District Court of Clark County, Nevada and naming us as a nominal defendant. The complaint alleges breach of fiduciary duties, corporate waste and other unlawful acts relating to our agreement to (1) pay Hughes Electronics Corporation a \$600.0 million termination fee in certain circumstances and (2) acquire Hughes shareholder interest in PanAmSat. The agreements to pay the termination fee and acquire PanAmSat were required in the event

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that the merger with DirecTV was not completed by January 21, 2003. During July 2003, the individual Board of Director defendants were dismissed from the suit, and EchoStar was dismissed during August 2003. The plaintiff did not file an appeal.

Enron Commercial Paper Investment Complaint

On November 6, 2003, an action was commenced in the United States Bankruptcy Court for the Southern District of New York, against approximately 100 defendants, including us, who invested in Enron's commercial paper. The complaint alleges that Enron's October 2001 prepayment of its commercial paper is a voidable preference under the bankruptcy laws and constitutes a fraudulent conveyance. The complaint alleges that we received voidable or fraudulent prepayments of approximately \$40.0 million. We typically invest in commercial paper and notes which are rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations. At the time of our investment in Enron commercial paper, it was considered to be high quality and considered to be a very low risk. It is too early to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

Satellite Insurance

In September 1998, we filed a \$219.3 million insurance claim for a total loss under the launch insurance policies covering EchoStar IV. The satellite insurance consists of separate substantially identical policies with different carriers for varying amounts that, in combination, create a total insured amount of \$219.3 million. The insurance carriers include La Reunion Spatiale; AXA Reinsurance Company (n/k/a AXA Corporate Solutions Reinsurance Company), United States Aviation Underwriters, Inc., United States Aircraft Insurance Group; Assurances Generales De France I.A.R.T. (AGF); Certain Underwriters at Lloyd's, London; Great Lakes Reinsurance (U.K.) PLC; British Aviation Insurance Group; If Skaadeforsikring (previously Storebrand); Hannover Re (a/k/a International Hannover); The Tokio Marine & Fire Insurance Company, Ltd.; Marham Space Consortium (a/k/a Marham Consortium Management); Ace Global Markets (a/k/a Ace London); M.C. Watkins Syndicate; Goshawk Syndicate Management Ltd.; D.E. Hope Syndicate 10009 (Formerly Busbridge); Amlin Aviation; K.J. Coles & Others; H.R. Dumas & Others; Hiscox Syndicates, Ltd.; Cox Syndicate; Hayward Syndicate; D.J. Marshall & Others; TF Hart; Kiln; Assitalia Le Assicurazioni D Italia S.P.A. Roma; La Fondiaria Assicurazione S.P.A., Firenze; Vittoria Assicurazioni S.P.A., Milano; Ras Riunione Adriatica Di Sicurta S.P.A., Milano; Societa Cattolica Di Assicurazioni, Verano; Siat Assicurazione E Riassicurazione S.P.A, Genova; E. Patrick; ZC Specialty Insurance; Lloyds of London Syndicates 588 NJM, 1209 Meb AND 861 Meb; Generali France Assurances; Assurance France Aviation; and Ace Bermuda Insurance Ltd.

The insurance carriers offered us a total of approximately \$88.0 million, or 40% of the total policy amount, in settlement of the EchoStar IV insurance claim. The insurers assert, among other things, that EchoStar IV was not a total loss, as that term is defined in the policy, and that we did not abide by the exact terms of the insurance policies. We strongly disagree and filed arbitration claims against the insurers for breach of contract, failure to pay a valid insurance claim and bad faith denial of a valid claim, among other things. Due to individual forum selection clauses in certain of the policies, we are pursuing our arbitration claims against Ace Bermuda Insurance Ltd. in London, England, and our arbitration claims against all of the other insurance carriers in New York, New York. The New York arbitration commenced on April 28, 2003, and the Arbitration Panel has now conducted approximately thirty-five days of hearings. The parties to the London arbitration have agreed to stay that proceeding pending a ruling in the New York arbitration. There can be no assurance that we will receive the amount claimed in either the New York or the London arbitrations or, if we do, that we will retain title to EchoStar IV with its reduced capacity.

In addition to the above actions, we are subject to various other legal proceedings and claims which arise in the ordinary course of business. 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.

Item 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No items were submitted to a vote of security holders during the fourth quarter of 2003.

Table of Contents**PART II****Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS**

Our class A common stock is quoted on the Nasdaq National Market under the symbol DISH. The sale prices shown below reflect inter-dealer quotations and do not include retail markups, markdowns, or commissions and may not necessarily represent actual transactions. The high and low closing sale prices of the class A common stock during 2002 and 2003 on the Nasdaq National Market (as reported by Nasdaq) are set forth below.

	High	Low
	<hr/>	<hr/>
2002		
First Quarter	\$29.45	\$22.34
Second Quarter	29.35	16.99
Third Quarter	19.36	14.16
Fourth Quarter	23.09	16.89
2003		
First Quarter	\$30.40	\$23.28
Second Quarter	36.28	27.63
Third Quarter	40.40	34.27
Fourth Quarter	40.53	30.44

As of March 22, 2004, there were approximately 5,034 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 March 22, 2004, all 238,435,208 outstanding shares of our class B common stock were held by Charles W. Ergen, our Chairman and Chief Executive Officer. There is currently no trading market for our class B common stock.

We have never declared or paid any cash dividends on any class of our common stock and currently do not intend to declare dividends on our common stock in the foreseeable future. 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. See Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.

Table of Contents**Item 6. SELECTED FINANCIAL DATA**

The selected consolidated financial data as of and for each of the five years ended December 31, 2003 have been derived from, and are qualified by reference to our Consolidated Financial Statements. This data should be read in conjunction with our Consolidated Financial Statements and related Notes thereto for the three years ended December 31, 2003, and Management's Discussion and Analysis of Financial Condition and Results of Operations included elsewhere in this report.

Statements of Operations Data	For the Years Ended December 31,				
	1999	2000	2001	2002 (As Restated)(1)	2003
	(in thousands, except per share data)				
Revenue:					
Subscription television services	\$ 1,345,357	\$ 2,366,313	\$ 3,588,441	\$ 4,411,838	\$ 5,399,382
Other subscriber-related revenue	8,467	5,537	17,283	17,861	10,493
DTH equipment sales	184,041	259,830	271,242	287,831	244,083
Other	64,976	83,540	124,172	103,295	85,338
Total revenue	<u>1,602,841</u>	<u>2,715,220</u>	<u>4,001,138</u>	<u>4,820,825</u>	<u>5,739,296</u>
Costs and Expenses:					
Subscriber related expenses (exclusive of depreciation shown below)	724,620	1,276,943	1,792,542	2,200,239	2,707,898
Satellite and transmission expenses (exclusive of depreciation shown below)	41,232	44,719	40,899	62,131	79,322
Cost of sales DTH equipment	148,427	194,963	188,039	178,554	150,600
Cost of sales other	17,084	32,992	81,974	55,582	47,387
Cost of sales subscriber promotion subsidies (exclusive of depreciation shown below)	478,122	747,020	459,909	439,863	502,656
Other subscriber promotion subsidies	184,238	273,080	477,903	574,750	628,928
Subscriber acquisition advertising	62,072	135,841	143,007	154,036	180,484
General and administrative	119,999	196,907	305,738	319,915	332,723
Non-cash, stock-based compensation	60,910	51,465	20,173	11,279	3,544
Depreciation and amortization	113,228	185,356	278,652	372,958	398,206
Total costs and expenses	<u>1,949,932</u>	<u>3,139,286</u>	<u>3,788,836</u>	<u>4,369,307</u>	<u>5,031,748</u>
Operating income (loss)	\$ (347,091)	\$ (424,066)	\$ 212,302	\$ 451,518	\$ 707,548

Net income (loss)	\$ (792,847)	\$ (650,326)	\$ (215,498)	\$ (852,034)(2)	\$ 224,506
Net income (loss) to common shareholders	\$ (800,100)	\$ (651,472)	\$ (215,835)	\$ (414,601)(3)	\$ 224,506
Basic weighted-average common shares outstanding	416,476	471,023	477,172	480,429	483,098
Diluted weighted-average common shares outstanding	416,476	471,023	477,172	480,429	488,314
Basic income (loss) per share	\$ (1.92)	\$ (1.38)	\$ (0.45)	\$ (0.86)	\$ 0.46
Diluted income (loss) per share	\$ (1.92)	\$ (1.38)	\$ (0.45)	\$ (0.86)	\$ 0.46

Table of Contents**As of December 31,**

Balance Sheet Data	As of December 31,				
	1999	2000	2001	2002 (As Restated) (1)	2003
	(in thousands)				
Cash, cash equivalents and marketable investment securities	\$1,254,175	\$1,464,175	\$2,828,297	\$ 2,686,995	\$ 3,972,974
Cash reserved for satellite insurance		82,393	122,068	151,372	176,843
Restricted cash	3,000	3,000	1,288	9,972	19,974
Total assets	3,898,189	4,636,835	6,519,686	6,260,585	7,585,018
Long-term obligations (including current portion):					
1994 Notes	1,503				
1996 Notes	1,097				
1997 Notes	15				
9 1/4% Senior Notes due 2006	375,000	375,000	375,000	375,000	
9 3/8% Senior Notes due 2009	1,625,000	1,625,000	1,625,000	1,625,000	1,423,351
4 7/8% Convertible Subordinated Notes due 2007	1,000,000	1,000,000	1,000,000	1,000,000	
10 3/8% Senior Notes due 2007		1,000,000	1,000,000	1,000,000	1,000,000
5 3/4% Convertible Subordinated Notes due 2008			1,000,000	1,000,000	1,000,000
9 1/8% Senior Notes due 2009			700,000	700,000	455,000
3% Convertible Subordinated Notes due 2010					500,000
Floating Rate Senior Notes due 2008					500,000
5 3/4% Senior Notes due 2008					1,000,000
6 3/8% Senior Notes due 2011					1,000,000
Mortgages and other notes payable	50,403	36,290	21,602	47,053	59,322
Total stockholders' equity (deficit)	(48,418)	(657,383)	(777,772)	(1,176,022)	(1,032,524)

For the Year Ended December 31,

Other Data	1999	2000	2001	2002	2003
DISH Network subscribers	3,410,000	5,260,000	6,830,000	8,180,000	9,425,000
Average monthly revenue per subscriber	\$ 42.71	\$ 45.33	\$ 49.32	\$ 49.17	\$ 51.11
Net cash flows from (in thousands):					

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Operating activities	\$ (58,513)	\$ (118,677)	\$ 489,483	\$ 66,744	\$ 575,581
Investing activities	\$ (62,826)	\$ (911,957)	\$(1,279,119)	\$ (682,387)	\$(1,761,870)
Financing activities	\$ 920,091	\$ 982,153	\$ 1,610,707	\$ 420,832	\$ 994,070

- (1) We restated our 2002 consolidated financial statements to reverse an accrual of approximately \$30.2 million, on a pre-tax basis, related to the replacement of smart cards in satellite receivers owned by us and leased to consumers. See Note 3 to the Notes to the Consolidated Financial Statements in Item 15 of this Annual Report on Form 10-K.
- (2) Net loss in 2002 includes \$689.8 million related to merger termination costs.
- (3) The net loss to common shareholders in 2002 of \$414.6 million differs significantly from the net loss in 2002 of \$852.0 million due to a gain on repurchase of Series D Convertible Preferred Stock of approximately \$437.4 million.

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

EXECUTIVE SUMMARY

For competitive and other reasons, we are not providing specific operational or financial guidance or projections for 2004. Our operating and financial strategy for 2004 will focus on improving our operating results and free cash flow by increasing our subscriber base, reducing churn, controlling rising subscriber acquisition costs and maintaining or improving operating margins.

Operational Results and Goals

Increase subscriber base. We added approximately 1.245 million net new subscribers during 2003, ending the year with approximately 9.425 million DISH Network subscribers. We remain committed to growing our subscriber base with high quality customers by continuing to offer attractive consumer promotions and DISH Network programming packages with a better price-to-value relationship than packages currently offered by most other subscription television providers. However, there can be no assurance that we will be able to maintain our current rate of new subscriber growth if our competitors offer more attractive consumer promotions, better priced or more attractive programming packages, more compelling programming and services, including advanced DVR and HDTV services or additional local channels, or otherwise offer more attractive products and services than us.

Reduce subscriber churn. Our percentage monthly churn for the year ended December 31, 2003 was approximately 1.57%, compared to our percentage churn for the same period in 2002 of approximately 1.59%. We believe continued tightening of credit requirements, together with promotions tailored toward subscribers with multiple receivers and advanced products, will attract better long-term subscribers and may help reduce churn. We plan to continue to offer consumer promotions, loyalty programs and dealer programs to improve our overall subscriber retention. We also continue to undertake initiatives with respect to our conditional access system to further enhance the security of the DISH Network signal and attempt to make theft of our programming commercially impractical or uneconomical. However, many factors can impact churn and there can be no assurance that we will be able to maintain or reduce subscriber churn, or that our churn will not increase in future periods.

Our success in increasing our subscriber base and reducing churn will depend on, among other things, our ability to:

Offer new and compelling programming and services. We plan to offer our subscribers new and compelling programming and services, including next generation digital video recorder, or DVR, services, additional high-definition television, or HDTV, channels and interactive programming. In addition, we continue to develop bundled broadband service solutions as we believe this can help us gain and maintain market share, and retain subscribers.

Expand the availability of local channels. Assuming successful launch and continued nominal operation of our satellites, we expect to increase our local channel coverage from 110 markets to over 140 markets representing approximately 94% of United States television households, by the end of 2004.

Improve distribution channels. We continue to strengthen our distribution channels for our DISH Network business unit through, among other things, new and improved commercial relationships with companies like SBC and Qwest.

Increase satellite capacity. With the formation of strategic alliances with fixed satellite services providers, the successful launch of EchoStar IX and the completion of a contract for the future construction of EchoStar X, we continue to increase our satellite capacity for additional programming and services.

Financial Results and Goals

Control rising subscriber acquisition costs. We generally subsidize installation and all or a portion of the cost of EchoStar receiver systems in order to attract new DISH Network subscribers. Our average subscriber acquisition costs on a per new subscriber activation basis were approximately \$453 during 2003 compared to \$421 in 2002, excluding costs capitalized for leased equipment. If a subscriber churns early in the average subscriber life-cycle,

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

we cannot fully recover the costs related to the acquisition of that subscriber. We believe continued tightening of credit requirements, together with promotions tailored toward subscribers with multiple receivers and advanced products, will attract better long-term subscribers. In addition, as a result of recent changes in our equipment lease promotion, in 2004 we anticipate an increase in the number of subscribers who lease rather than purchase equipment. The resulting anticipated increase in capitalized costs is expected to more than offset the corresponding reduction in expensed subscriber acquisition costs, and result in an overall increase in cash used to acquire subscribers during 2004. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber basis, may materially increase in the future to the extent that we introduce more aggressive promotions in response to new promotions offered by our competitors.

Maintain or improve operating margins. We will continue to work to generate cost savings by improving our operating efficiency and attempting to control rising programming costs. Our operating margins may be adversely impacted by rising programming costs. Payments we make to programmers for programming content represent one of the largest components of our operating costs. We expect programming providers to continue to demand higher rates for their programming. We will continue to negotiate aggressively with programming providers in an effort to control rising programming costs. However, there can be no assurance we will be successful in controlling these costs. In addition, there can be no assurance that we will be able to increase the price of our programming to offset these programming rate increases without affecting the competitiveness of our programming packages.

Financial Statement Restatement

During February 2004, we consulted with the Securities and Exchange Commission (SEC) regarding our accrual for the replacement of smart cards. Those cards, which provide security that only paying customers can receive programming delivered by us, become obsolete as a result of piracy. During the consultation process, the SEC informed us that it believes we over reserved approximately \$30.2 million for the replacement of certain smart cards. During prior years, ending in 2002, we accrued the estimated cost to replace those cards, which are included in satellite receivers that we sell and lease to consumers. The SEC did not object to the accruals to replace the smart cards in satellite receivers sold to and owned by consumers. However, the SEC believes that we over reserved approximately \$30.2 million, on a pre-tax basis, for the replacement of smart cards in satellite receivers owned by us and leased to consumers.

On March 12, 2004, the SEC informed us it would not object if we restated our financial statements for 2002 to record a reversal of the accruals for the replacement of these smart cards of approximately \$4.2 million, \$17.2 million and \$8.8 million which were originally accrued in 2000, 2001 and from January 2002 through June 2002, respectively. As a result, we have restated our financial statements for 2002 to reduce previously reported Subscriber related expenses, operating losses and pre-tax losses by approximately \$30.2 million.

Explanation of Key Metrics and Other Items

Subscription television services revenue. Subscription television services revenue consists principally of revenue from basic, movie, local, international and pay-per-view subscription television services, as well as rental and additional outlet fees from subscribers with multiple set-top boxes.

DTH equipment sales. DTH equipment sales consist of sales of digital set-top boxes by our ETC subsidiary to Bell ExpressVu, a DBS service provider in Canada. DTH equipment sales also include sales of DBS accessories to DISH Network subscribers and to retailers and other distributors of our equipment.

Subscriber-related expenses. Subscriber-related expenses include costs incurred in the operation of our DISH Network customer service centers, programming expenses, copyright royalties, residual commissions, and billing, lockbox and other variable subscriber expenses. Subscriber-related expenses also include costs related to subscriber retention.

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

Satellite and transmission expenses. Satellite and transmission expenses include costs associated with the operation of our digital broadcast centers, the transmission of local channels, contracted satellite telemetry, tracking and control services and transponder leases.

Cost of sales DTH equipment. Cost of sales DTH equipment principally includes costs associated with digital set-top boxes and related components sold to Bell ExpressVu and sales of DBS accessories to DISH Network subscribers and to retailers and other distributors of our equipment.

Subscriber acquisition costs. Generally, under most promotions, we subsidize the installation and all or a portion of the cost of EchoStar receiver systems in order to attract new DISH Network subscribers. Our Subscriber acquisition costs include the cost of EchoStar receiver systems sold to retailers and other distributors of our equipment, the cost of receiver systems sold directly by us to subscribers, net costs related to our free installation promotions and other promotional incentives, and costs related to acquisition advertising. We exclude equipment capitalized under our equipment lease promotion from our calculation of Subscriber acquisition costs. We also exclude payments and certain returned equipment received from disconnecting lease promotion subscribers from our calculation of Subscriber acquisition costs.

SAC. SAC, which represents total subscriber acquisition costs stated on a per subscriber basis, is calculated by dividing total subscriber acquisition costs for a period by the number of gross new subscribers acquired during the period. We are not aware of any uniform standards for calculating SAC and believe presentations of SAC may not be calculated consistently by different companies in the same or similar businesses.

General and administrative expenses. General and administrative expenses primarily includes employee-related costs associated with administrative services such as legal, information systems, accounting and finance. It also includes outside professional fees (i.e. legal and accounting services) and building maintenance expense and other items associated with the administration of the company.

Interest expense. Interest expense primarily includes interest expense, prepayment premiums and amortization of debt issuance costs associated with our high yield and convertible debt securities, net of capitalized interest.

Other. The main components of Other income and expense are equity in earnings of our affiliates and gains and losses on the sale of investments or impairment of marketable and non-marketable investment securities.

Earnings before interest, taxes, depreciation and amortization (EBITDA). EBITDA is defined as Net income (loss) plus Interest expense net of Interest income , Taxes and Depreciation and amortization . Effective January 1, 2003, we include Non-cash, stock-based compensation expense in our definition of EBITDA. Effective April 1, 2003, we include Other income and expense items and Change in valuation of contingent value rights in our definition of EBITDA. All prior amounts conform to the current presentation.

DISH Network Subscribers. The total number of DISH Network subscribers includes only those subscribers who are actively subscribing to the DISH Network service.

Monthly average revenue per subscriber (ARPU). Average monthly revenue per subscriber, or ARPU, is calculated by dividing average monthly revenues for the period (total revenues during the period divided by the number of months in the period) by average DISH Network subscribers for the period. Average subscribers are calculated for the year and the period by adding the average subscribers for each month and dividing by the number of

months in the period. Average subscribers for each month are calculated by adding the beginning and ending subscribers for the month and dividing by two. We are not aware of any uniform standards for calculating ARPU and believe presentations of ARPU may not be calculated consistently by different companies in the same or similar businesses.

Monthly subscriber churn/subscriber turnover. We calculate percentage monthly churn by dividing the number of subscribers who terminate service during the month by total subscribers as of the beginning of the month. We are not aware of any uniform standards for calculating churn and believe presentations of churn may not be calculated consistently by different companies in the same or similar businesses.

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.

Table of Contents**Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS Continued****RESULTS OF OPERATIONS***Year Ended December 31, 2003 Compared to the Year Ended December 31, 2002.*

	For the Years Ended December		Variance
	31,		
Statements of Operations Data	2003	2002 (As Restated)(1)	Fav/(Unfav) %
		(in thousands)	
Revenue:			
Subscription television services	\$5,399,382	\$4,411,838	