

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2004

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)

(303) 723-1000

(Registrant's telephone number, including area code)

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

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

Indicate by check mark whether the registrant is an accelerated filer (as defined by Rule 12b-2 of the Exchange Act). Yes No

As of April 30, 2004, the Registrant's outstanding common stock consisted of 236,194,000 shares of Class A Common Stock and 238,435,208 Shares of Class B Common Stock.

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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.

EHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(Dollars in thousands)
(Unaudited)

	As of	
	March 31, 2004	December 31, 2003
Assets		
Current Assets:		
Cash and cash equivalents	\$ 1,037,221	\$ 1,290,859
Marketable investment securities	1,732,965	2,682,115
Trade accounts receivable, net of allowance for uncollectible accounts of \$7,118 and \$12,185, respectively	350,107	345,673
Inventories	243,792	155,147
Other current assets	113,858	99,321
Total current assets	3,477,943	4,573,115
Restricted cash and marketable investment securities	25,253	19,974
Cash reserved for satellite insurance	113,107	176,843
Property and equipment, net	1,880,889	1,876,459
FCC authorizations	696,409	696,409
Insurance receivable	106,000	106,000
Other noncurrent assets	137,796	136,218
Total assets	<u>\$ 6,437,397</u>	<u>\$ 7,585,018</u>
Liabilities and Stockholders' Deficit		
Current Liabilities:		
Trade accounts payable	\$ 373,357	\$ 173,637
Deferred revenue and other	603,058	514,831
Accrued programming	388,852	366,497
Other accrued expenses	478,780	478,973
Current portion of long-term obligations	14,246	14,995
9 3/8% Senior Notes due 2009 (Note 7)	—	1,423,351
Total current liabilities	<u>1,858,293</u>	<u>2,972,284</u>
Long-term obligations, net of current portion:		
10 3/8% Senior Notes due 2007	1,000,000	1,000,000
5 3/4% Convertible Subordinated Notes due 2008	1,000,000	1,000,000
9 1/8% Senior Notes due 2009	455,000	455,000
3% Convertible Subordinated Notes due 2010	500,000	500,000
Floating Rate Senior Notes due 2008	500,000	500,000
5 3/4% Senior Notes due 2008	1,000,000	1,000,000
6 3/8% Senior Notes due 2011	1,000,000	1,000,000
Mortgages and other notes payable, net of current portion	42,360	44,327
Long-term deferred distribution and carriage payments and other long-term liabilities	145,419	145,931
Total long-term obligations, net of current portion	<u>5,642,779</u>	<u>5,645,258</u>
Total liabilities	<u>7,501,072</u>	<u>8,617,542</u>
Commitments and Contingencies (Note 8)		
Stockholders' Deficit:		
Class A Common Stock, \$.01 par value, 1,600,000,000 shares authorized, 246,527,164 and 246,285,633 shares issued, 240,027,064 and 240,370,533 shares outstanding, respectively	2,465	2,463
Class B Common Stock, \$.01 par value, 800,000,000 shares authorized, 238,435,208 shares issued and outstanding	2,384	2,384
Class C Common Stock, \$.01 par value, 800,000,000 shares authorized, none issued and outstanding	—	—
Additional paid-in capital	1,735,547	1,733,805
Non-cash, stock-based compensation	—	(1,180)
Accumulated other comprehensive income	109,110	80,991
Accumulated deficit	(2,703,482)	(2,660,596)
Treasury stock, at cost	(209,699)	(190,391)
Total stockholders' deficit	<u>(1,063,675)</u>	<u>(1,032,524)</u>
Total liabilities and stockholders' deficit	<u>\$ 6,437,397</u>	<u>\$ 7,585,018</u>

The accompanying notes are an integral part of the condensed consolidated financial statements.

ECHOSTAR COMMUNICATIONS CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share amounts)
(Unaudited)

	For the Three Months Ended March 31,	
	2004	2003
Revenue:		
Subscriber-related revenue	\$1,493,510	\$1,293,145
Equipment sales	76,630	55,995
Other	9,656	9,908
Total revenue	<u>1,579,796</u>	<u>1,359,048</u>
Costs and Expenses:		
Subscriber-related expenses (exclusive of depreciation shown below - Note 9)	771,634	632,826
Satellite and transmission expenses (exclusive of depreciation shown below - Note 9)	26,012	16,026
Cost of sales - equipment	53,242	39,795
Cost of sales - other	872	931
Subscriber acquisition costs:		
Cost of sales - subscriber promotion subsidies (exclusive of depreciation shown below - Note 9)	175,327	123,998
Other subscriber promotion subsidies	211,219	150,637
Subscriber acquisition advertising	29,753	33,552
Total subscriber acquisition costs	<u>416,299</u>	<u>308,187</u>
General and administrative	87,786	82,380
Non-cash, stock-based compensation	1,180	1,989
Depreciation and amortization (Note 9)	<u>100,605</u>	<u>98,166</u>
Total costs and expenses	<u>1,457,630</u>	<u>1,180,300</u>
Operating income	<u>122,166</u>	<u>178,748</u>
Other income (expense):		
Interest income	15,289	15,516
Interest expense, net of amounts capitalized	(181,460)	(130,501)
Other	165	(614)
Total other income (expense)	<u>(166,006)</u>	<u>(115,599)</u>
Income (loss) before income taxes	(43,840)	63,149
Income tax benefit (provision), net	954	(5,232)
Net income (loss)	<u>\$ (42,886)</u>	<u>\$ 57,917</u>
Denominator for basic income (loss) per share - weighted-average common shares outstanding		
	<u>478,919</u>	<u>481,098</u>
Denominator for diluted income (loss) per share - weighted-average common shares outstanding		
	<u>478,919</u>	<u>486,668</u>
Net income (loss) per common share:		
Basic net income (loss)	<u>\$ (0.09)</u>	<u>\$ 0.12</u>
Diluted net income (loss)	<u>\$ (0.09)</u>	<u>\$ 0.12</u>

The accompanying notes are an integral part of the condensed consolidated financial statements.

EHOSTAR COMMUNICATIONS CORPORATION

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)
(Unaudited)

	For the Three Months Ended March 31,	
	2004	2003
Cash Flows From Operating Activities:		
Net income (loss)	\$ (42,886)	\$ 57,917
Adjustments to reconcile net income (loss) to net cash flows from operating activities:		
Depreciation and amortization	100,605	98,166
Equity in losses (earnings) of affiliates	(262)	410
Realized and unrealized losses (gains) on investments	(1,097)	634
Non-cash, stock-based compensation recognized	1,180	1,989
Deferred tax expense	7,535	82
Amortization of debt discount and deferred financing costs	12,832	5,263
Change in long-term assets	—	(2,972)
Change in long-term deferred distribution and carriage payments	(5,231)	(3,529)
Other, net	3,894	(623)
Changes in current assets and current liabilities, net	220,346	27,672
Net cash flows from operating activities	<u>296,916</u>	<u>185,009</u>
Cash Flows From Investing Activities:		
Purchases of marketable investment securities	(690,878)	(998,664)
Sales of marketable investment securities	1,660,983	813,801
Purchases of property and equipment	(116,238)	(59,645)
Change in restricted cash and marketable investment securities and cash reserved for satellite insurance (Note 5)	63,707	8,075
FCC auction deposits (Note 6)	(20,584)	—
Other	(3,914)	—
Net cash flows from investing activities	<u>893,076</u>	<u>(236,433)</u>
Cash Flows From Financing Activities:		
Redemption of 9 1/4% Senior Notes due 2006	—	(375,000)
Redemption of 9 3/8% Senior Notes due 2009 (Note 7)	(1,423,351)	—
Class A Common Stock repurchases	(19,308)	—
Repayments of mortgage indebtedness and other notes payable	(2,715)	(203)
Net proceeds from Class A Common Stock options exercised and Class A Common Stock issued to Employee Stock Purchase Plan	1,744	1,749
Net cash flows from financing activities	<u>(1,443,630)</u>	<u>(373,454)</u>
Net decrease in cash and cash equivalents	(253,638)	(424,878)
Cash and cash equivalents, beginning of period	1,290,859	1,483,078
Cash and cash equivalents, end of period	<u>\$ 1,037,221</u>	<u>\$ 1,058,200</u>
Supplemental Disclosure of Cash Flow Information:		
Cash paid for interest	\$ 94,224	\$ 151,901
Capitalized interest	\$ 396	\$ 2,273
Cash received for interest	\$ 21,615	\$ 19,326
Cash paid for income taxes	\$ 1,111	\$ 1,369

The accompanying notes are an integral part of the condensed consolidated financial statements.

ECHOSTAR COMMUNICATIONS CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. Organization and Business Activities

Principal Business

EchoStar Communications Corporation (“ECC”) is a holding company. Its subsidiaries (which together with ECC are referred to as “EchoStar,” the “Company,” “we,” “us,” and/or “our”) operate 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, our owned and leased satellites, 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.

2. Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) and with the instructions to Form 10-Q and Article 10 of Regulation S-X for interim financial information. Accordingly, these statements do not include all of the information and notes required for complete financial statements. In our opinion, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. Operating results for the three months ended March 31, 2004 are not necessarily indicative of the results that may be expected for the year ending December 31, 2004. For further information, refer to the consolidated financial statements and notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2003 (“2003 10-K”).

Principles of Consolidation

We consolidate all majority owned subsidiaries and investments in entities in which we have controlling influence. Non-majority owned investments are accounted for using the equity method when we are able to significantly influence the operating policies of the investee. When we do not significantly influence the operating policies of an investee, the cost method is used. For entities that are considered variable interest entities we apply the provisions of FASB Interpretation No. (FIN) 46-R, “Consolidation of Variable Interest Entities, and Interpretation of ARB No. 51.” All significant intercompany accounts and transactions have been eliminated in consolidation. Certain prior year amounts have been reclassified to conform with the current year presentation.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses for each reporting period. Estimates are used in accounting for, among other things, allowances for uncollectible accounts, inventory allowances, self insurance obligations, deferred tax asset valuation allowances, loss contingencies, fair values of financial instruments, asset impairments, useful lives of property and equipment, royalty obligations and smart card replacement obligations.

EHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – Continued
(Unaudited)

Actual results may differ from previously estimated amounts. Estimates and assumptions are reviewed periodically, and the effects of revisions are reflected in the period they occur.

Comprehensive Income (Loss)

The components of comprehensive income (loss), net of tax, are as follows:

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Net income (loss)	\$(42,886)	\$57,917
Foreign currency translation adjustments	(157)	—
Unrealized holding gains (losses) on available-for-sale securities arising during period	28,276	22,025
Reclassification adjustment for impairment losses on available-for-sale securities included in net income	—	1,771
Comprehensive income (loss)	<u>\$(14,767)</u>	<u>\$81,713</u>

“Accumulated other comprehensive income” presented on the accompanying condensed consolidated balance sheets consists of the accumulated net unrealized gains (losses) on available-for-sale securities and foreign currency translation adjustments, net of deferred taxes.

Basic and Diluted Income (Loss) Per Share

Statement of Financial Accounting Standard No. 128, “Earnings Per Share” (“FAS 128”) requires entities to present both basic earnings per share (“EPS”) and diluted EPS. Basic EPS excludes dilution and is computed by dividing income (loss) to common shareholders by the weighted-average number of common shares outstanding for the period. Diluted EPS reflects the potential dilution that could occur if stock options were exercised and convertible securities were converted to common stock.

The following table reflects the basic and diluted weighted-average shares:

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Denominator for basic income (loss) per share — weighted-average common shares outstanding	478,919	481,098
Dilutive impact of options outstanding	—	5,570
Denominator for diluted income (loss) per share — weighted-average diluted common shares outstanding	<u>478,919</u>	<u>486,668</u>

As of March 31, 2004 and 2003, there were approximately 17.3 million and 21.3 million options for shares of class A common stock outstanding, respectively. We recorded a net loss for the three month period ending March 31, 2004. Therefore, common stock equivalents and convertible securities are excluded from the computation of diluted income (loss) per share for this period since the effect of including them is antidilutive. Since we reported net income for the three month period ending March 31, 2003, the potential dilution from stock options exercisable into approximately 5.6 million shares of common stock for this period, computed using the treasury stock method based on the average fair market value of the class A common stock for the period, were included in our weighted-average diluted common shares outstanding. Of the options to purchase a total of approximately 17.3 million shares outstanding as of March 31, 2004, options to purchase approximately 7.6 million shares were outstanding under a

EHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – Continued
(Unaudited)

long-term incentive plan. Vesting of these options is contingent upon meeting certain longer-term goals which have not yet been achieved. Accordingly, the long-term incentive options are not included in the diluted EPS calculation.

As of March 31, 2004, our 5 3/4% Convertible Subordinated Notes due 2008 and our 3% Convertible Subordinated Note due 2010 were convertible into approximately 23.1 million shares and 6.9 million shares of class A common stock, respectively. The convertible notes are not included in the diluted EPS calculation as their conversion would be antidilutive.

Accounting for Stock-Based Compensation

We have elected to follow the intrinsic value method of accounting under Accounting Principles Board Opinion No. 25, “Accounting for Stock Issued to Employees,” (“APB 25”) and related interpretations in accounting for our stock-based compensation plans. Under APB 25, we generally do not recognize compensation expense on the grant of options under our Stock Incentive Plan because typically the option terms are fixed and the exercise price equals or exceeds the market price of the underlying stock on the date of grant. We apply the disclosure only provisions Financial Accounting Standard No. 123, “Accounting and Disclosure of Stock-Based Compensation,” (“FAS 123”).

Pro forma information regarding net income and earnings per share is required by FAS 123 and has been determined as if we had accounted for our stock-based compensation plans using the fair market value method prescribed by that statement. For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the options’ vesting period on a straight-line basis. All options are initially assumed to vest. Compensation previously recognized is reversed to the extent unvested options are forfeited upon termination of employment. The following table illustrates the effect on net income (loss) per share if we had accounted for our stock-based compensation plans using the fair value method:

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Net income (loss), as reported	\$(42,886)	\$57,917
Add: Stock-based employee compensation expense included in reported net income (loss), net of related tax effects	1,139	1,920
Deduct: Total stock-based employee compensation expense determined under fair value based method for all awards, net of related tax effects	(5,390)	(6,084)
Pro forma net income (loss), as reported	\$(47,137)	\$53,753
Basic income (loss) per share, as reported	\$ (0.09)	\$ 0.12
Diluted income (loss) per share, as reported	\$ (0.09)	\$ 0.12
Pro forma basic income (loss) per share	\$ (0.10)	\$ 0.11
Pro forma diluted income (loss) per share	\$ (0.10)	\$ 0.11

For purposes of this pro forma presentation, the fair value of each option was estimated at the date of the grant using a Black-Scholes option pricing model. The Black-Scholes option valuation model was developed for use in estimating the fair value of exchange traded options which have no vesting restrictions and are fully transferable. Consequently, our estimate of fair value may differ from other valuation models. Further, the Black-Scholes model requires the input of highly subjective assumptions and because changes in the subjective input assumptions can materially affect the fair value estimate, the existing model does not necessarily provide a reliable single measure of the fair value of stock-based compensation awards.

EHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – Continued
(Unaudited)

Non-cash, stock-based compensation

During 1999, we adopted a plan under our 1995 Stock Incentive Plan, which provided certain key employees with incentives including stock options. The table below shows the amount of compensation expense recognized under this performance-based plan for the three months ended March 31, 2004 and 2003. There is no remaining deferred compensation to be recognized under this plan subsequent to March 31, 2004.

We report all non-cash compensation based on stock option appreciation as a single expense category in our condensed consolidated statements of operations. The following table shows the other expense categories in our condensed consolidated statements of operations that would be affected if non-cash, stock-based compensation was allocated to the same expense categories as the base compensation for key employees who participate in the 1999 incentive plan:

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Subscriber-related	\$ 51	\$ 90
Satellite and transmission	69	89
General and administrative	1,060	1,810
Total non-cash, stock-based compensation	<u>\$1,180</u>	<u>\$1,989</u>

Options to purchase 7.6 million shares are outstanding pursuant to a long-term incentive plan under our 1995 Stock Incentive plan as of March 31, 2004. These options were granted with exercise prices at least equal to the market value of the underlying shares on the dates they were issued during 1999, 2000 and 2001. The weighted-average exercise price of these options is \$9.21. Vesting of these options is contingent upon meeting certain longer-term goals which have not yet been achieved. Consequently, no compensation was recorded during the three months ended March 31, 2004 related to these long-term options. We will record the related compensation upon the achievement of the performance goals, if ever. This compensation, if recorded, would likely result in material non-cash, stock-based compensation expense in our condensed consolidated statements of operations.

3. Marketable and Non-Marketable Investment Securities

We currently classify all marketable investment securities as available-for-sale. We adjust the carrying value of our available-for-sale securities to fair market value and report the related temporary unrealized gains and losses as a separate component of "Total stockholders' deficit", net of related deferred income tax. Declines in the fair market value of a marketable investment security which are estimated to be "other than temporary" are recognized in the condensed consolidated statements of operations, thus establishing a new cost basis for the investment. We evaluate our marketable investment securities portfolio on a quarterly basis to determine whether declines in the fair market value of these securities are other than temporary. This quarterly evaluation consists of reviewing, among other things, the fair market value of our marketable investment securities compared to the carrying amount, the historical volatility of the price of each security and any market and company specific factors related to each security. Generally, absent specific factors to the contrary, declines in the fair market value of investments below cost basis for a period of less than six months are considered to be temporary. Declines in the fair market value of investments for a period of six to nine months are evaluated on a case by case basis to determine whether any company or market-specific factors exist which would indicate that these declines are other than temporary. Declines in the fair market value of investments below cost basis for greater than nine months are considered other than temporary and are recorded as charges to earnings, absent specific factors to the contrary.

As of March 31, 2004, we had unrealized gains of approximately \$107.9 million as a part of accumulated other comprehensive income within "Total stockholders' deficit". During the three months ended March 31, 2004, we realized net gains of approximately \$1.1 million on sales of marketable investment securities.

EHOSTAR COMMUNICATIONS CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – Continued
(Unaudited)

Our approximately \$2.9 billion of restricted and unrestricted cash, cash equivalents and marketable investment securities include debt and equity securities which we own for strategic and financial purposes. The fair market value of these strategic marketable investment securities aggregated approximately \$282.8 million as of March 31, 2004. Our portfolio generally, and our strategic investments particularly, continue to experience volatility. If the fair market value of our marketable securities portfolio does not remain above cost basis or if we become aware of any market or company specific factors that indicate that the carrying value of certain of our strategic marketable securities is impaired, we may be required to record charges to earnings in future periods equal to the amount of the decline in fair value.

We also have made strategic equity investments in certain non-marketable investment securities. These securities are not publicly traded. Our ability to realize value from our strategic investments in companies that are not publicly traded is dependent on the success of their business and their ability to obtain sufficient capital to execute their business plans. Since private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them we will not be able to obtain full value for them. We account for unconsolidated investments under either the equity method or cost method of accounting. We evaluate our investments on a quarterly basis to determine whether other than temporary impairments exist. This quarterly evaluation consists of reviewing, among other things, company business plans and current financial statements, if available, for factors which may indicate an impairment in our investment. These factors may include, but are not limited to, cash flow concerns, material litigation, violations of debt covenants and changes in business strategy. During the three months ended March 31, 2004, we did not record any impairment charges with respect to these instruments.

4. Inventories

Inventories consist of the following:

	As of	
	March 31, 2004	December 31, 2003
	(In thousands)	
Finished goods — DBS	\$153,188	\$103,274
Raw materials	67,226	32,693
Finished goods — remanufactured and other	15,273	15,000
Work-in-process	14,055	9,577
Consignment	2,460	1,373
Inventory allowance	(8,410)	(6,770)
Inventories, net	<u>\$243,792</u>	<u>\$155,147</u>

5. Satellites

EchoStar III

During January 2004, a Traveling Wave Tube Amplifier (“TWTA”) pair on our EchoStar III satellite failed, resulting in a loss of service on one of our licensed transponders. An additional TWTA pair failed in March 2004. Including the seven TWTA pairs that malfunctioned in prior years, these anomalies have resulted in the failure of a total of 18 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 26 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. In accordance with the provision of Statement of Financial Accounting Standards No. 144, “Accounting for the Impairment or Disposal of Long-Lived Assets” (“FAS 144”), we review our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. We have considered the relevant cash flows, estimated operating results and other information in evaluating the performance of EchoStar

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III in accordance with FAS 144 and have determined the carrying value of the satellite is fully recoverable. We will continue to evaluate the performance of EchoStar III as new events or changes in circumstances become known.

EchoStar V

Our EchoStar V satellite is equipped with a total of 96 solar array strings, 92 of which are required to assure full power availability for the 12-year design life of the satellite. Prior to 2004, EchoStar V experienced anomalies resulting in the loss of 4 solar array strings. During March 2004, EchoStar V lost an additional solar array string, reducing solar array power to approximately 95% of its original capacity. While originally designed to operate a maximum of 32 transponders at any given time, the solar array anomalies may prevent the use of all 32 transponders for the full design life of the satellite. In addition, the momentum wheel anomalies previously experienced resulted in more rapid use of fuel and a corresponding minor reduction of spacecraft life. An investigation of the anomalies is continuing. Until the root causes are finally determined, there can be no assurance that future anomalies will not cause further losses which could impact commercial operation of the satellite. EchoStar V is not currently carrying any traffic and is being utilized as an in-orbit spare. We will continue to evaluate the performance of EchoStar V and may be required to reduce the remaining depreciable life as new events or circumstances develop.

EchoStar VII

During March 2004, our EchoStar VII satellite lost a solar array circuit. EchoStar VII was designed with 24 solar array circuits and needs 23 for the spacecraft to be fully operational at end of life. While this anomaly is not expected to reduce the estimated design life of the satellite to less than 12 years and has not impacted commercial operation of the satellite to date, an investigation of the anomaly is continuing. Until the root causes are finally determined, there can be no assurance future anomalies will not cause further losses which could impact commercial operation of the satellite.

Satellite Insurance

In September 1998, we filed a \$219.3 million insurance claim for a total loss under the launch insurance policies covering our EchoStar IV satellite. 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 Sicurtà 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 New

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York arbitration is expected to involve additional proceedings before any final arbitration award is made by the Panel. 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 as to when an arbitration award may be made and what amount, if any, we will receive 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.

The indentures related to certain of EDBS's senior notes contain restrictive covenants that require us to maintain satellite insurance with respect to at least three of the ten satellites EDBS owns or leases. We currently do not carry traditional insurance for any of our satellites. To satisfy insurance covenants related to EDBS' senior notes, we classify an amount equal to the depreciated cost of three of our satellites as "Cash reserved for satellite insurance" on our balance sheet. As of March 31, 2004, this amount totaled approximately \$113.1 million. 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 covenants requiring that insurance are no longer applicable.

6. Goodwill and Intangible Assets

As of March 31, 2004 and December 31, 2003, we had approximately \$52.7 million of gross identifiable intangibles, with related accumulated amortization of approximately \$45.2 million and \$42.9 million, respectively. These identifiable intangibles primarily include acquired contracts and technology-based intangibles. Amortization of these intangible assets with an average finite useful life of approximately five years was \$2.3 million for the three months ended March 31, 2004. For all of 2004, the aggregate amortization expense related to the net book value of these identifiable intangible assets will be \$8.1 million. By March 31, 2005, the majority of these identifiable intangible assets will be fully amortized. In addition, we had approximately \$3.4 million of goodwill as of March 31, 2004 and December 31, 2003 which arose from a 2002 acquisition.

In December 2003, we made an investment in South.com LLC ("South.com"), a company we consolidate in our condensed consolidated financial statements. South.com was formed to, among other things, bid on and hold FCC licenses. During December 2003, South.com paid a \$7.1 million deposit to participate in the January 2004 FCC license auction. During January 2004, South.com paid an additional deposit to the FCC of \$20.6 million as the high-bidder on several licenses. These deposits are included in "Other current assets" in our condensed consolidated balance sheets as of March 31, 2004 and December 31, 2003.

7. Long-Term Debt

9 3/8% Senior Note Redemption

Effective February 2, 2004, EDBS redeemed the remaining \$1.423 billion principal amount of its outstanding 9 3/8% Senior Notes due 2009 at 104.688%, for a total of approximately \$1.490 billion. The premium paid of approximately \$66.7 million, along with unamortized debt issuance costs of approximately \$10.8 million, were recorded as charges to earnings in February 2004.

8. Commitments and Contingencies

Contingencies

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.

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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 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 plaintiffs did not claim monetary damages and none were awarded, the plaintiffs were recently awarded approximately \$4.8 million in attorneys' fees. The amount is substantially less than the amount the plaintiffs sought. We have filed a notice of appeal and a motion to amend the fee award and for reconsideration of the fee award. It is not possible to make a firm assessment of the probable outcome of the appeal or motion or to determine the extent of any potential liability for the fee award.

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

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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.

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.

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 additional patents and asserted new patent infringement counterclaims.

In February 2001, Gemstar filed additional patent infringement actions against us in the District Court in Atlanta, Georgia and with the ITC. We settled all of the litigation with Gemstar during 2004 (see Note 11).

Superguide

During 2000, Superguide Corp. (“Superguide”) 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. We examined these patents and believe that they are not infringed by any of our products or services.

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. Gemstar’s claim against us was resolved as a part of the settlement discussed above.

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 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 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. A petition for reconsideration of the Federal Circuit Decision was denied. Based upon the settlement with Gemstar, we now have an additional defense in this case based upon a license from Gemstar. We will continue to vigorously defend this case. In the event that a Court ultimately determines that we infringe on any of the 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.

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Broadcast Innovation, LLC

In November of 2001, Broadcast Innovation, LLC filed a lawsuit against us, 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 us 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 of the ‘094 patent remain pending. We intend to continue to vigorously defend this case. In the event that a Court ultimately determines that we infringe on any of the 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. 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 Action

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 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 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 attorneys’ 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 attorneys’ fees. During December 2003, the Court of Appeals 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

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action has been remanded to the trial court pursuant to the instructions of the Court of Appeals. It is not possible to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability.

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 not possible 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

During August 2002, a limited group of shareholders in StarBand filed an action in the Delaware Court of Chancery against us 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 us 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 our position as a shareholder, in StarBand, a broadband Internet satellite venture in which we invested. During July 2003, the Court granted the defendants’ motion to dismiss on all counts. The Plaintiffs appealed. On April 15, 2004, the Delaware Supreme Court remanded the case instructing the Chancery Court to re-evaluate its decision in light of a recent opinion of the Delaware Supreme Court, *Tooley v. Donaldson*, No. 84,2004 (Del. Supr. April 2, 2004). It is not possible to make a firm assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

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Enron Commercial Paper Investment Complaint

During November 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.

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.

9. Depreciation and Amortization Expense

Depreciation and amortization expense consists of the following:

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Satellites	\$ 33,640	\$36,009
Equipment leased to customers	37,278	35,184
Furniture, fixtures and equipment	26,029	23,163
Amortizable intangibles	2,290	2,432
Buildings and improvements	1,138	914
Tooling and other	230	464
Total depreciation and amortization expense	<u>\$100,605</u>	<u>\$98,166</u>

Cost of sales and operating expense categories included in our accompanying condensed consolidated statements of operations do not include depreciation expense related to satellites or equipment leased to customers.

10. Segment Reporting

Financial Data by Business Unit

Statement of Financial Accounting Standard No. 131, "Disclosures About Segments of an Enterprise and Related Information" ("FAS 131") establishes standards for reporting information about operating segments in annual financial statements of public business enterprises and requires that those enterprises report selected information about operating segments in interim financial reports issued to shareholders. Operating segments are components of an enterprise about which separate financial information is available and regularly evaluated by the chief operating decision maker(s) of an enterprise. Under this definition, we currently operate as two business units. The "All other" category consists of revenue and expenses from other operating segments for which the disclosure requirements of FAS 131 do not apply.

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	For the Three Months Ended March 31,	
	2004	2003
(In thousands)		
Revenue		
DISH Network	\$1,538,888	\$1,314,317
ETC	17,490	18,958
All other	24,983	27,797
Eliminations	(1,565)	(2,024)
Total revenue	<u>\$1,579,796</u>	<u>\$1,359,048</u>
Net income (loss)		
DISH Network	\$ (45,614)	\$ 55,210
ETC	(4,709)	(5,534)
All other	7,437	8,241
Total net income (loss)	<u>\$ (42,886)</u>	<u>\$ 57,917</u>

11. Subsequent Events

Gemstar-TV Guide International Transaction

As previously disclosed, we entered into a long-term non-exclusive patent license and distribution agreement with Gemstar-TV Guide International, Inc. for a cash payment of \$190.0 million. We also agreed to acquire Gemstar's Superstar/Netlink Group LLC ("SNG"), UVTV distribution, and SpaceCom businesses and related assets for \$48.0 million. We further agreed to resolve all outstanding litigation between us and Gemstar. With the exception of our purchase of the SpaceCom businesses and related assets, these agreements closed on April 5, 2004. We expect the remaining SpaceCom acquisition to close later during the second quarter of 2004.

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

EXPLANATION OF KEY METRICS AND OTHER ITEMS

Subscriber-related revenue. “Subscriber-related 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. Contemporaneous with the March 2004 commencement of sales of co-branded services pursuant to our agreement with SBC Communications, Inc. (“SBC”), “Subscriber-related revenue” also includes revenue from equipment sales, installation and other services related to that relationship. Revenue from equipment sales to SBC is deferred and recognized over the estimated average co-branded subscriber life. Revenue from installation and certain other services performed at the request of SBC is recognized upon completion of the services.

Development and implementation fees received from SBC are being recognized in “Subscriber-related revenue” over a period of the next several years.

Effective January 1, 2004, we combined “Subscription television service” revenue and “Other subscriber-related revenue” into “Subscriber-related revenue.” All prior period amounts were reclassified to conform to the current period presentation.

Equipment sales. “Equipment sales” consist of sales of digital set-top boxes by our ETC subsidiary to an international DBS service provider. “Equipment sales” also include sales of DBS accessories to DISH Network subscribers and to retailers and other distributors of our equipment domestically. “Equipment sales” does not include revenue from sales of equipment to SBC. Effective January 1, 2004, “Equipment sales” includes non-DISH Network receivers and other accessories sold by our EchoStar International Corporation subsidiary to international customers which were previously included in “Other” revenue. All prior period amounts were reclassified to conform to the current period presentation.

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. Contemporaneous with the March 2004 commencement of sales of co-branded services pursuant to our agreement with SBC, “Subscriber-related expenses” also include the cost of sales and expenses from equipment sales, installation and other services related to that relationship. Cost of sales from equipment sales to SBC are deferred and recognized over the estimated average co-branded subscriber life. Expenses from installation and certain other services performed at the request of SBC are recognized upon completion of the services.

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 – equipment. “Cost of sales – equipment” principally includes costs associated with digital set-top boxes and related components sold to an international DBS service provider and sales of DBS accessories to DISH Network subscribers and to retailers and other distributors of our equipment. “Cost of sales – equipment” does not include the costs from sales of equipment to SBC. Effective January 1, 2004, “Cost of sales – equipment” includes non-DISH Network receivers and other accessories sold by our EchoStar International Corporation subsidiary to international customers which were previously included in “Cost of sales – other.” All prior period amounts conform to the current period presentation.

Subscriber acquisition costs. 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 program from our calculation of “Subscriber acquisition costs.” We also exclude payments and certain returned equipment received from disconnecting lease program subscribers from our calculation of “Subscriber acquisition costs.”

SAC. 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. We calculate SAC by dividing total subscriber acquisition costs for a period by the number of gross new DISH Network subscribers during the period. We include all new DISH Network subscribers in our calculation, including DISH Network subscribers added with little or no subscriber acquisition costs.

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

General and administrative expenses. “General and administrative expenses” primarily include 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 administration.

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 April 1, 2003, we include “Other income and expense” items in our definition of EBITDA. All prior period amounts conform to the current period presentation.

DISH Network Subscribers. We include customers obtained through direct sales, and through our retail networks, including our co-branding relationship with SBC and other similar marketing arrangements, in our DISH Network subscriber count. We believe our overall economic return for co-branded and traditional subscribers will be comparable. We also provide DISH Network service to hotels, motels and other commercial accounts. For certain of these commercial accounts, we divide our total revenue for these commercial accounts by an amount approximately equal to the retail price of our most widely distributed programming package, AT60 (but taking into account, periodically, price changes and other factors), and include the resulting number, which is substantially smaller than the actual number of commercial units served, in our DISH Network subscriber count.

Monthly average revenue per subscriber (“ARPU”). We are not aware of any uniform standards for calculating ARPU and believe presentations of ARPU may not be calculated consistently by different companies in the same or similar businesses. Average monthly revenue per subscriber, or ARPU, is calculated by dividing average monthly “Subscriber-related revenues” for the period (total “Subscriber-related revenues” during the period divided by the number of months in the period) by average DISH Network subscribers for the period. Average DISH Network subscribers are calculated for the period by adding the average DISH Network subscribers for each month and dividing by the number of months in the period. Average DISH Network subscribers for each month are calculated by adding the beginning and ending DISH Network subscribers for the month and dividing by two. As discussed in “Subscriber-related revenue” above, effective January 1, 2004 we include amounts previously reported as “Other subscriber-related revenue” in our ARPU calculation. All prior period amounts conform to the current period presentation.

Subscriber churn/subscriber turnover. 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. We calculate percentage monthly churn by dividing the number of DISH Network subscribers who terminate service during each month by total DISH Network subscribers as of the beginning of that month. Average monthly churn for any period is calculated by dividing the number of DISH Network subscribers who terminated service during that period by the average number of DISH Network subscribers eligible to churn during the period, and further dividing by the number of months in the period. Average DISH Network subscribers eligible to churn during the period are calculated by adding the DISH Network subscribers as of the beginning of each month in the period and dividing by the total number of months in the period.

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 Condensed Consolidated Statements of Cash Flows.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued**RESULTS OF OPERATIONS**

Three Months Ended March 31, 2004 Compared to the Three Months Ended March 31, 2003.

	For the Three Months Ended March 31,		Variance	
	2004	2003	Fav/(Unfav)	%
(In thousands)				
Statements of Operations Data				
Revenue:				
Subscriber-related revenue	\$1,493,510	\$1,293,145	\$ 200,365	15.5%
Equipment sales	76,630	55,995	20,635	36.9%
Other	9,656	9,908	(252)	(2.5%)
Total revenue	<u>1,579,796</u>	<u>1,359,048</u>	<u>220,748</u>	<u>16.2%</u>
Costs and Expenses:				
Subscriber-related expenses	771,634	632,826	(138,808)	(21.9%)
% of Subscriber-related revenue	51.7%	48.9%		
Satellite and transmission expenses	26,012	16,026	(9,986)	(62.3%)
% of Subscriber-related revenue	1.7%	1.2%		
Cost of sales — equipment	53,242	39,795	(13,447)	(33.8%)
% of Equipment sales	69.5%	71.1%		
Cost of sales — other	872	931	59	6.3%
Subscriber acquisition costs	416,299	308,187	(108,112)	(35.1%)
General and administrative	87,786	82,380	(5,406)	(6.6%)
% of Total revenue	5.6%	6.1%		
Non-cash, stock-based compensation	1,180	1,989	809	40.7%
Depreciation and amortization	100,605	98,166	(2,439)	(2.5%)
Total costs and expenses	<u>1,457,630</u>	<u>1,180,300</u>	<u>(277,330)</u>	<u>(23.5%)</u>
Operating income	<u>122,166</u>	<u>178,748</u>	<u>(56,582)</u>	<u>(31.7%)</u>
Other income (expense):				
Interest income	15,289	15,516	(227)	(1.5%)
Interest expense, net of amounts capitalized	(181,460)	(130,501)	(50,959)	(39.0%)
Other	165	(614)	779	126.9%
Total other income (expense)	<u>(166,006)</u>	<u>(115,599)</u>	<u>(50,407)</u>	<u>(43.6%)</u>
Income (loss) before income taxes	(43,840)	63,149	(106,989)	(169.4%)
Income tax benefit (provision), net	954	(5,232)	6,186	118.2%
Net income (loss)	<u>\$ (42,886)</u>	<u>\$ 57,917</u>	<u>\$ (100,803)</u>	<u>(174.0%)</u>
Subscribers (in millions), as of period end	<u>9.785</u>	<u>8.530</u>	<u>1.255</u>	<u>14.7%</u>
Monthly churn percentage	<u>1.48%</u>	<u>1.36%</u>	<u>(0.12%)</u>	<u>(8.8%)</u>
Average subscriber acquisition costs per subscriber ("SAC")	<u>\$ 530</u>	<u>\$ 448</u>	<u>\$ (82)</u>	<u>(18.3%)</u>
Average revenue per subscriber ("ARPU")	<u>\$ 51.76</u>	<u>\$ 51.60</u>	<u>\$ 0.16</u>	<u>0.3%</u>
EBITDA	<u>\$ 222,936</u>	<u>\$ 276,300</u>	<u>\$ (53,364)</u>	<u>(19.3%)</u>

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

DISH Network subscribers. As of March 31, 2004, we had approximately 9.785 million DISH Network subscribers compared to approximately 8.530 million DISH Network subscribers at March 31, 2003, an increase of approximately 14.7%. DISH Network added approximately 360,000 net new DISH Network subscribers for the quarter ended March 31, 2004 compared to approximately 350,000 net new DISH Network subscribers during the same period in 2003. As the size of our subscriber base continues to increase, even if percentage churn remains constant, increasing numbers of gross new subscribers are required to sustain net subscriber growth.

Subscriber additions during the second half of 2003 were negatively impacted by delays in the delivery of several newly developed products in the third and fourth quarter of 2003. These delays were eliminated during the first quarter of 2004 except for some spot shortages of specialty products.

Subscriber-related revenue. DISH Network "Subscriber-related revenue" totaled \$1.494 billion for the three months ended March 31, 2004, an increase of \$200.4 million or 15.5% compared to the same period in 2003. This increase was directly attributable to continued DISH Network subscriber growth and the increase in "ARPU" discussed below. The increase in "Subscriber-related revenue" was partially offset by our free and reduced price programming promotions, and credits issued to our subscribers as a result of Viacom's decision to temporarily revoke our right to distribute their programming channels. DISH Network "Subscriber-related revenue" will continue to increase to the extent we are successful in increasing the number of DISH Network subscribers and maintaining or increasing revenue per subscriber.

We provided credits to some of our subscribers to compensate them for the temporary unavailability of Viacom programming discussed above. The majority of our customers received a \$1.00 credit. Approximately 1.7 million of our subscribers who are in CBS markets owned and operated by Viacom received \$2.00 credits. On average, our subscriber base received a credit of slightly over \$1.00. These credits had the effect of reducing operating margins, earnings and free cash flow during the first quarter of 2004, but are not expected to have a material impact on overall 2004 results.

ARPU. Monthly average revenue per DISH Network subscriber was approximately \$51.76 during the three months ended March 31, 2004 and approximately \$51.60 during the same period in 2003. The \$0.16 increase in monthly average revenue per DISH Network subscriber is primarily attributable to price increases of up to \$2.00 in February 2004 and 2003 on some of our most popular packages, the increased availability of local channels by satellite and an increase in subscribers with multiple set-top boxes. We provided local channels by satellite in 111 markets as of March 31, 2004 as compared to 62 markets as of March 31, 2003. These increases were partially offset by subscriber promotions under which new subscribers received selected free programming for the first three months of their term of service, other promotions under which subscribers received discounted programming, and the credits issued to our subscribers for the temporary unavailability of Viacom programming discussed above. While there can be no assurance, subject to the risks described below, we expect ARPU to continue to increase.

Impacts from our litigation with the networks in Florida, FCC rules governing the delivery of superstations and other factors could cause us to terminate delivery of network channels and superstations to a substantial number of our subscribers, which could cause many of those customers to cancel their subscription to our other services. In the event the Court of Appeals upholds the Miami District Court's network litigation 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 might ultimately 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

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

channels. Termination of distant network programming to subscribers would result in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

Equipment sales. For the three months ended March 31, 2004, “Equipment sales” totaled \$76.6 million, an increase of \$20.6 million compared to the same period during 2003. This increase principally resulted from an increase in sales of DBS accessories to DISH Network subscribers. The increase in sales of DBS accessories primarily relates to subscriber equipment upgrades to support the launch of additional programming, including local markets.

Subscriber-related expenses. “Subscriber-related expenses” totaled \$771.6 million during the three months ended March 31, 2004, an increase of \$138.8 million or 21.9% compared to the same period in 2003. The increase in “Subscriber-related expenses” was primarily attributable to the increase in the number of DISH Network subscribers which resulted in increased expenses to support the DISH Network. “Subscriber-related expenses” represented 51.7% and 48.9% of “Subscriber-related revenue” during the three months ended March 31, 2004 and 2003, respectively. The increase in this expense to revenue ratio primarily resulted from increases in our programming and subscriber retention costs during the quarter ended March 31, 2004 compared to the same period in 2003. The increase in the expense to revenue ratio from 2003 to 2004 was partially offset by an increase in monthly average revenue per DISH Network subscriber and increased operating efficiencies. The ratio of “Subscriber-related expenses” to “Subscriber-related revenue” could continue to increase if our programming and retention costs increase at a greater rate than our “Subscriber-related revenue”, and as we add co-branded subscribers to our subscriber base. Any increase in this ratio is expected to be partially offset by an expected increase in ARPU.

We currently offer local broadcast channels in approximately 120 markets across the United States. In 38 of those markets, two dishes are necessary to receive all local channels in the market. In connection with reauthorization of the Satellite Home Viewer Improvement Act this year, Congress is considering requiring that all local broadcast channels delivered by satellite be available from one dish. We currently plan to transition all markets to a single dish by 2008. If a two-dish prohibition with a shorter transition period is enacted, we would be forced by capacity limitations to move the local channels in as many as 30 markets to new satellites, requiring subscribers in those markets to install a second dish to continue receiving their local channels. We may be forced to stop offering local channels in some of those markets altogether. The transition would result in disruptions of service for a substantial number of customers, and the cost of compliance could exceed \$100 million. To the extent those costs are passed on to our subscribers, and because many subscribers may be unwilling to install a second dish where one had been adequate it is expected that churn would be negatively impacted.

Satellite and transmission expenses. “Satellite and transmission expenses” totaled \$26.0 million during the three months ended March 31, 2004, a \$10.0 million increase compared to the same period in 2003. The increase primarily related to additional lease payment obligations pursuant to our Fixed Satellite Service (“FSS”) agreements. This increase also resulted from launch and operational costs associated with the increasing number of markets in which we offer local network channels by satellite. We provided local channels by satellite in 111 markets as of March 31, 2004 as compared to 62 markets as of March 31, 2003. “Satellite and transmission expenses” totaled 1.7% and 1.2% of “Subscriber-related revenue” during each of the three months ended March 31, 2004 and 2003, respectively. The increase in the expense to revenue ratio principally resulted from the increase in FSS lease payments and the additional launch and operational costs discussed above. These expenses will increase further in the future to the extent we enter into additional satellite lease agreements, obtain traditional satellite insurance and to the extent we increase the operations at our digital broadcast centers as, among other things, additional satellites are placed in service and additional local markets and other programming services are launched.

Cost of sales – equipment. “Cost of sales – equipment” totaled \$53.2 million during the three months ended March 31, 2004, an increase of \$13.4 million compared to the same period in 2003. This increase related primarily to the increase in sales of DBS accessories to DISH Network subscribers discussed above. “Cost of sales — equipment” represented 69.5% and 71.1% of “Equipment sales”, during the three months ended March 31, 2004 and 2003, respectively. The

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

decrease in the expense to revenue ratio principally related to an improvement in margins from digital set-top box sales to an international DBS service provider and an increase in sales of higher-margin DBS accessories.

Subscriber acquisition costs. During the three months ended March 31, 2004, our subscriber acquisition costs totaled approximately \$416.3 million, or approximately \$530 per new Dish Network subscriber activation. Comparatively, our subscriber acquisition costs during the three months ended March 31, 2003 totaled approximately \$308.2 million, or approximately \$448 per new Dish Network subscriber activation. The increase principally resulted from an increase in the sale of equipment at little or no cost to the subscriber, including our promotion in which subscribers are eligible to receive up to three free receivers or a free digital video recorder. Further, during the three months ended March 31, 2004, we had more subscribers who activated with multiple tuners and receivers or advanced products which resulted in increased installation costs, as compared to the same period in 2003. This increase was partially offset by more subscribers participating in our equipment lease program and reduced subscriber acquisition marketing. We anticipate that our per activation subscriber acquisition costs will be positively impacted as we add co-branded subscribers to our subscriber base. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis, may materially increase in the future to the extent that we introduce other more aggressive promotions if we determine that they are necessary to respond to competition, or for other reasons.

We do not include the value of equipment capitalized under our lease program in our calculation of SAC. We also do not include in that calculation the value of equipment returned by disconnecting lease program subscribers, or payments from subscribers for unreturned equipment. If these amounts were included, our SAC would have been approximately \$604 during the three months ended March 31, 2004 compared to \$479 during the same period in 2003. Our equipment lease penetration increased during the three months ended March 31, 2004 as compared to the same period in 2003 as a result of changes in our equipment lease program. See further discussion of capitalized subscriber acquisition costs and payments and certain returned equipment received from disconnecting lease program subscribers included in “*Liquidity and Capital Resources — Subscriber Acquisition and Retention Costs*”. Our per activation subscriber acquisition costs will be positively impacted to the extent our equipment lease penetration continues to increase. Additional penetration of our equipment lease program will also increase capital expenditures.

General and administrative expenses. “General and administrative expenses” totaled \$87.8 million during the three months ended March 31, 2004, an increase of \$5.4 million compared to the same period in 2003. The increase in “General and administrative expenses” was primarily attributable to increased personnel and infrastructure expenses to support the growth of the DISH Network. “General and administrative expenses” represented 5.6% and 6.1% of “Total revenue” during the three months ended March 31, 2004 and 2003, respectively. The decrease in this expense to revenue ratio resulted primarily from higher total revenues and improvements in operational efficiencies.

Non-cash, stock-based compensation. During 1999, we adopted a plan under our 1995 Stock Incentive Plan, which provided certain key employees with incentives including stock options. During the three months ended March 31, 2004, we recognized \$1.2 million of compensation under this performance-based plan, a decrease of \$0.8 million compared to the same period in 2003. There is no remaining deferred compensation to be recognized under this plan subsequent to March 31, 2004.

We report all non-cash compensation based on stock option appreciation as a single expense category in our condensed consolidated statements of operations. The following table shows the other expense categories in our condensed consolidated statements of operations that would be affected if non-cash, stock-based compensation was allocated to the same expense categories as the base compensation for key employees who participate in the 1999 incentive plan:

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Subscriber-related	\$ 51	\$ 90
Satellite and transmission	69	89
General and administrative	1,060	1,810
Total non-cash, stock-based compensation	<u>\$1,180</u>	<u>\$1,989</u>

In addition, options to purchase 7.6 million shares are outstanding under our long-term incentive plan as of March 31, 2004. These options were granted with exercise prices at least equal to the market value of the underlying shares on the date they were issued during 1999, 2000 and 2001. The weighted-average exercise price of these options is \$9.21. Vesting of these options is contingent upon meeting certain longer-term goals which have not yet been achieved. Consequently, no compensation was recorded during the three months ended March 31, 2004 related to these long-term options. We will record the related compensation at the achievement of the performance goals, if ever. This compensation, if recorded, would likely result in material non-cash, stock-based compensation expense in our condensed consolidated statements of operations.

Depreciation and amortization. “Depreciation and amortization” expense totaled \$100.6 million during the three months ended March 31, 2004, a \$2.4 million increase compared to the same period in 2003. The increase in “Depreciation and amortization” expense principally resulted from an increase in depreciation related to the commencement of commercial operation of our EchoStar IX satellite in October 2003, equipment leased to customers and other additional depreciable assets placed in service during 2003 and the first quarter in 2004. As of December 31, 2003, EchoStar IV was fully depreciated and accordingly, we recorded no expense for this satellite during the first quarter of 2004. This partially offset the increase in depreciation expense discussed above.

Interest income. “Interest income” totaled \$15.3 million during the three months ended March 31, 2004, a decrease of \$0.2 million compared to the same period in 2003. This decrease principally resulted from lower returns earned on our cash and marketable investment securities partially offset by higher average balances for these securities in 2004 as compared to the same period in 2003.

Interest expense, net of amounts capitalized. “Interest expense” totaled \$181.5 million during the three months ended March 31, 2004, an increase of \$51.0 million compared to the same period in 2003. This increase primarily resulted from prepayment premiums and the write-off of debt issuance costs totaling approximately \$77.5 million related to the redemption of our 9 3/8% Senior Notes due 2009 during February 2004, and additional interest expense totaling approximately \$40.1 million related to our private placement of \$500.0 million convertible notes and our \$2.5 billion senior notes offering during July and October 2003, respectively. This increase was partially offset by a reduction in interest expense of approximately \$48.5 million as a result of the debt redemptions and repurchases during 2003 and February 2004, and prepayment premiums and the write-off of debt issuance costs totaling approximately \$20.6 million related to the redemption of our 9 1/4 % Senior Notes due 2006 during February 2003.

Earnings Before Interest, Taxes, Depreciation and Amortization. EBITDA was \$222.9 million during the three months ended March 31, 2004, compared to \$276.3 million during the same period in 2003. The decrease in EBITDA was primarily attributable to a \$56.6 million reduction in “Operating income”, resulting from the changes in operating revenue and expenses discussed above. EBITDA does not include the impact of capital expenditures under our equipment lease program of approximately \$71.8 million and \$26.8 million during the three months ended March 31, 2004 and 2003, respectively. As previously discussed, to the extent we introduce more aggressive marketing promotions and our subscriber acquisition costs materially increase, our EBITDA results will be negatively impacted because subscriber acquisition costs are generally expensed as incurred.

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

The following table reconciles EBITDA to the accompanying financial statements:

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
EBITDA	\$222,936	\$276,300
Less:		
Interest expense, net	166,171	114,985
Income tax provision (benefit), net	(954)	5,232
Depreciation and amortization	100,605	98,166
Net income (loss)	<u>\$ (42,886)</u>	<u>\$ 57,917</u>

EBITDA is not a measure determined in accordance with accounting principles generally accepted in the United States, or GAAP, and should not be considered a substitute for operating income, net income or any other measure determined in accordance with GAAP. EBITDA is used as a measurement of operating efficiency and overall financial performance and we believe it to be a helpful measure for those evaluating companies in the multi-channel video programming distribution industry. Conceptually, EBITDA measures the amount of income generated each period that could be used to service debt, pay taxes and fund capital expenditures. EBITDA should not be considered in isolation or as a substitute for measures of performance prepared in accordance with GAAP.

Net income (loss). "Net (loss)" was \$(42.9) million during the three months ended March 31, 2004, a decrease of \$100.8 million compared to "Net income" of \$57.9 million for the same period in 2003. The decrease was primarily attributable to a decrease in "Operating income" and increases in "Interest expense, net of amounts capitalized", resulting from the factors discussed above, offset by a \$6.2 million improvement in our "Income tax provision, net." Our future net income (loss) results will be negatively impacted to the extent we introduce more aggressive marketing promotions that materially increase our subscriber acquisition costs since these subscriber acquisition costs are generally expensed as incurred.

LIQUIDITY AND CAPITAL RESOURCES**Cash Sources**

All liquid investments purchased with an original maturity of 90 days or less are classified as cash equivalents. See "Item 3. – Quantitative and Qualitative Disclosures About Market Risk" for further discussion regarding our marketable investment securities. As of March 31, 2004, our restricted and unrestricted cash, cash equivalents and marketable investment securities totaled \$2.909 billion, including \$113.1 million of cash reserved for satellite insurance and approximately \$25.3 million of other restricted cash and marketable investment securities, compared to \$4.170 billion, including \$176.8 million of cash reserved for satellite insurance and \$20.0 million of restricted cash and marketable investment securities, as of December 31, 2003. As previously discussed, effective February 2, 2004, EDBS redeemed the remainder of its 9 3/8% Senior Notes due 2009. The redemption reduced our unrestricted cash by approximately \$1.490 billion. As an indirect result of this redemption, during February 2004, we were able to 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.

Free Cash Flow

We believe free cash flow is an important liquidity metric because it measures, during a given period, the amount of cash generated that is available for debt obligations and investments but excluding purchases of property and equipment. Free cash flow is not a measure determined in accordance with GAAP and should not be considered a substitute for "Operating income", "Net income", "Net cash flows from operating activities" or any other measure determined in accordance with GAAP. Since free cash flow includes investments in operating assets, we believe this non-GAAP liquidity measure is useful in addition to the most directly comparable GAAP measure of "Net cash

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

flows from operating activities”. Free cash flow is not the same as residual cash available for discretionary expenditures, since it excludes cash required for debt service. Free cash flow also excludes cash which may be necessary for acquisitions, investments and other needs that may arise.

Free cash flow was \$180.7 million and \$125.4 million for the three months ended March 31, 2004 and 2003, respectively. The increase from 2003 to 2004 of approximately \$55.3 million resulted from an increase in “Net cash flows from operating activities” of approximately \$111.9 million partially offset by an increase in “Purchases of property and equipment” of approximately \$56.6 million. The increase in “Net cash flows from operating activities” is primarily attributable to significantly more cash flow generated by changes in operating assets and liabilities in 2004 as compared to 2003, partially offset by net losses for the three months ended March 31, 2004 as compared to net income for the same period in 2003. Cash flow from changes in operating assets and liabilities was \$215.1 million during the three months ended March 31, 2004 compared to \$21.2 million for the same period in 2003. This improvement includes increases in accounts payable and accrued programming as a result of the timing for certain payments, and increases in deferred revenue as a result of the timing for certain cash receipts. This is partially offset by an increased use of cash related to rising inventory levels relative to the temporary product shortages during the fourth quarter of 2003 as discussed above. The increase in “Purchases of property and equipment” was primarily attributable to increased spending for equipment under our lease program and for satellite construction.

The following table reconciles free cash flow to “Net cash flows from operating activities”.

	For the Three Months Ended March 31,	
	2004	2003
	(In thousands)	
Free cash flow	\$180,678	\$125,364
Add back:		
Purchases of property and equipment	116,238	59,645
Net cash flows from operating activities	\$296,916	\$185,009

During the three months ended March 31, 2004 and 2003, free cash flow was significantly impacted by changes in operating assets and liabilities as shown in the “Net cash flows from operating activities” section of our Condensed Consolidated Statements of Cash Flows. Operating asset and liability balances can fluctuate significantly from period to period and there can be no assurance that free cash flow will not be negatively impacted by material changes in operating assets and liabilities in future periods, since these changes depend upon, among other things, management’s timing of payments and control of inventory levels, and cash receipts. In addition to fluctuations resulting from changes in operating assets and liabilities, free cash flow can vary significantly from period to period depending upon, among other things, subscriber growth, subscriber revenue, subscriber churn, subscriber acquisition costs, operating efficiencies, increases or decreases in purchases of property and equipment and other factors.

Impacts from our litigation with the networks in Florida, FCC rules governing the delivery of superstations and other factors could cause us to terminate delivery of network channels and superstations to a substantial number of our subscribers, which could cause many of those customers to cancel their subscription to our other services. In the event the Court of Appeals upholds the Miami District Court’s network litigation 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 might ultimately 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 in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Our future capital expenditures could increase or decrease depending on the strength of the economy, strategic opportunities or other factors.

Investment Securities

We currently classify all marketable investment securities as available-for-sale. We adjust the carrying value of our available-for-sale securities to fair market value and report the related temporary unrealized gains and losses as a separate component of stockholders’ deficit, net of related deferred income tax. Declines in the fair market value of a marketable investment security which are estimated to be “other than temporary” are recognized in the condensed consolidated statements of operations, thus establishing a new cost basis for the investment. We evaluate our marketable investment securities portfolio on a quarterly basis to determine whether declines in the fair market value of these securities are other than temporary. This quarterly evaluation consists of reviewing, among other things, the fair market value of our marketable investment securities compared to the carrying amount, the historical volatility of the price of each security and any market and company specific factors related to each security. Generally, absent specific factors to the contrary, declines in the fair market value of investments below cost basis for a period of less than six months are considered to be temporary. Declines in the fair market value of investments for a period of six to nine months are evaluated on a case by case basis to determine whether any company or market-specific factors exist which would indicate that these declines are other than temporary. Declines in the fair market value of investments below cost basis for greater than nine months are considered other than temporary and are recorded as charges to earnings, absent specific factors to the contrary.

As of March 31, 2004, we recorded unrealized gains of approximately \$107.9 million as a separate component of “Total stockholders’ deficit”. During the three months ended March 31, 2004, we did not record any charges to earnings for other than temporary declines in the fair market value of our marketable investment securities, and we realized net gains of approximately \$1.1 million on the sales of marketable investment securities. Our approximately \$2.909 billion of restricted and unrestricted cash, cash equivalents and marketable investment securities include debt and equity securities which we own for strategic and financial purposes. The fair market value of these strategic marketable investment securities aggregated approximately \$282.8 million as of March 31, 2004. During the three months ended March 31, 2004, our portfolio generally, and our strategic investments particularly, experienced volatility. If the fair market value of our marketable securities portfolio does not remain above cost basis or if we become aware of any market or company specific factors that indicate that the carrying value of certain of our securities is impaired, we may be required to record charges to earnings in future periods equal to the amount of the decline in fair value.

We also have made strategic equity investments in certain non-marketable investment securities. These securities are not publicly traded. Our ability to realize value from our strategic investments in companies that are not public is dependent on the success of their business and their ability to obtain sufficient capital to execute their business plans. Since private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments, or that when we desire to sell them that we will not be able to obtain full value for them. We evaluate our non-marketable investment securities on a quarterly basis to determine whether the carrying value of each investment is impaired. This quarterly evaluation consists of reviewing, among other things, company business plans and current financial statements, if available, for factors which may indicate an impairment in our investment. These factors may include, but are not limited to, cash flow concerns, material litigation, violations of debt covenants and changes in business strategy. During the three months ended March 31, 2004, we did not record any impairment charges with respect to these instruments.

Subscriber Turnover

Our percentage monthly churn for the three months ended March 31, 2004 was approximately 1.48%, compared to our percentage churn for the same period in 2003 of approximately 1.36%. We believe the increase in churn resulted from a number of factors, including but not limited to competition from digital cable, cable bounties targeted at DISH Network subscribers, customer retention segmentation, piracy, and impacts from the temporary unavailability of Viacom programming.

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

Effective February 1, 2004, we introduced our Digital Home Advantage promotion. Under this promotion, subscribers who lease equipment are not required to enter into minimum programming commitments. Prior to introduction of this promotion, a greater percentage of our new subscribers entered into one or two year commitments, obligating them to pay cancellation fees for early termination. Digital Home Advantage subscribers may be more likely to terminate during their first year of service since there is no financial disincentive for them to terminate. Consequently, churn during 2004 may be higher than it otherwise would be until the full impact of the change in promotional mix has been absorbed.

We currently offer local broadcast channels in approximately 120 markets across the United States. In 38 of those markets, two dishes are necessary to receive all local channels in the market. In connection with reauthorization of the Satellite Home Viewer Improvement Act this year, Congress is considering requiring that all local broadcast channels delivered by satellite be available from one dish. We currently plan to transition all markets to a single dish by 2008. If a two-dish prohibition with a shorter transition period is enacted, we would be forced by capacity limitations to move the local channels in as many as 30 markets to new satellites, requiring subscribers in those markets to install a second dish to continue receiving their local channels. We may be forced to stop offering local channels in some of those markets altogether. The transition would result in disruptions of service for a substantial number of customers, and the cost of compliance could exceed \$100 million. To the extent those costs are passed on to our subscribers, and because many subscribers may be unwilling to install a second dish where one had been adequate it is expected that churn would be negatively impacted.

In addition, if the FCC finds that our current “must carry” methods are not in compliance with the “must carry” rules, while we would attempt to continue providing local network channels in all markets without interruption, we could be forced by capacity constraints to reduce the number of markets in which we provide local channels. This could cause a temporary increase in churn and a small reduction in average monthly revenue per subscriber.

Impacts from our litigation with the networks in Florida, FCC rules governing the delivery of superstations and other factors could cause us to terminate delivery of network channels and superstations to a substantial number of our subscribers, which could cause many of those customers to cancel their subscription to our other services. In the event the Court of Appeals upholds the Miami District Court’s network litigation 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 might ultimately 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 in a reduction in average monthly revenue per subscriber and a temporary increase in churn.

Increases in piracy or theft of our signal, or our competitors’ signals, also could cause churn to increase in future periods. Additionally, as the size of our subscriber base continues to increase, even if percentage churn remains constant, increasing numbers of gross new DISH Network subscribers are required to sustain net subscriber growth.

Subscriber Acquisition and Retention Costs

As previously described, 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 spending for subscriber acquisition costs, and to a lesser extent subscriber retention costs, can vary significantly from period to period and can cause material variability to our net income (loss) and free cash flow. Our average subscriber acquisition costs were approximately \$530 per new subscriber activation during the three months ended March 31, 2004. While there can be no assurance, we believe continued tightening of credit requirements, together with promotions tailored towards

Item 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

subscribers with multiple receivers and advanced products, will attract better long-term subscribers. Our subscriber acquisition costs, both in the aggregate and on a per new subscriber activation basis may materially increase in future periods to the extent that we introduce more aggressive promotions if we determine that they are necessary to respond to competition, or for other reasons. We anticipate that our per activation subscriber acquisition costs will be positively impacted as we add co-branded subscribers to our subscriber base.

We do not include the value of equipment capitalized under our lease program in our calculation of SAC. We also do not include in that calculation the value of equipment returned by disconnecting lease program subscribers, or payments from subscribers for unreturned equipment. Equipment capitalized under our lease program totaled approximately \$71.8 million and \$26.8 million for the three months ended March 31, 2004 and 2003, respectively. Returned equipment received from disconnecting lease program subscribers, which became available for sale rather than being redeployed through the lease program, together with payments received in connection with equipment not returned, totaled approximately \$13.8 million and \$5.9 million during the three months ended March 31, 2004 and 2003, respectively. Our equipment lease penetration increased during the three months ended March 31, 2004 as compared to the same period in 2003 as a result of changes in our equipment lease program. Our per activation subscriber acquisition costs will be positively impacted to the extent our equipment lease penetration continues to increase. Additional penetration of our equipment lease program will also increase capital expenditures.

We offer various programs to existing subscribers including programs for new and upgraded equipment. We generally subsidize installation and all or a portion of the cost of EchoStar receivers pursuant to our subscriber retention programs. Costs related to subscriber retention programs are expected to continue to increase over the remainder of 2004 as we introduce more aggressive subscriber retention programs to reduce subscriber churn, to respond to competition and for other reasons.

Funds necessary to meet subscriber acquisition and retention costs are expected to be satisfied from existing cash and investment balances to the extent available. We may, however, decide to raise additional capital in the future to meet these requirements. If we decided to raise capital today, a variety of debt and equity funding sources would likely be available to us. However, there can be no assurance that additional financing will be available on acceptable terms, or at all, if needed in the future.

Obligations and Future Capital Requirements

As of March 31, 2004, the indentures related to certain of EDBS’ outstanding senior notes contain restrictive covenants that required us to maintain satellite insurance with respect to at least the depreciated cost of three of the ten satellites EDBS owns or leases. We currently do not carry traditional insurance for any of our satellites. To satisfy insurance covenants related to EDBS’ senior notes, we classify an amount equal to the depreciated cost of three of our satellites as “Cash reserved for satellite insurance” on our balance sheet. As of March 31, 2004, cash reserved for satellite insurance totaled approximately \$113.1 million. 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 covenants requiring that insurance are no longer applicable. We believe we have satellite capacity sufficient to expeditiously recover transmission of most programming in the event one of our 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.

We expect that our future working capital, capital expenditure and debt service requirements will be satisfied primarily from existing cash and investment balances and cash generated from operations. Our ability to generate positive future operating and net cash flows is dependent upon, among other things, our ability to retain existing DISH Network subscribers. There can be no assurance that we will be successful in achieving any or all of our goals. The amount of capital required to fund our future working capital and capital expenditure needs will vary, depending, among other things, on the rate at which we acquire new subscribers and the cost of subscriber acquisition, including capitalized costs associated with our lease program. Our capital expenditures will also vary depending on the number of satellites

Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS - Continued

leased or under construction at any point in time. Our working capital and capital expenditure requirements could increase materially in the event of increased competition for subscription television customers, significant satellite failures, or in the event of continued general economic downturn, among other factors. These factors could require that we raise additional capital in the future.

From time to time, we evaluate opportunities for strategic investments or acquisitions that would complement our current services and products, enhance our technical capabilities or otherwise offer growth opportunities. Future material investments or acquisitions may require that we obtain additional capital. There can be no assurance that we could raise all required capital or that required capital would be available on acceptable terms.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market Risks Associated With Financial Instruments

As of March 31, 2004, our restricted and unrestricted cash, cash equivalents and marketable investment securities had a fair market value of approximately \$2.909 billion. Of that amount, a total of approximately \$2.626 billion was invested in: (a) cash; (b) debt instruments of the U.S. Government and its agencies; (c) commercial paper and notes with an overall average maturity of less than one year and rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations; and (d) instruments with similar risk characteristics to the commercial paper described above. The primary purpose of these investing activities has been to preserve principal until the cash is required to, among other things, fund operations, make strategic investments and expand the business. Consequently, the size of this portfolio fluctuates significantly as cash is received and used in our business.

Our restricted and unrestricted cash, cash equivalents and marketable investment securities had an average annual return for the three months ended March 31, 2004 of approximately 1.8%. A hypothetical 10.0% decrease in interest rates would result in a decrease of approximately \$6.2 million in annual interest income. The value of certain of the investments in this portfolio can be impacted by, among other things, the risk of adverse changes in securities and economic markets generally, as well as the risks related to the performance of the companies whose commercial paper and other instruments we hold. However, the high quality of these investments (as assessed by independent rating agencies), reduces these risks. The value of these investments can also be impacted by interest rate fluctuations.

At March 31, 2004, all of the \$2.626 billion was invested in fixed or variable rate instruments or money market type accounts. While an increase in interest rates would ordinarily adversely impact the fair market value of fixed and variable rate investments, we normally hold these investments to maturity. Consequently, neither interest rate fluctuations nor other market risks typically result in significant realized gains or losses to this portfolio. A decrease in interest rates has the effect of reducing our future annual interest income from this portfolio, since funds would be re-invested at lower rates as the instruments mature. Over time, any net percentage decrease in interest rates could be reflected in a corresponding net percentage decrease in our interest income.

Included in our marketable securities portfolio balance is debt and equity of public and private companies we hold for strategic and financial purposes. As of March 31, 2004, we held strategic and financial debt and equity investments of public companies with a fair market value of approximately \$282.8 million. We may make additional strategic and financial investments in other debt and equity securities in the future. The fair market value of our strategic and financial debt and equity investments can be significantly impacted by the risk of adverse changes in securities markets generally, as well as risks related to the performance of the companies whose securities we have invested in, risks associated with specific industries, and other factors. These investments are subject to significant fluctuations in fair market value due to the volatility of the securities markets and of the underlying businesses. A hypothetical 10.0% adverse change in the price of our public strategic debt and equity investments would result in approximately a \$28.3 million decrease in the fair market value of that portfolio. The fair market value of our strategic debt investments can also be impacted by interest rate fluctuations. Absent the effect of other factors, a hypothetical 10.0% increase in LIBOR would result in a decrease in the fair market value of our investments in these debt instruments of approximately \$2.4 million.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK — continued

We currently classify all marketable investment securities as available-for-sale. We adjust the carrying value of our available-for-sale securities to fair market value and report the related temporary unrealized gains and losses as a separate component of stockholders' deficit, net of related deferred income tax. Declines in the fair market value of a marketable investment security which are estimated to be "other than temporary" are recognized in the condensed consolidated statements of operations, thus establishing a new cost basis for these investment. We evaluate our marketable investment securities portfolio on a quarterly basis to determine whether declines in the fair market value of these securities are other than temporary. This quarterly evaluation consists of reviewing, among other things, the fair market value of our marketable investment securities compared to the carrying amount, the historical volatility of the price of each security and any market and company specific factors related to each security. Generally, absent specific factors to the contrary, declines in the fair market value of investments below cost basis for a period of less than six months are considered to be temporary. Declines in the fair market value of investments for a period of six to nine months are evaluated on a case by case basis to determine whether any company or market-specific factors exist which would indicate that these declines are other than temporary. Declines in the fair market value of investments below cost basis for greater than nine months are considered other than temporary and are recorded as charges to earnings, absent specific factors to the contrary.

As of March 31, 2004, we had unrealized gains of approximately \$107.9 million as part of accumulated other comprehensive income within stockholders' deficit. During the three months ended March 31, 2004, we did not record any charge to earnings for other than temporary declines in the fair market value of our marketable investment securities, and we realized net gains of approximately \$1.1 million on the sales of marketable investment securities. During the three months ended March 31, 2004, our portfolio generally, and our strategic investments particularly, experienced and continue to experience volatility. If the fair market value of our marketable securities portfolio does not remain above cost basis or if we become aware of any market or company specific factors that indicate that the carrying value of certain of our securities is impaired, we may be required to record charges to earnings in future periods equal to the amount of the decline in fair market value.

We also have made strategic equity investments in certain non-marketable investment securities. These securities are not publicly traded. Our ability to realize value from our strategic investments in companies that are not public is dependent on the success of their business and their ability to obtain sufficient capital to execute their business plans. Since private markets are not as liquid as public markets, there is also increased risk that we will not be able to sell these investments or that when we desire to sell them that we will not be able to obtain full value for them. We evaluate our non-marketable investment securities on a quarterly basis to determine whether the carrying value of each investment is impaired. This quarterly evaluation consists of reviewing, among other things, company business plans and current financial statements, if available, for factors which may indicate an impairment of our investment. These factors may include, but are not limited to, cash flow concerns, material litigation, violations of debt covenants and changes in business strategy. During the three months ended March 31, 2004, we did not record any impairment charges with respect to these instruments.

As of March 31, 2004, we estimated the fair market value of our fixed-rate debt and mortgages and other notes payable to be approximately \$5.830 billion using quoted market prices where available, or discounted cash flow analyses. The interest rates assumed in these discounted cash flow analyses reflect interest rates currently being offered for loans with similar terms to borrowers of similar credit quality. The fair market value of our fixed-rate debt and mortgages is affected by fluctuations in interest rates. A hypothetical 10.0% decrease in assumed interest rates would increase the fair market value of our debt by approximately \$123.7 million. To the extent interest rates increase, our costs of financing would increase at such time as we are required to refinance our debt. As of March 31, 2004, a hypothetical 10.0% increase in assumed interest rates would increase our annual interest expense by approximately \$36.5 million.

We have not used derivative financial instruments for hedging or speculative purposes.

Item 4. CONTROLS AND PROCEDURES

The Company, under the supervision and with the participation of its management, including the Chief Executive Officer and the Chief Financial Officer, evaluated the effectiveness of the design and operation of the Company's "disclosure controls and procedures" (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the "Exchange Act")) as of the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and the Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective in timely making known to them material information relating to the Company and the Company's consolidated subsidiaries required to be disclosed in the Company's reports filed or submitted under the Exchange Act. There has been no change in the Company's internal control over financial reporting during the quarter ended March 31, 2004 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II – OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

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 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 plaintiffs did not claim monetary damages and none were awarded, the plaintiffs were recently awarded approximately \$4.8 million in attorneys' fees. The amount is substantially less than the amount the plaintiffs sought. We have filed a notice of appeal and a motion to amend the fee award and for reconsideration of the fee award. It is not possible to make a firm assessment of the probable outcome of the appeal or motion or to determine the extent of any potential liability for the fee award.

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.

PART II – OTHER INFORMATION

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.

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.

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 additional patents and asserted new patent infringement counterclaims.

In February 2001, Gemstar filed additional patent infringement actions against us in the District Court in Atlanta, Georgia and with the ITC. We settled all of the litigation with Gemstar during 2004 (see Note 11 to the Condensed Consolidated Financial Statements).

Superguide

During 2000, Superguide Corp. ("Superguide") 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. We examined these patents and believe that they are not infringed by any of our products or services.

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. Gemstar's claim against us was resolved as a part of the settlement discussed above.

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 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 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. A petition for reconsideration of the Federal

PART II – OTHER INFORMATION

Circuit Decision was denied. Based upon the settlement with Gemstar, we now have an additional defense in this case based upon a license from Gemstar. We will continue to vigorously defend this case. In the event that a Court ultimately determines that we infringe on any of the 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 us, 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 us 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 of the ‘094 patent remain pending. We intend to continue to vigorously defend this case. In the event that a Court ultimately determines that we infringe on any of the 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. 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 Action

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 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 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 attorneys’ 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 attorneys’ fees. During December 2003, the Court of Appeals 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

PART II – OTHER INFORMATION

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 Appeals. It is not possible to make an assessment of the probable outcome of the litigation or to determine the extent of any potential liability.

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 not possible 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

During August 2002, a limited group of shareholders in StarBand filed an action in the Delaware Court of Chancery against us 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 us 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 our position as a shareholder, in StarBand, a broadband Internet satellite venture in which we invested. During July 2003, the Court granted the defendants’ motion to dismiss on all counts. The Plaintiffs appealed. On April 15, 2004, the Delaware Supreme Court remanded the case instructing the Chancery Court to re-evaluate its decision in light of a recent opinion of the Delaware Supreme Court, *Tooley v. Donaldson*, No. 84,2004 (Del. Supr. April 2, 2004). It is not possible to make a firm assessment of the probable outcome of the litigation or to determine the extent of any potential liability or damages.

PART II – OTHER INFORMATION

Enron Commercial Paper Investment Complaint

During November 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 our EchoStar IV satellite. 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 Sicurtà 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 New York arbitration is expected to involve additional proceedings before any final arbitration award is made by the Panel. 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 as to when an arbitration award may be made and what amount, if any, we will receive 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.

PART II – OTHER INFORMATION**Item 2. CHANGES IN SECURITIES, USE OF PROCEEDS AND ISSUER PURCHASES OF EQUITY SECURITIES*****Issuer Purchases of Equity Securities***

The following table provides information regarding purchases of our Class A Common Stock made by us for the three months ended March 31, 2004 reported on a settlement date basis:

Period	For the Three Months Ended March 31, 2004			
	Total Number of Shares Purchased (a)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Approximate Dollar Value of Shares that May Yet be Purchased Under the Plans or Programs (b)
	(In thousands, except share data)			
January 1 - January 31, 2004	—	\$ —	—	\$809,609
February 1 - February 29, 2004	—	\$ —	—	\$809,609
March 1 - March 31, 2004	585,000	\$33.00	585,000	\$790,301
Total	585,000	\$33.00	585,000	\$790,301

- (a) During the three months ended March 31, 2004 all purchases were made pursuant to the program discussed below in open market transactions.
- (b) Our Board of Directors authorized the purchase of up to \$1.0 billion of our Class A Common Stock on November 22, 2003. All purchases were made in accordance with Rule 10b-18 of the Securities Exchange Act of 1934 pursuant to our Rule 10b5-1 plan entered into on November 28, 2003 and which expires on the earlier of December 1, 2004 or when an aggregate amount of \$1.0 billion of stock has been purchased. We may elect not to purchase the maximum amount of shares allowable under this plan and we may also enter into additional Rule 10b5-1 plans to facilitate the share repurchases authorized by our Board of Directors. All purchases may be through open market purchases under the plan or privately negotiated transactions subject to market conditions and other factors. To date, no plans or programs for the purchase of our stock have been terminated prior to their expiration. There were also no other plans or programs for the purchase of our stock that expired during the three months ended March 31, 2004. Purchased shares have and will be held as Treasury shares and may be used for general corporate purposes. The maximum approximate dollar value of our stock that may yet be purchased under the plan reflects the \$1.0 billion authorized by our Board of Directors less, the cost of the purchases of approximately \$19.3 million and \$190.4 million for the three months ended March 31, 2004 and during November and December 31, 2003, respectively.

PART II – OTHER INFORMATION

Item 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits.

- 10.1 Satellite Service Agreement, dated February 19, 2004, between SES Americom, Inc. and EchoStar.***
- 10.2 Amendment No. 1 to Satellite Service Agreement, dated March 10, 2004, between SES Americom, Inc. and EchoStar.***
- 10.3 Amendment No. 3 to Satellite Service Agreement, dated February 19, 2004, between SES Americom, Inc. and EchoStar.***
- 10.4 Whole RF Channel Service Agreement, dated February 4, 2004, between Telesat Canada and EchoStar.***
- 10.5 Letter Amendment to Whole RF Channel Service Agreement, dated March 25, 2004, between Telesat Canada and EchoStar.***
- 31.1 Section 302 Certification by Chairman and Chief Executive Officer
- 31.2 Section 302 Certification by Senior Vice President and Chief Financial Officer
- 32.1 Section 906 Certification by Chairman and Chief Executive Officer
- 32.2 Section 906 Certification by Senior Vice President and Chief Financial Officer

*** Certain provisions have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment. A conforming electronic copy is being filed herewith.

(b) Reports on Form 8-K.

On February 2, 2004, we filed a Current Report on Form 8-K to report that our subsidiary, EchoStar DBS Corporation, completed the previously announced optional redemption of its 9 3/8% Senior Notes due 2009.

On March 11, 2004, we filed a Current Report on Form 8-K to report a press release announcing our fourth quarter subscriber additions and also announcing our rescheduling of our fourth quarter earnings call.

On March 15, 2004, we filed a Current Report on Form 8-K to report that we had filed a Form 12b-25 to obtain a fifteen day extension of the deadline for filing our Annual Report on Form 10-K for the period ending December 31, 2003.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ECHOSTAR COMMUNICATIONS CORPORATION

By: /s/ Charles W. Ergen
Charles W. Ergen
Chairman and Chief Executive Officer (*Duly
Authorized Officer*)

By: /s/ Michael R. McDonnell
Michael R. McDonnell
Senior Vice President and Chief Financial Officer
(*Principal Financial Officer*)

Date: May 6, 2004

Exhibit Index

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SATELLITE SERVICE AGREEMENT FOR AMC-16

THIS AGREEMENT between SES Americom, Inc., as agent for SES Americom California, Inc. (for the period prior to the In-Service Date) and SES Americom Colorado, Inc. (for the period on and after the In-Service Date), on the one hand, and EchoStar Satellite L.L.C. ("Customer") *** on the other hand, is made effective as of February 19, 2004 (the "Effective Date"). All references to "SES Americom" herein shall include SES Americom California, Inc., SES Americom Colorado, Inc., and SES Americom, Inc. as agent for each. Defined terms used in this Agreement have the meanings specified herein.

ARTICLE 1. SERVICE PROVIDED

SES Americom has entered into a contract (the "Construction Contract") with Vendor for the construction of *** communications satellite designated as the "AMC-15 Satellite," and one substantially identical satellite designated as the "AMC-16 Satellite", which is intended for use in certain circumstances as a ground spare for the AMC-15 Satellite. The AMC-16 Satellite is planned to be placed In-Service on or about March 1, 2005. SES Americom will provide to Customer, and Customer will pay the applicable MRC for, and be entitled to utilize solely for the Intended Use, the entire communications capacity (including all spare capacity) on the Satellite in accordance with this Agreement (the "Service"). The orbital location of the Satellite will be determined as set forth in this Agreement. Technical performance criteria for the Service on the AMC-16 Satellite (the "Technical Performance Specifications") are appended to this Agreement as Attachment A.

The Service will be provided in accordance with the terms and conditions set forth in this Agreement, including Attachments A - D (as listed below), which are hereby incorporated by reference in their entirety (collectively, the "Agreement"). In the event of any conflict or inconsistency between the terms and conditions set forth in the body of this Agreement and the terms and conditions set forth in any Attachment hereto, then terms and conditions set forth in the body of this Agreement shall control.

Attachment A - Technical Performance Specifications ***

Customer may use the Channels for the transmission of digital services, and for the transmission of analog services, but only to the extent that all services are consistent with the then-current licenses and coordination agreements for the applicable orbital location. ****

1.B. TERMS RELATED TO CONSTRUCTION CONTRACT, LAUNCH SERVICE AGREEMENT, AND INSURANCE.

1.B(1) *** Subject to any applicable ITAR restrictions and Vendor's standard security procedure requirements, Customer shall be permitted to participate in and be present at: (a) reviews of each of Vendor's milestone events leading up to launch of the Satellite (the only remaining milestones for the AMC-16 Satellite are "PSR" and "Launch Readiness Review"); (b) Vendor's "Final Integration and Test," "Pre-ship Review" and "Launch and In-Orbit Testing Sessions"; and (c) informal Project Manager meetings and informal project level technical review meetings. Participation by Customer as contemplated herein shall include attendance by Customer employees and U.S. citizen representatives at such events and meetings, consultation with Customer on engineering decisions that affect the Satellite's performance (including the ability to meet the applicable Technical Performance Specifications) and the review of

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relevant reports and test results. When available to SES Americom and upon completion of any necessary ITAR reviews and redactions, if applicable, SES Americom shall distribute all design review documents to Customer. SES Americom shall also instruct Vendor to make available to Customer employees and Customer's U.S. citizen representatives access to all technical documents under the Construction Contract, including without limitation the spacecraft performance specification, subject to any applicable ITAR reviews and redactions. With reasonable prior notice, SES Americom shall allow Customer *** to view program hardware in progress in accordance with Vendor's access policies and procedures. Subject to any confidentiality restrictions set forth in the Construction Contract, SES Americom shall afford Customer and Customer's U.S. citizen representatives access, *** to all work, including without limitation technical data and information, test data, drawings, documentation, tooling, and manufacturing processes, testing and hardware in progress, being performed at Vendor's facilities pursuant to the Construction Contract at all times during the period of Construction Contract performance, provided that such access does not unreasonably interfere with such work or any other work. SES Americom shall afford Customer and Customer's U.S. citizen representatives access, *** to work being performed pursuant to the Construction Contract in Vendor's subcontractors' facilities to the extent Vendor obtains such access, *** subject further to the execution by Customer and Customer's U.S. citizen representatives of non-disclosure or similar agreements as may be required by said subcontractors. ***

1.B(2) In the event that Customer requests a modification of any Satellite *** then SES Americom will negotiate in good faith and in accordance with SES Americom's duties and obligations under Subsection 3.A(11) with Vendor to implement such modification. *** Customer further acknowledges that any such modification may also require additional approvals or authorizations from the FCC, which SES Americom shall use its reasonable commercial efforts to obtain. The parties agree that the increase or decrease in the Satellite Investment as a result of such a modification requested by Customer will be reflected in the calculation of the MRC and that the planned In-Service Date will be adjusted to reflect the change to the milestone schedule in the Construction Contract. ***

1.B(3) SES Americom agrees to collaborate with and include Customer in all significant decisions related to the matters surrounding the Launch Service Agreement, *** Subject to any applicable ITAR restrictions, Customer employees and Customer's U.S. citizen representatives shall be permitted to participate in reviews of each of the launch service provider's milestone events with respect to launch of the Satellite. Customer and Customer's guests may *** attend the launch of the Satellite.

1.B(4) To the extent that a failure by SES Americom to make payments in accordance with the terms of the Construction Contract or the Launch Service Agreement is the direct cause of a delay in the In-Service Date of the Satellite, then in addition to any rights and remedies that Customer may have in this Agreement, SES Americom will pay Customer ***

1.B(7) Some of the individual specifications set forth in the Technical Performance Specifications *** are specific to Service at the Orbital Location. For Service at an orbital location other than the Orbital Location, the Technical Performance Specifications shall be equitably adjusted to give effect to such change in orbital location.

1.C. SERVICE TERM. The term for Service (the "Service Term") on any Satellite *** shall commence on the In-Service Date for that Satellite, and, except as otherwise provided herein, shall expire on the earlier of (1) ten years after such In-Service Date (the "Initial Term"), or (2) the date that Satellite becomes a Failed Satellite. The Service Term on any Satellite *** that is not a Failed Satellite may be extended at Customer's sole option for successive one-year periods (or a portion thereof in the case of the final extension) until the Satellite reaches its End-of-Life (each an "Extended Term"), upon written notice to SES Americom provided at least *** days prior to the end of the Initial Term and/or the then current Extended Term, and provided that, at the time of each such extension, Customer is in full compliance with all of its

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obligations under this Agreement.

1.D. SERVICE PRIORITIES. In the event of a Partial Loss, SES Americom shall immediately initiate all commercially and technically reasonable measures, consistent with protecting the Satellite and all services provided thereon, to restore the Service as quickly as possible. Restoration shall be effected by utilizing any available spare equipment on the Satellite to restore the Service and/or the Channel. If access to spare equipment on the Satellite is required for more than one Channel as a result of a single event or simultaneous events, Customer will determine the preferred use of the spare equipment, provided that Customer's decision does not adversely impact the Satellite.

1.E. NOTICES. All notices regarding technical or operational matters requiring immediate attention will be given by telephone to the telephone number set forth below for Customer and the telephone number set forth in the User's Guide for SES Americom and shall be followed by written notification. Any notice required or permitted to be given hereunder shall be in writing and shall be sent by facsimile transmission, or by first class certified mail, postage prepaid, or by overnight courier service, charges prepaid, to the party notified, addressed to such party at the address set forth below, or sent by facsimile to the fax number set forth below, or such other address or fax number as such party may have substituted by written notice to the other party. The sending of such notice with confirmation of receipt thereof (in the case of facsimile transmission) or receipt of such notice (in the case of delivery by mail or by overnight courier service) shall constitute the giving thereof.

IF TO BE GIVEN TO CUSTOMER:
Attn: David Bair
Vice President, Space Programs and Operations
EchoStar Satellite L.L.C.
Fax #: ***

IF TO BE GIVEN TO SES AMERICOM:
Attn: General Counsel
SES Americom, Inc.
Four Research Way
Princeton, NJ 08540
Fax #: ***

P.O. Box 6655 (for first class certified mail)
Englewood, CO 80155

9601 S. Meridian Blvd. (for overnight courier)
Englewood, CO 80112

cc: David K. Moskowitz, Esq.
Senior Vice President & General Counsel
(same addresses and fax number)

CUSTOMER'S 24 HOUR EMERGENCY TELEPHONE # FOR TECHNICAL/OPERATIONAL ISSUES:
Tel #: ***

ARTICLE 2. PAYMENTS AND OTHER CONSIDERATIONS/ FUTURE SATELLITES

2.B. MONTHLY RECURRING SERVICE CHARGE. Commencing on the In-Service Date and for the duration of the Service Term (including any Extended Terms) Customer will pay to SES Americom for the Service a monthly recurring service charge (the "MRC") with respect to the AMC-16 Satellite determined based on ***

2.C. MRC ADJUSTMENTS/REFUNDS.

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2.C(1) In the event of a Partial Loss (but not a Satellite Failure), Customer shall be entitled to a refund of any MRC already paid, and a reduction of the MRC to be paid, in either case applicable to the period of such Partial Loss until either (a) such Partial Loss is restored through the use of spare equipment on the Satellite, or (b) the Service Term ends, in an amount calculated in accordance with the provisions in Section 2.G(7) and Attachment B *** In the event of a Satellite Failure for any reason whatsoever, Customer's obligation to pay the MRC due for the period after the Satellite Failure shall automatically terminate as of the date of the Satellite Failure, *** SES Americom will refund to Customer any MRC paid for periods subsequent to the date of a Satellite Failure, including the period between and including the date of the Satellite Failure and the date upon which it is determined that a Satellite Failure has occurred. ***

2.F. TAXES AND OTHER CHARGES. *** SES Americom represents that, as of the date hereof, it has no actual knowledge of any taxes, duties or other fees or charges (1) which would be levied on SES Americom by any governmental authorities, (2) which would apply to the Service at the Orbital Location or the facilities used to provide the Service at the Orbital Location to Customer, provided that the Service is used solely for its Intended Use ***

ARTICLE 3. REPRESENTATIONS, WARRANTIES AND COVENANTS

3.A. SES AMERICOM'S REPRESENTATIONS, WARRANTIES AND COVENANTS. SES Americom hereby represents, warrants and covenants to Customer as follows:

3.A(1) It is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. It is duly licensed or qualified to do business as a foreign corporation in all jurisdictions where the failure to be so qualified would materially adversely affect its ability to perform its obligations hereunder. It has all requisite corporate power and authority to own its properties and carry on its business as now conducted.

3.A(2) The execution, delivery and performance (as provided herein) by SES Americom of this Agreement has been duly authorized by all requisite corporate action and will not violate any applicable provisions of law or any order of any court or any agency of government and will not conflict with or result in a breach under (a) its Articles of Incorporation or By-Laws, or (b) any material agreement to which SES Americom is a party or by which it is bound.

3.A(3) SES Americom has not retained or authorized anyone to represent it as a broker or finder in connection with this Agreement.

3.A(4) In connection with SES Americom's performance under this Agreement, SES Americom shall comply in all material respects with all applicable laws, regulations, or orders of any governmental entity, including without limitation the FCC.

3.A(5) SES Americom (a) has filed, and will diligently prosecute, application(s) with the FCC to launch and operate the AMC-16 Satellite *** in geostationary orbit at the Orbital Location and (b) agrees to acquire and maintain all necessary governmental authorizations or permissions to operate the Satellite *** at the Orbital Location in a manner consistent with the Technical Performance Specifications and its Intended Use. SES Americom will comply in all material respects with all applicable FCC and other governmental and intergovernmental orders and regulations regarding the licensing and operation of the Satellite, *** For clarification purposes, among other things SES Americom shall comply in all material respects with all requirements imposed by the Communications Act of 1934, as amended, and by the FCC's rules, decisions and policies, on SES Americom as licensee with respect to each SES Orbital Location at

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which the AMC-16 Satellite is located under a U.S. space station authorization, including without limitation that the AMC-16 Satellite will be under the Ultimate Control of SES Americom when located at such an SES Orbital Location. SES Americom shall use all reasonable efforts to resist any move of the Satellite from an SES Orbital Location *** if Service is being provided from an SES Orbital Location. In the event that SES Americom is required by order of the FCC to change the Orbital Location or because of an FCC order or for any other reason (provided that such order or such other reason is not caused solely by the acts or failures to act of Customer in compliance with its representations, warranties or covenants under this Agreement) does not have the right to operate the Satellite at the Orbital Location for the benefit of Customer in accordance with this Agreement and for its Intended Use, then, effective at the time the Service is terminated for the foregoing reason, Customer shall be entitled to terminate this Agreement without any further liability to SES Americom. ***

3.A(8) In accordance with requests made and instructions given by Customer, SES Americom shall use commercially reasonable efforts, at Customer's reasonable expense, to support Customer's efforts in obtaining any site licenses, earth station authorizations and other necessary FCC, *** and other governmental authorizations to communicate with the Satellite for the Intended Use, provided that SES Americom shall have no duty or obligation whatsoever under this Subsection (8) to act or refrain from acting in any way that would materially adversely impact SES Americom. ***

3.A(10) SES Americom's Program Management for the Satellite will apply the same degree of care as is normally applied by SES Americom to satellite construction efforts for the other satellites owned by SES Americom. ***

3.A(12) SES Americom will not amend the Construction Contract in a way that would adversely impact Customer or terminate the Construction Contract without the express written concurrence of Customer, provided that Customer's concurrence shall not be required if notice has been given of the termination of this Agreement.***

3.B. CUSTOMER'S REPRESENTATIONS, WARRANTIES AND COVENANTS. Customer hereby represents, warrants and covenants to SES Americom as follows:

3.B(1) It is a limited liability company duly organized, validly existing and in good standing under the laws of Colorado. It is duly licensed or qualified to do business as a foreign entity in all jurisdictions where the failure to be so qualified would materially adversely affect its ability to perform its obligations hereunder. It has all requisite corporate power and authority to own its properties and carry on its business as now conducted.

3.B(2) The execution, delivery and performance (as provided herein) by Customer of this Agreement has been duly authorized by all requisite corporate action and will not violate any applicable provisions of law or any order of any court or agency of government and will not conflict with or result in a breach under (a) its organizational documents, or (b) any material agreement to which Customer is a party or by which it is bound.

3.B(3) Customer has not employed or authorized anyone to represent it as a broker or finder in connection with this Agreement.

3.B(4) In connection with Customer's performance under this Agreement, Customer shall comply in all material respects with all applicable laws, regulations, or orders of any governmental entity, including without limitation those governing content of transmissions and all FCC license requirements.

3.B(5) Customer will properly illuminate and will use commercially reasonable efforts to cause third

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parties that Customer authorizes to use the Service to properly illuminate the Channels. ***

ARTICLE 4. SERVICE RESPONSIBILITIES

4.A. LAWS AND REGULATIONS GOVERNING SERVICE. As to SES Americom and Customer, construction, launch, location and operation of the Satellite, SES Americom's satellite system and SES Americom's performance of all obligations pursuant to this Agreement are subject to all applicable laws and regulations, including without limitation ITAR, as amended, the Communications Act of 1934, as amended, the rules and regulations of the FCC, and coordination agreements with other operators and administrations.

4.B. USE CONDITIONS.

4.B(1) Customer will use the Service in accordance with (a) all applicable laws and regulations and (b) the conditions of use to be contained in a Commercial Operations Systems User's Guide to be agreed to by the parties (the "User's Guide"). Customer will not use the Service for any unlawful purpose, including violation of laws governing the content of material transmitted using the Service. If Customer's non-compliance with the preceding two sentences causes or threatens, or other circumstances arise from Customer's use of the Service which cause or threaten, damage to the Satellite, or if Customer's use of Service may reasonably result in the institution of criminal proceedings, or administrative proceedings that may result in sanctions or other non-monetary remedies, against SES Americom, SES Global SA, or any Affiliates of either entity, SES Americom may take actions (including suspension and/or restriction of Service) it reasonably believes necessary to ensure Customer's compliance with the User's Guide or SES Americom's compliance with law. SES Americom will provide Customer with advance notice as reasonably practicable prior to taking any such action; provided that the foregoing shall not preclude SES Americom from taking prompt action to preserve its interests. SES Americom will also provide continuous monitoring of the Satellite in accordance with generally accepted industry standards. ***

ARTICLE 5. OPERATIONAL MATTERS

5.A. SERVICE ACCESS. Customer is responsible for providing, operating and maintaining the equipment necessary to access the Satellite and Service. At no additional cost to Customer (except as set forth in Subsection 2.G(2)), SES Americom shall be solely responsible for providing telemetry, tracking and control ("TT&C") service for the Satellite, notwithstanding the relocation of the Satellite to an orbital location other than an SES Orbital Location, and shall perform TT&C service on the same standards as applied by SES Americom to the rest of its satellite fleet. For clarification purposes, all TT&C services performed by SES Americom hereunder shall be subject to the Ultimate Control of Customer or the licensee when the AMC-16 Satellite is located at an orbital location other than an SES Orbital Location. Customer at its expense shall provide SES Americom with any descrambling or decoding devices that may be required for signal monitoring. At a mutually agreed time, and prior to Customer transmitting from its earth station(s), Customer will demonstrate to SES Americom's designated Technical Operations Center that its earth station(s) comply with the satellite access specifications contained in the User's Guide.

5.B. ACTION TO PROTECT SATELLITE. Notwithstanding anything to the contrary set forth herein, SES Americom shall have Ultimate Control of the Satellite when the Satellite is located at an SES Orbital Location. Notwithstanding anything to the contrary set forth herein, the Satellite shall be subject to the Ultimate Control of Customer or the licensee when the AMC-16 Satellite is located at an orbital location other than an SES Orbital Location. If circumstances occur which in SES Americom's reasonable judgment pose a threat to the stable operation of the Satellite, SES Americom shall have the right to take action it reasonably believes necessary to protect the Satellite, including discontinuance or suspension of operation of the Satellite or any Channel, without any liability to Customer, except as otherwise set forth in this Agreement, *** If the discontinuance or suspension of operation is permanent, then, if the discontinuance

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applies to the entire Satellite, it shall be treated as a Satellite Failure for purposes of Section 2.C, and if the discontinuance applies to particular Channels, it shall be treated as a Partial Loss for purposes of Section 2.C. SES Americom shall give Customer as much notice as practical under the circumstances of any such discontinuance or suspension. If it becomes necessary to discontinue or suspend service on one or more Channels on the Satellite, and operational circumstances allow SES Americom to select the Channel or Channels to be discontinued or suspended, SES Americom will consult with Customer and implement Customer's preferred course of action, such consultation to take place prior to action by SES Americom unless more immediate action is necessary.***

ARTICLE 6. INDEMNIFICATION

6.C. SURVIVAL. The provisions of this Article 6 shall survive expiration or termination of this Agreement indefinitely.

ARTICLE 7. WARRANTY DISCLAIMER; LIMITATION OF LIABILITY

7.C. SURVIVAL. The provisions of this Article 7 shall survive expiration or termination of this Agreement indefinitely.

ARTICLE 8. CONFIDENTIALITY AND NONDISCLOSURE

8.A. CERTAIN INFORMATION REGARDING SERVICE. Except for disclosures required by a court or governmental agency or to assignees permitted under Section 10.I, each party hereby agrees not to disclose to third parties (without the prior written consent of the other party) the material terms and conditions of this Agreement (including but not limited to the prices, payment terms, schedules, protection arrangements, and restoration provisions thereof), and all information provided to Customer and SES Americom related to the design and performance characteristics of the Satellite, and any subsystems or components thereof, including the Channels). Notwithstanding the foregoing, Customer (and not SES Americom) may disclose to its third-party customers making use of the Service, and SES Americom (and not Customer) may disclose to its third party vendors and contractors providing services relating to the Satellite (including but not limited to insurance and launch service providers), the Technical Performance Specifications, the User's Guide, and the protection arrangements and restoration provisions of the Service.

8.B. PROPRIETARY INFORMATION. To the extent that either party discloses to the other any other information which it considers proprietary or is proprietary information of a third party, in written or tangible form, said party shall identify such information as proprietary when disclosing it to the other party by marking it clearly and conspicuously as proprietary information. Any proprietary disclosure to either party, if made orally, shall be identified as proprietary information at the time of disclosure, if the disclosing party wishes to keep such information proprietary under this Agreement. Any such information disclosed under this Agreement shall be used by the recipient thereof only in its performance under this Agreement.

Neither party shall be liable for the inadvertent or accidental disclosure of such information marked as proprietary, if such disclosure occurs despite the exercising of the same degree of care as the receiving party normally takes to preserve and safeguard its own proprietary information (but not less than reasonable care) or if such information (1) is or becomes lawfully available to the public from a source other than the receiving party before or during the period of this Agreement, (2) is released in writing by the disclosing party without restrictions, (3) is lawfully obtained by the receiving party from a third party or parties

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without obligation of confidentiality, (4) is lawfully known by the receiving party prior to such disclosure and is not subject to any confidentiality obligations, or (5) is at any time lawfully developed by the receiving party completely independently of any such disclosure or disclosures from the disclosing party.

In addition, neither party shall be liable for the disclosure of any proprietary information which it receives under this Agreement pursuant to judicial action or decree, or pursuant to any requirement of any Government or any agency or department thereof, having jurisdiction over such party, provided that in the reasonable opinion of counsel for such party such disclosure is required, and provided further that such party, to the extent reasonably practical, shall have given the other party notice prior to such disclosure.

Customer and SES Americom agree to negotiate in good faith a three-party non-disclosure agreement with Vendor for information to be disclosed related to this Agreement.

8.C. SURVIVAL. The provisions of this Article 8 shall survive expiration or termination of this Agreement indefinitely.

ARTICLE 9. TERMINATION

9.A. TERMINATION FOR DEFAULT. In addition to any rights of termination provided in other Articles of this Agreement, either party may terminate this Agreement (a "Termination for Default") by giving the other party written notice thereof in the event: (1) the other party materially breaches this Agreement *** and fails to cure such breach within thirty (30) days after receipt of written notice thereof *** (2) the other party becomes insolvent or the subject of insolvency proceedings, including without limitation if the other party is judicially declared insolvent or bankrupt, or if any assignment is made of the other party's property for the benefit of its creditors or if a receiver, conservator, trustee in bankruptcy or other similar officer is appointed by a court of competent jurisdiction to take charge of all or any substantial part of the other party's property, or if a petition is filed by or against the other party under any provision of the Bankruptcy Code now or hereafter enacted, and such proceeding is not dismissed within sixty (60) days after filing, or if a petition is filed by the other party under any provision of the Bankruptcy Code now or hereinafter enacted. ***

9.B. TERMINATION FOR CONVENIENCE.

9.B(1) At any time after the In-Service Date, Customer may terminate this Agreement for convenience (a "Termination for Convenience"), by written notice to SES Americom, provided at least *** days prior to the effective date of such termination, provided that, on the effective date of such termination, Customer shall pay to SES Americom an amount calculated as follows: ***

9.D. REFUNDS. In the event of the expiration of this Agreement pursuant to Section 9.F(1), or in the event of termination by Customer or wrongful termination by SES Americom pursuant to this Agreement, SES Americom shall refund any portion of the MRC paid by Customer to SES Americom which relates to Service not provided by SES Americom, and no further MRC or other amounts shall be due for the period following expiration or termination. By way of clarification, this Section 9.D shall not limit Customer's rights under this Agreement, at law, in equity or otherwise, in the event of Termination for Default or otherwise by Customer.

9.F. EXPIRATION OF AGREEMENT/ SURVIVAL.

9.F(2) Neither party shall have any further obligations or liability to the other under this Agreement

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in the event of the termination or expiration of this Agreement in accordance with this Article 9, except for any obligations or liability (a) arising prior to such termination or expiration, (b) expressly arising upon or as a result of such termination or expiration, (c) expressly described in this Agreement as surviving such expiration or termination, or (d) arising as a result of or in connection with the representations and warranties in Article 3.***

ARTICLE 10. GENERAL PROVISIONS

10.A. FORCE MAJEURE. If a Force Majeure Event under this Agreement has occurred and is continuing, then the performance obligations of the party directly affected by such Force Majeure Event under this Agreement shall be tolled for the duration of such Force Majeure Event and such party shall not be liable to the other by reason of any delay or failure in performance of this Agreement which arises out of such Force Majeure Event; provided that the party directly affected by such Force Majeure Event shall promptly take and continue to take all reasonable actions to abate such Force Majeure Event as soon as possible.

*** If Service is unavailable as a result of a Force Majeure Event affecting the Satellite, then Customer's obligation to pay the MRC shall be suspended during such period Service is unavailable and shall resume upon the Service becoming available. A "Force Majeure Event" means acts of God, acts of the other party, acts of government authority, strikes or other labor disturbances, or any other cause beyond the reasonable control of that party, that (1) as to SES Americom, relates to or affects its ability to provide the Service, or (2) as to either party, relates to or affects that party's ability to make a payment.

10.B. NO IMPLIED LICENSE. The provision of services or the conveying of any information under this Agreement shall not convey any license by implication, estoppel or otherwise, under any patents or other intellectual property rights of Customer or SES Americom, SES Global SA, and their Affiliates, contractors and vendors (including Vendor).

10.C. NO THIRD-PARTY RIGHTS; NO FIDUCIARY RELATIONSHIP. Nothing contained in this Agreement shall be deemed or construed by the parties or by any third party to create any rights, obligations or interests in third parties; or to create the relationship of principal and agent, partnership or joint venture or any other fiduciary relationship or association among the parties.

10.D. NO WAIVER; REMEDIES CUMULATIVE. No waiver, alteration, or modification of any of the terms of this Agreement will be binding unless in writing and signed by all parties. All remedies and rights hereunder and those available in law or in equity shall be cumulative and the exercise by a party of any such right or remedy shall not preclude the exercise of any other right or remedy available under this Agreement in law or in equity.

10.E. COSTS AND ATTORNEYS' FEES. In any action brought with respect to this Agreement by one party hereto against the other party hereto, in addition to any other money damages awarded by a court of competent jurisdiction, the prevailing party shall be entitled to recover from the other party its reasonable costs, including reasonable attorneys' fees, in successfully bringing or defending against such action.

10.F. EXCLUSIVE JURISDICTION.

10.F(1) Each party hereby irrevocably and unconditionally (a) agrees that any suit, action or proceeding against SES Americom by Customer with respect to this Agreement shall be instituted only in the trial court of *** as Customer may elect in its sole discretion, (b) agrees that any suit, action or proceeding against Customer by SES Americom with respect to this Agreement shall be instituted only in the trial court of *** as SES Americom may elect in its sole discretion, (c) consents and submits, for itself and its property, to the jurisdiction of such courts for the purpose of any such suit, action or proceeding instituted against it by the other, and (d) agrees that a final judgment in any such suit, action or proceeding

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shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

10.F(2) Each party hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Subsection 10.F(1) may be effected by the mailing of copies thereof by registered or certified mail, postage prepaid, to such party at its address for notices pursuant to Section 1.E, such service to become effective 30 days after such mailing, provided that nothing contained in this Subsection 10.F(2) shall affect the right of either party to serve process in any other manner permitted by law.

10.F(3) Each party hereby irrevocably and unconditionally (a) waives any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any court specified in clause (a) or clause (b) of Subsection 10.F(1) (as applicable), (b) waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum and (c) agrees not to plead or claim either of the foregoing.

10.F(4) The provisions of this Section 10.F shall survive expiration or termination of this Agreement indefinitely.

10.G. SPECIFIC PERFORMANCE. Each party recognizes that any material breach of the terms of this Agreement would give rise to irreparable harm to the other party for which money damages would not be an adequate remedy, and accordingly agrees that, any term of this Agreement to the contrary notwithstanding, in addition to all other remedies available to it, each party shall be entitled to enforce the terms of this Agreement by a decree of specific performance against the other party, in each case without the necessity of proving the inadequacy of money damages, provided that Customer shall not be entitled to receive the benefit of such specific performance with respect to any action by SES Americom that would: (1) pose or allow to remain a threat to the health and stable operation of the Satellite; or (2) result in a violation by SES Americom of any applicable law or regulation, or any coordination agreement or requirement. Such remedy shall not be deemed the exclusive remedy for breach of this Agreement, but shall be in addition to all other remedies that a party may have at law, in equity, under contract or otherwise. The provisions of this Section 10.G shall survive expiration or termination of this Agreement indefinitely.

10.H. HEADINGS; SEVERABILITY; CUSTOMER PURCHASE ORDERS. All titles and headings in this Agreement are for reference purposes only; they will not affect the meaning or construction of the terms of this Agreement. If any part or parts of this Agreement are held to be invalid, the remaining parts of the Agreement will continue to be valid and enforceable. Customer agrees that any purchase order or other similar document that Customer may issue in connection with this Agreement will be for Customer's internal purposes only and, therefore, even if acknowledged by SES Americom, will not in any way add to, subtract from, or in any way modify the terms and conditions of this Agreement.***

10.J. INTER-PARTY WAIVER. Customer, on behalf of itself and its officers, employees, Affiliates, agents, insurers, owners and customers, agrees to accept the inter-party waiver and related indemnity provisions required by the applicable Launch Services Agreement for a launch, modified so as to apply to Customer and the launch services provider. SES Americom likewise, on behalf of itself and its officers, employees, Affiliates, agents, insurers, owners and customers, agrees to accept the inter-party waiver and related indemnity provisions required by the applicable Launch Services Agreement for a launch, modified so as to apply to SES Americom and the launch services provider. In no event shall such inter-party waiver and related indemnity provisions have any effect on the rights, obligations and liabilities of and between Customer and SES Americom under this Agreement.

10.K. PUBLICITY. Neither party shall in any way or in any form publicize or advertise in any manner this

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Agreement or the Services to be provided pursuant to this Agreement without the express written approval (which shall not be unreasonably withheld, conditioned or delayed) of the other party, obtained in advance, for each item of advertising or publicity. The foregoing prohibition shall include but not be limited to news releases, letters, correspondence, literature, promotional materials or displays of any nature or form. Each request for approval hereunder shall be submitted in writing to the representative designated in writing; and approval, in each instance, shall be effective only if in writing and signed by said representative. Nothing herein shall prevent either party from providing the FCC, or any other governmental agency, information concerning this Agreement as required by law or in response to a request for information by such governmental agency. Notwithstanding the foregoing, either party may refer to the fact that SES Americom is providing the Service to Customer without the other party's prior approval so long as such statements are limited to a statement of such fact and are not an endorsement (positive or negative) of any product or service.

10.L. ITAR. Information exchanged under this Agreement may be subject to U.S. export control laws and regulations, such as the U.S. International Traffic in Arms Regulations ("ITAR") or the Export Administration Act. The parties agree that information subject to the export control laws and regulations shall not be disclosed or transferred to a third party without first obtaining written approval from the disclosing party and complying with all applicable U.S. export control laws and regulations.***

10.N. ENTIRE AGREEMENT. This Agreement contains the entire and exclusive understanding between the parties concerning the subject matter hereof and supersedes all prior communications and understandings between them relative to the subject matter hereof.

ARTICLE 11. DEFINITIONS

As used in this Agreement:

- A. "Affiliate" means, with respect to a party, any person or entity (1) more than 50% of the capital securities of which on an as-converted basis are owned by, or (2) directly or indirectly controlling, controlled by, or under common control with, such party at the time when the determination of affiliation is being made. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to a person or entity, shall mean the possession, directly or indirectly, of the power to (a) direct or cause the direction of management policies of such person or entity, whether through the ownership of voting securities or by contract or otherwise, or (b) select a majority of the Board of Directors of such person or entity.
- B. "Agreement" shall have the meaning specified in Section 1.A.
- C. "AMC-2 Satellite Service Agreement" shall mean that certain Americom-2 Ku-Band Satellite Transponder Service Agreement entered into by SES Americom, Inc. (as agent for SES Americom Colorado, Inc.) and Customer effective as of March 21, 2003, as amended by Amendment #1 effective as of February 19, 2004, for the provision by SES Americom to Customer of service on the AMC-2 Satellite, as such agreement may be amended in the future from time to time in accordance with its terms.
- D. "AMC-14 Satellite" shall have the meaning specified in Section 1.A of the Satellite Service Agreement for AMC-14 among the parties effective as of August 13, 2003.

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- E. "AMC-15 Agreement" shall mean the Satellite Service Agreement among the parties effective as of March 21, 2003, as previously amended by Amendment #1 effective as of July 10, 2003, by Amendment #2 effective as of September 22, 2003, and by Amendment #3 effective as of February 19, 2004, and as such agreement may be amended in the future from time to time in accordance with its terms.
- F. "AMC-15 Satellite" shall have the meaning specified in Section 1.A.
- G. "Business Day" means Monday through Friday, 8:30 a.m. to 5:00 p.m. (local time in New York City, New York) exclusive of banking holidays observed in New York City.
- H. "Channel" means a communication path by which a signal is transmitted using the Satellite.
- ***
- I. "Construction Contract" shall have the meaning specified in Section 1.A.
- J. "Continuation Payments" shall have the meaning specified in Section 9.G.
- ***
- K. "Customer" shall have the meaning specified in the first preamble paragraph.
- L. "Customer's Designees" shall have the meaning specified in Subsection 4.B(2).
- ***
- M. "DTH Video Service" shall mean direct-to-home video services provided to residential and/or commercial subscribers in the ***
- N. "Effective Date" shall have the meaning specified in the first preamble paragraph.
- O. "End-of-Life" means the date on which, in SES Americom's reasonable judgment, a satellite should be taken out of service because of insufficient fuel.
- P. "Extended Term" shall have the meaning specified in Section 1.C.
- ***
- Q. "Force Majeure Event" shall have the meaning specified in Section 10.A.
- ***
- R. "In-Service" means that the Satellite *** is deployed at the orbital location at which the Satellite is initially required to be placed in service hereunder, and, following SES Americom testing and verification of the entire satellite, SES Americom determines in its reasonable business judgment that such satellite or all usable capacity thereof, is ready for commercial operation in accordance with the applicable Technical Performance Specifications, provided that the satellite is not a Satellite Failure. SES Americom agrees that it shall provide written notice of such determination to Customer on the date that SES Americom makes its determination.

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- S. "In-Service Date" means the date on which the Satellite *** is In-Service.
- T. "Initial Period" shall have the meaning specified in Subsection 2.I(1).

- U. "ITAR" shall have the meaning ascribed to that term in Section 10.L.
- V. "ITU" means the International Telecommunications Union.
- W. ***
- X. "MRC" shall have the meaning specified in Section 2.B.

- Y. "Partial Loss" shall mean any failure of a Channel to operate in accordance with the Technical Performance Specifications that does not result in a Satellite Failure ***
- Z. "Prime Rate" shall mean the "prime rate" of interest as shown in the Money and Investing Section of the Wall Street Journal as of the applicable date.

- AA. "Satellite" shall mean the AMC-16 Satellite ***
- BB. "Service" shall have the meaning specified in Section 1.A.
- CC. "Service Term" shall have the meaning specified in Section 1.C.
- DD. "SES Americom" shall have the meaning specified in the first preamble paragraph.

- EE. "Technical Performance Specifications" shall have the meaning specified in Section 1.A.
- FF. "Termination for Convenience" shall have the meaning specified in Subsection 9.B(1).
- GG. "Termination for Default" shall have the meaning specified in Section 9.A.
- HH. "Termination Payment" shall have the meaning specified in Subsection 9.B(1).
- II. "Termination Value" shall have the meaning specified in Section 9.E.
- JJ. "TT&C" shall have the meaning specified in Section 5.A.

- KK. "User's Guide" shall have the meaning specified in Subsection 4.B(1).

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This Agreement contains the complete and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements between the parties with respect thereto. To the extent that any Attachment may be inconsistent with the text of the Agreement, the text of the Agreement shall control.

ECHOSTAR SATELLITE L.L.C.

SES AMERICOM, INC., as agent for
SES AMERICOM CALIFORNIA, INC. and
SES AMERICOM COLORADO, INC.

By: EchoStar DBS Corporation, its sole member

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Name: _____
(Typed or Printed Name)

Title: _____

Title: _____

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AMENDMENT #1 TO SATELLITE SERVICE AGREEMENT

THIS AMENDMENT #1 ("Amendment #1") to the Satellite Service Agreement for AMC-16 effective as of February 19, 2004 (the "Original Agreement"), between SES Americom, Inc., as agent for SES Americom California, Inc. (for the period prior to the In-Service Date) and SES Americom Colorado, Inc. (for the period on and after the In-Service Date), on the one hand, and EchoStar Satellite L.L.C., formerly known as EchoStar Satellite Corporation ("Customer") *** is made effective as of March 10, 2004 (the "Amendment #1 Effective Date"). All references to "SES Americom" herein shall include SES Americom California, Inc., SES Americom Colorado, Inc., and SES Americom, Inc. as agent for each. Defined terms used in this Amendment #1 have the meanings specified herein or in the Original Agreement. The Original Agreement as amended by this Amendment #1 is referred to as the "Agreement".

SES Americom and Customer agree to amend the Original Agreement in accordance with the terms and conditions set forth below.

(1) Section 10.M. The parties agree to replace Section 10.M in the Original Agreement with the following: ***

(3) General. Except as expressly modified herein, the Original Agreement shall remain in full force and effect in accordance with its terms and conditions.

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This AMENDMENT #1 contains the complete and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements between the parties with respect thereto.

ECHOSTAR SATELLITE L.L.C.

By: EchoStar DBS Corporation, its
sole member

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Title: _____

SES AMERICOM, INC., as agent for
SES AMERICOM CALIFORNIA, INC. and
SES AMERICOM COLORADO, INC.

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Title: _____

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AMENDMENT #3 TO SATELLITE SERVICE AGREEMENT

THIS AMENDMENT #3 ("Amendment #3") to the Satellite Service Agreement effective as of March 21, 2003, as amended by Amendment #1 effective as of July 10, 2003, and Amendment #2 effective as of September 22, 2003 (collectively the "Original Agreement"), between SES Americom, Inc., as agent for SES Americom California, Inc. (for the period prior to the In-Service Date) and SES Americom Colorado, Inc. (for the period on and after the In-Service Date), on the one hand, and EchoStar Satellite L.L.C., formerly known as EchoStar Satellite Corporation ("Customer") *** is made effective as of February 19, 2004 (the "Amendment #3 Effective Date"). All references to "SES Americom" herein shall include SES Americom California, Inc., SES Americom Colorado, Inc., and SES Americom, Inc. as agent for each. Defined terms used in this Amendment #3 have the meanings specified herein or in the Original Agreement. The Original Agreement as amended by this Amendment #3 is referred to as the "Agreement".

SES Americom and Customer agree to amend the Original Agreement in accordance with the terms and conditions set forth below.

(1) Amendment #2. Amendment #2 shall be considered void ab initio and of no further force and effect. ***

In accordance with requests made and instructions given by Customer, SES Americom shall use commercially reasonable efforts, at Customer's reasonable expense, to support Customer's efforts in taking the actions described in Subsection (ii) above, provided that SES Americom shall have no duty or obligation whatsoever under this sentence to act or refrain from acting in any way that would materially adversely impact SES Americom. SES Americom is entitled to invoice Customer as soon as the costs described in this paragraph have been incurred by SES Americom, and Section 2.E shall apply to the invoicing by SES Americom and the payments by Customer. ***

(7) Notices. In Section 1.E, (a) the address for notices to Customer delivered via overnight courier service is changed to 9601 S. Meridian Blvd., Englewood, CO 80112, and (b) the address for notices to Customer delivered via first class certified mail is changed to P.O. Box 6655, Englewood, CO 80155. ***

(14) General. Except as expressly modified herein, the Original Agreement shall remain in full force and effect in accordance with its terms and conditions.

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This AMENDMENT #3 contains the complete and exclusive understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements between the parties with respect thereto.

ECHOSTAR SATELLITE L.L.C.
By: EchoStar DBS Corporation, its
sole member

SES AMERICOM, INC., as agent for SES
AMERICOM CALIFORNIA, INC.
and SES AMERICOM COLORADO, INC.

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Typed or Printed Name)

Name: _____
(Typed or Printed Name)

Title: _____

Title: _____

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WHOLE RF CHANNEL SERVICE AGREEMENT

This whole RF channel service agreement is made and effective as of February 4, 2004 (hereinafter referred to as the "Agreement Date"), by and between TELESAT CANADA (hereinafter collectively referred to with its permitted assigns and successors in interest as "Telesat"), a corporation continued and existing under the laws of Canada, and ECHOSTAR SATELLITE L.L.C., formerly known as EchoStar Satellite Corporation (hereinafter collectively referred to with its permitted assigns and successors in interest as "Customer"), a limited liability company organized and existing under the laws of the State of Colorado in the United States of America.

WHEREAS

Customer has agreed to subscribe for, and Telesat has agreed to furnish to Customer, certain RF channel services operating on the *** on the ANIK F3 Satellite at the rates and subject to the other terms and conditions specified herein;

NOW THEREFORE in consideration of the mutual agreements contained in this Agreement and other good and valuable consideration (the receipt and adequacy of which are hereby acknowledged), the Parties agree as follows:

ARTICLE 1.0 - DEFINITIONS

1.1 As used in this Agreement and the recitals hereto, the following terms shall have the following meanings:

"AGREEMENT" means this whole RF channel service agreement and all schedules, appendices and instruments in amendment of it; "hereof", "hereto", "herein" and "hereunder" and similar expressions mean and refer to this Agreement and not to any particular Article or Section; "Article" or "Section" of this Agreement followed by a number means and refers to the specified Article or Section of this Agreement.

"AGREEMENT DATE" shall have the meaning ascribed to that term in the introductory paragraph of this Agreement.

"ANIK F3 CAPACITY OFFER" has the meaning ascribed thereto in Section 4.8.

"ANIK F3 ACCEPTANCE DATE" means the date on which Telesat provides notice in writing to Customer that it has conducted an acceptance inspection of the ANIK F3 Satellite and is satisfied in its reasonable judgment that:

"ANIK F3 PROCUREMENT AGREEMENT DATE" means the date ***

"ANIK F3 SATELLITE" means the communications satellite that includes a *** presently designated within Telesat as "ANIK F3", which may be procured by Telesat.

"AUTHORIZATION" means any authorization, order, permit, approval, forbearance decision, grant, licence, consent, right, franchise, privilege or certificate of any Governmental Entity of competent jurisdiction, whether or not having the force of law.

"CONTRACT FEE" means an amount equal to ***

"CUSTOMER" shall have the meaning ascribed to that term in the introductory paragraph of this Agreement.

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"FCC" means the United States Federal Communications Commission and any successor agency thereto.

"GOVERNMENTAL ENTITY" means any (i) multinational, federal, provincial, state, municipal, local or other government, governmental or public department, central bank, court, commission, board, bureau, agency or instrumentality, domestic or foreign; (ii) any subdivision, agent, commission, board, or authority of any of the foregoing; or (iii) any quasi-governmental or private body validly exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, in each case in the proper exercise of its governmental authority.

"INTENDED PURPOSE" means the use of the ANIK F3 Satellite at the Orbital Position ***

"LIBOR" means the interest rate per annum, for three month deposits of United States Dollars made to prime banks in the London interbank market calculated on the basis of the actual number of days elapsed divided by 360. For greater certainty, the LIBOR rate on a given date will be established by reference to the British Bankers Association web page (<http://bankfacts.org.uk/public/libor>), providing information on historical LIBOR rates or such other web page as may replace it from time to time.

"LICENSING FEES" has the meaning ascribed thereto in Section C.5 of Schedule 1 hereto.

"OFFER" has the meaning ascribed thereto in Section 4.6.

"PARTIES" means Telesat, Customer and any other person who may become party to this Agreement and "Party" means any one of them.

"PER CALENDAR YEAR CAP" has the meaning ascribed thereto in Section 2.3(b).

"PERSON" means an individual, partnership, limited liability company, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity and pronouns have similarly extended meaning.

"PREPAYMENT FEE" means an amount equal to ***

"RADIO AUTHORIZATION" means the authorization of the Minister of Industry (Canada) pursuant to the Radiocommunication Act (Canada) required for Telesat to operate the ANIK F3 Satellite at the Orbital Position, which authorization does not contain any conditions, restrictions or limitations that would prevent Customer from using the ANIK F3 Satellite for the Intended Purpose.

"REDUCTION NOTICE" has the meaning ascribed thereto in Section 2.1(b).

"REPLACEMENT CAPACITY" has the meaning ascribed thereto in Section 4.6.

"REPLACEMENT SATELLITE" has the meaning ascribed thereto in Section 4.6.

"SALE/RETENTION NOTICE" has the meaning ascribed thereto in Section 2.1(c).

"SERVICE COMMENCEMENT DATE" means the ***

"TELESAT" shall have the meaning ascribed to that term in the introductory paragraph of this Agreement.

***Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the

"TERM" has the meaning ascribed thereto in Section 2.2.

"TERMS AND CONDITIONS" means the terms and conditions for Full Period Whole RF Channel Service on the ANIK F3 Satellite set forth in Schedule 1.

- 1.2 Capitalized terms used in this Agreement and not otherwise defined in this Agreement have the same meanings as in the Terms and Conditions.
- 1.3 GENDER AND NUMBER. Any reference in this Agreement to gender shall include all genders, and words importing the singular number only shall include the plural and vice versa.
- 1.4 ENTIRE AGREEMENT. This Agreement, including Schedules 1 and 2 attached hereto, and the agreements referred to herein or delivered pursuant hereto, supersedes all prior agreements, term sheets, letters of intent, understandings, negotiations and discussions, whether oral or written, of the Parties pertaining to the subject matter hereof *** There are no representations, warranties, conditions or other agreements, express or implied, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the agreements referred to herein or delivered pursuant hereto.
- 1.5 AMENDMENTS. This Agreement may only be amended, modified or supplemented by a written agreement signed by each of the Parties.
- 1.6 INCORPORATION OF SCHEDULES. The schedules attached hereto shall for all purposes hereof form an integral part of this Agreement and are hereby incorporated by reference in their entirety.
- 1.7 CURRENCY. All dollar amounts referred to in this Agreement are expressed in the currency of the United States of America.

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ARTICLE 2.0 - SERVICE COMMITMENT

2.1 SERVICE COMMITMENT ON ANIK F3 SATELLITE

- (a) Customer hereby agrees to subscribe for, and Telesat hereby agrees to furnish to Customer, subject to the terms and conditions of this Agreement including, but not limited to, Sections 2.1(b), (c) and ***

2.2 TERM, SERVICE COMMENCEMENT DATE AND SATELLITE CONSTRUCTION

- (a) Subject to Section 5.7 and unless terminated earlier as provided herein, the term of this Agreement shall commence upon the Agreement Date and shall expire on the date which is *** following the Service Commencement Date (the "Term").
- (b) Telesat shall use its commercially reasonable efforts to give Customer *** prior written notice of the ANIK F3 Acceptance Date. During the construction of the Anik F3 Satellite, Telesat shall within *** after receipt by it of the quarterly status reports from the satellite manufacturer of the ANIK F3 Satellite, provide Customer with quarterly reports summarizing the current status of the ANIK F3 Satellite, including the then scheduled dates for completing construction and launching the ANIK F3 Satellite into orbit. *** Notwithstanding the aforesaid, (i) all confidentiality requirements imposed by the satellite manufacturer and/or launch provider; and (ii) requirements imposed by an applicable Governmental Entity, including but not limited to requirements imposed by the United States Department of State, shall be complied with by Customer prior to delivery of any of the above information. ***
- (i) Telesat shall provide Customer with ***
- (c) Telesat may during the construction of the ANIK F3 Satellite request changes or waivers to the Performance Parameters ***

Prior to implementing a customer-requested change, Telesat shall provide in writing to Customer the Anik F3 Satellite program cost impact (if any) of such change including but not limited to the cost impact (if any) from the satellite manufacturer, launch supplier and any incremental labour and financing costs incurred (or saved) by Telesat. Customer must respond in writing *** from the date of the provision of the costing information, advising Telesat whether it wishes to proceed with such change. If Customer wishes to proceed with the change, then: ***

- (B) if there is an impact on the construction schedule for the ANIK F3 Satellite, the date as set out in Section 4.2(d) shall be adjusted accordingly on a day-for-day basis; and
- (C) the Parties will amend the Performance Parameters forming Schedule 1 of this Agreement to conform with the change. ***

2.3 MONTHLY RATE

- (a) Customer shall pay, and there shall become due and payable, a monthly rate of *** For the purposes of Rebates for Interruption only, which are determined in accordance with Section E of Schedule 1, the monthly rate shall be ***

2.4 CONTRACT FEE AND PREPAYMENT FEE

***Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

- (a) Customer will pay the Contract Fee to Telesat within *** from the date upon which Telesat receives Board Approval in accordance with Section 5.7 in consideration for ***

2.5 TERMS AND CONDITIONS

The furnishing of the *** by Telesat shall be subject to the Terms and Conditions which the Parties hereby agree are incorporated by reference as Schedule 1 in this Agreement and constitute an integral part of this Agreement.

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ARTICLE 3.0 - REPRESENTATIONS AND WARRANTIES

3.1 MUTUAL REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Party, as follows and acknowledges and confirms that the other Party is relying thereon without independent inquiry in entering into this Agreement:

- (a) ORGANIZATION AND QUALIFICATION. It is a corporation (in the case of Telesat) or a limited liability company (in the case of Customer), duly incorporated, organized, continued or amalgamated, and validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization, continuance or amalgamation, as the case may be, and is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions in which the nature of its assets or business as currently conducted makes such qualification necessary or where the failure to be so qualified would have a material adverse effect on its ability to perform its obligations hereunder.
- (b) CORPORATE POWER. It has all requisite corporate power and authority to execute and deliver this Agreement, to perform its respective obligations hereunder, to own its properties and to carry on its business as now conducted and to consummate the transactions contemplated hereby.
- (c) AUTHORIZATIONS, ETC. Subject to Section 5.7, the execution and delivery by it of this Agreement and the performance of its respective obligations hereunder, and the consummation by it of the transactions contemplated hereby, have been duly authorized by all requisite corporate action.
- (d) EXECUTION AND BINDING OBLIGATION. This Agreement has been duly executed and delivered by it and constitutes legal, valid and binding obligations of it, enforceable against it in accordance with its terms, except insofar as enforceability may be affected by applicable Laws relating to bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect affecting creditors' rights generally or by principles governing the availability of equitable remedies.
- (e) NO BREACH OR VIOLATION. The execution and delivery of this Agreement and performance of its respective obligations under this Agreement and compliance with the terms, conditions and provisions hereof will not conflict with or result in a breach of any of the terms, conditions or provisions of (i) its organizational or constating documents or by-laws; (ii) any applicable Law; (iii) any contractual restriction binding on it or affecting it or its properties (without regard to requirements of notice, passage of time or elections of any Person); or (iv) any judgement, injunction, determination or award which is binding on it. It has not retained or authorized anyone to represent it as a broker or finder in connection with this Agreement. In connection with its performance under this Agreement, it shall comply in all material respects with all applicable laws, regulations, or orders of any Governmental Entity.
- (f) LEGAL PROCEEDINGS. There is no judgement or order outstanding, or any action, suit, complaint, proceeding or investigation by or before any Governmental Entity or any arbitrator pending, or to the best of its knowledge, threatened, which, if adversely determined, would be reasonably expected to have a material adverse effect on its ability to consummate the transactions contemplated hereby or perform its obligations hereunder.

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ARTICLE 4.0 - ADDITIONAL COVENANTS AND TERMINATION

4.1 USE OF THE ANIK F3 SATELLITE FOR THE INTENDED PURPOSE

- (a) Telesat agrees, at its sole cost and expense, (except as set out in Section 2.3 and Section C.5 of Schedule 1) to obtain and maintain all *** Telesat further agrees to file *** as soon as reasonably practicable after the date upon which Telesat receives Board Approval in accordance with Section 5.7. In accordance with requests made and instructions given by Telesat, Customer shall use commercially reasonable efforts at Telesat's reasonable expense, to support Telesat's efforts to obtain and maintain all ***

4.2 TERMINATION PRIOR TO SERVICE COMMENCEMENT DATE

This Agreement may be terminated and the transactions contemplated by this Agreement may be abandoned at any time prior to the Service Commencement Date (except where a different timeframe has been expressly stated below):

4.4 LIABILITIES IN EVENT OF TERMINATION

- (a) Subject to Section 4.4(b) and except as expressly set forth to the contrary herein, the termination or expiration of this Agreement will in no way limit any obligation or liability of either Party based on or arising from a breach or default by such Party with respect to any of its representations or warranties contained in this Agreement, or with respect to any of its covenants or agreements contained in this Agreement which by their terms were to be performed prior to the date of termination or expiration, nor shall any such termination or expiration release either Party from any liabilities or obligations under this Agreement ***

4.5 GENERAL RIGHTS AND REMEDIES

Subject to the exclusions and limitations of liability in the Terms and Conditions, in the event any representation or warranty of any Party contained in this Agreement shall prove to have been incorrect in any material respect when made or deemed to have been made or if any Party fails to perform, observe or comply with any of its covenants or agreements contained in this Agreement, the other Party will be entitled to whatever rights or remedies are available at law or in equity. ***

ARTICLE 5.0 - MISCELLANEOUS

5.1 PARTIES OBLIGATED AND BENEFITED

This Agreement will be binding upon the Parties and their respective permitted assigns and successors in interest and will inure solely to the benefit of the Parties and their respective permitted assigns and successors in interest, and no other Person will be entitled to any of the benefits conferred by this Agreement or to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum. ***

5.2 NOTICES

Any notice required or permitted to be given hereunder shall be in writing and shall be sent by facsimile transmission, or by first class certified mail, postage prepaid, or by overnight courier service, charges prepaid, to the party to be notified, addressed to such party at the address set forth below, or sent by facsimile to the fax number set forth below, or such other address or fax number as such party may have substituted by written notice to the other party. The sending of such notice

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with confirmation of receipt thereof (in the case of facsimile transmission) or receipt of such notice (in the case of delivery by mail or by overnight courier service) shall constitute the giving thereof.

TELESAT CANADA
1601 Telesat Court
Ottawa ON Canada K1B 5P4
Fax: ***
Attention: Vice President, Law

CUSTOMER
EchoStar Satellite L.L.C.
9601 S. Meridian Blvd.
Englewood, Colorado 80112 U.S.A.
Fax: ***
Attention: Charles W. Ergen, President
and CEO
EchoStar DBS Corporation, its sole member

Please Note: Above address is for
overnight courier service only. For
first class certified mail, please use:

P.O. Box 6655
Englewood, Colorado 80155

WITH A COPY TO:
EchoStar Satellite L.L.C.
(same addresses and fax number as above)
Attention: David K. Moskowitz, SVP and
General Counsel EchoStar DBS
Corporation, its sole member

5.3 EXPENSES

Except as otherwise expressly provided herein, all costs and expenses (including the fees and disbursements of legal counsel, investment advisers and auditors) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such expenses.

5.4 NON-MERGER

Except as otherwise expressly provided in this Agreement, the covenants, representations and warranties of the Parties contained in this Agreement shall not merge on and shall survive the Service Commencement Date and, notwithstanding any investigation made by or on behalf of either Party, shall continue in full force and effect throughout the Term.

5.5 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws ***

5.6 COUNTERPARTS

This Agreement may be executed by facsimile and/or in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument.

5.7 TELESAT BOARD APPROVAL

Notwithstanding anything to the contrary contained herein, this Agreement (with the sole exception of Section 4.9) shall not become effective until Telesat receives the approval of its

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Board of Directors. Telesat agrees that it shall request such approval at its next regularly-scheduled Board of Directors meeting *** Promptly thereafter, Telesat shall notify Customer whether approval was received. In the event that the Board of Directors of Telesat approves this Agreement, then the Agreement shall be deemed to be effective as of the date first set forth above.

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IN WITNESS WHEREOF each of the parties hereto has duly executed this Agreement under the hands of its proper officers duly authorized in that behalf effective as of the Agreement Date.

TELESAT CANADA

By: _____
Name: Laurier J. Boisvert
Title: President and Chief Executive Officer

ECHOSTAR SATELLITE L.L.C.

By: EchoStar DBS Corporation, its sole member

By: _____
Charles W. Ergen
President and Chief Executive Officer ***

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March 25, 2004

VIA FACSIMILE ONLY: ***

EchoStar Satellite L.L.C.
9601 S. Meridian Blvd.
ENGLEWOOD, Colorado 80112
U.S.A.

Attn: Charles W. Ergen, President and Chief Executive Officer EchoStar DBS Corporation, its sole member

RE: TELESAT BOARD APPROVAL OF WHOLE RF CHANNEL SERVICE AGREEMENT BETWEEN TELESAT CANADA ("TELESAT") AND ECHOSTAR SATELLITE L.L.C. ("ECHOSTAR") DATED AS OF FEBRUARY 4, 2004 (THE "ANIK F3 AGREEMENT")

Dear Mr. Ergen:

Please be advised that, as contemplated in Section 5.7 of the Anik F3 Agreement, Telesat requested the approval of its Board of Directors ***. Telesat's board approval of the Anik F3 Agreement *** Due to the foregoing, Telesat acknowledges and agrees that the Anik F3 Agreement shall be amended such that:

- (i) the Contract Fee will be due to Telesat within *** from the date upon which Telesat's board approval becomes effective ***
- (ii) the Prepayment Fee will be due to Telesat on the later to occur of ***
- (iii) in Sections 4.1(a) and 4.1(b), each use of the words "the date upon which Telesat receives Board Approval in accordance with Section 5.7" shall be replaced with "the date upon which Telesat's board approval becomes effective" ***

All capitalized terms not defined herein shall have the meaning ascribed to them in the Anik F3 Agreement. Except as expressly modified herein, the Anik F3 Agreement shall remain in full force and effect in accordance with its terms and conditions.

Please acknowledge your concurrence with the above by signing where indicated below.

Yours truly,

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TELESAT CANADA

By: _____
Laurier J. Boisvert
President and Chief Executive Officer

ACKNOWLEDGED AND AGREED:

ECHOSTAR SATELLITE L.L.C.

By: EchoStar DBS Corporation, its sole member

By: _____
Charles W. Ergen
President and Chief Executive Officer

***Certain confidential portions of this exhibit were omitted by means of redacting a portion of the text. Copies of the exhibit containing the redacted portions have been filed separately with the Securities and Exchange Commission subject to a request for confidential treatment pursuant to Rule 24b-2 under the Securities Exchange Act.

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
Section 302 Certification

I, Charles W. Ergen, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EchoStar Communications Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2004

/s/ Charles W. Ergen

Chairman and Chief Executive Officer

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Section 302 Certification

I, Michael R. McDonnell, certify that:

1. I have reviewed this quarterly report on Form 10-Q of EchoStar Communications Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - c) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2004

/s/ Michael R. McDonnell

Senior Vice President and Chief Financial Officer

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
Section 906 Certification

Pursuant to 18 U.S.C. Section 1350, the undersigned officer of EchoStar Communications Corporation (the "Company"), hereby certifies that to the best of his knowledge the Company's Quarterly Report on Form 10-Q for the three months ended March 31, 2004 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 6, 2004

Name: /s/ Charles W. Ergen

Title: Chairman of the Board of Directors and
Chief Executive Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Section 906 Certification

Pursuant to 18 U.S.C. Section 1350, the undersigned officer of EchoStar Communications Corporation (the "Company"), hereby certifies that to the best of his knowledge the Company's Quarterly Report on Form 10-Q for the three months ended March 31, 2004 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 6, 2004

Name: /s/ Michael R. McDonnell

Title: Senior Vice President and Chief
Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.