DISH Network CORP
Form 10-Q
May 12, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-Q

(Mark One)

þ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2008.**

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE TRANSITION PERIOD FROM______________ TO______________.**

Commission File Number: 0-26176

DISH Network Corporation

(Exact name of registrant as specified in its charter)

Nevada	**88-0336997**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
9601 South Meridian Boulevard Englewood, Colorado	**80112**
(Address of principal executive offices)	(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 þ **No** o

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

Large Accelerated Filer þ	**Accelerated Filer o**	**Non-Accelerated Filer o (Do not check if a smaller reporting company)**	**Smaller reporting Company o**

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o **No** þ

As of May 1, 2008, the registrant s outstanding common stock consisted of 210,818,875 shares of Class A common stock and 238,435,208 shares of Class B common stock.

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PART I FINANCIAL INFORMATION

DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

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

We face intense and increasing competition from satellite and cable television providers as well as new competitors, including telephone companies; our competitors are increasingly offering video service bundled with 2-way high-speed Internet access and telephone services that consumers may find attractive and which are likely to further increase competition. We also expect to face increasing competition from content and other providers who distribute video services directly to consumers over the Internet.

As technology changes, and in order to remain competitive, we will have to upgrade or replace some, or all, subscriber equipment periodically and make substantial investments in our infrastructure. For example, the increase in demand for high definition (HD) programming requires not only upgrades to customer premises equipment but also substantial increases in satellite capacity. We may not be able to pass on to our customers the entire cost of these upgrades and there can be no assurance that we will be able to effectively compete with the HD programming offerings of our competitors.

We rely on EchoStar Corporation (EchoStar), which was owned by us prior to its January 1, 2008 separation from us (the Spin-off), to design and develop set-top boxes and to provide transponder leasing, digital broadcast operations and other services for us. EchoStar is our sole supplier of digital set-top boxes and digital broadcast operations. Equipment, transponder leasing and digital broadcast operations costs may increase beyond our current expectations; we may be unable to renew agreements on acceptable terms or at all; EchoStar s inability to develop and produce, or our inability to obtain, equipment with the latest technology, or our inability to obtain transponder leasing and digital broadcast operations and other services from third parties, could affect our subscriber acquisition and churn and cause related revenue to decline.

DISH Network® subscriber growth may continue to decrease and subscriber turnover may increase due to a variety of factors, including several, such as increasing competition and worsening economic conditions, that are outside of our control and others, such as our own operational inefficiencies and customer satisfaction with our products and services, that will require us to make significant investments and expenditures, which may have a material adverse effect on our results of operations.

Subscriber acquisition and retention costs may increase; the competitive environment may require us to increase promotional and retention spending or accept lower subscriber acquisitions and higher subscriber churn; we may also have difficulty controlling other costs of continuing to maintain and grow our subscriber base.

Satellite programming signals are subject to theft and we are vulnerable to subscriber fraud; theft of service will continue and could increase in the future, causing us to lose subscribers and revenue and to incur higher costs.

We depend on others to produce the programming we distribute to our subscribers; programming costs may increase beyond our current expectations and we may be unable to obtain or renew programming agreements on acceptable terms or at all; existing programming agreements could be subject to cancellation; we may be denied access to sports programming; foreign programming is increasingly offered on other platforms; our inability to obtain or renew attractive programming could cause our subscriber additions and related revenue to decline and could cause our subscriber turnover to increase.

We depend on Federal Communications Commission (FCC) program access rules and the Telecommunications Act of 1996 as Amended to secure nondiscriminatory access to programming produced by others, neither of which ensure that we have fair access to all programming that we need to remain competitive.

Our industry is heavily regulated by the FCC. Those regulations could become more burdensome at any time, causing us to expend additional resources on compliance.

We have made significant commitments to acquire 700 MHz wireless licenses and will be required to make significant additional investments to commercialize these licenses.

We may be required to raise and refinance indebtedness during unfavorable market conditions. Recent developments in the financial markets have made it more difficult for issuers of high yield indebtedness such as us to access capital markets at reasonable rates. We cannot predict with any certainty whether or not we will be impacted in the future by the current conditions, which may adversely affect our ability to refinance our indebtedness, including our indebtedness that is subject to repayment or repurchase in 2008, or to secure additional financing to support our growth initiatives.

A portion of our investment portfolio is invested in auction rate securities and mortgage backed securities. The markets associated with these investments have experienced zero or greatly reduced liquidity in recent months. Should the credit ratings of these securities deteriorate or the lack of liquidity in the marketplace become prolonged, we may deem any declines in fair value to be other than temporary and would then record them as impairment charges.

If we are unsuccessful in subsequent appeals in the Tivo case or in defending against claims that our alternate technology infringes Tivo s patent, we could be prohibited from distributing DVRs or be required to modify or eliminate certain user-friendly DVR features that we currently offer to consumers. The adverse affect on our business could be material. We could also have to pay substantial additional damages.

Our gross subscriber additions and several other key operating and financial performance metrics could be adversely affected if AT&T were to discontinue selling our services or reduce their marketing of our services.

If our EchoStar X satellite experienced a significant failure, we could lose the ability to deliver local network channels in many markets; if any of our other owned or leased satellites experienced a significant failure, we could lose the ability to provide other critical programming to the continental United States.

Our satellite launches may be delayed or fail, or our owned or leased satellites may fail in orbit prior to the end of their scheduled lives causing extended interruptions of some of the channels we offer.

We currently do not have commercial insurance covering losses incurred from the failure of satellite launches and/or in-orbit satellites we own or lease.

Service interruptions arising from technical anomalies on satellites or on-ground components of our direct broadcast satellite system, or caused by war, terrorist activities or natural disasters, may cause customer cancellations or otherwise harm our business.

We depend heavily on complex information technologies; weaknesses in our information technology systems could have an adverse impact on our business; we may have difficulty attracting and retaining qualified personnel to maintain our information technology infrastructure.

We may face actual or perceived conflicts of interest with EchoStar in a number of areas relating to our past and ongoing relationships, including: (i) cross officerships, directorships and stock ownership, (ii) intercompany transactions, (iii) intercompany agreements, including those that were entered into in connection with the Spin-off and (iv) future business opportunities.

We rely on key personnel including Charles W. Ergen, our chairman and chief executive officer, and other executives, certain of whom will for some period also have responsibilities with EchoStar through their positions at EchoStar or our management services agreement with EchoStar.

We may be unable to obtain needed retransmission consents, 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.

We depend on telecommunications providers, independent retailers and others to solicit orders for DISH Network services. Certain of these resellers account for a significant percentage of our total new subscriber acquisitions. A number of these resellers are not exclusive to us and also offer competitors products and services. Loss of one or more of these relationships could have an adverse effect on our net new subscriber additions and certain of our other key operating metrics because we may not be able to develop comparable alternative distribution channels.

We are highly leveraged and subject to numerous constraints on our ability to raise additional debt.

We may pursue acquisitions, business combinations, strategic partnerships, divestitures and other significant transactions that involve uncertainties; these transactions may require us to raise additional capital, which may not be available on acceptable terms. These transactions, which could become substantial over time, involve a high degree of risk and could expose us to significant financial losses if the underlying ventures are not successful.

Weakness in the global or U.S. economy may harm our business generally, and adverse political or economic developments, including increased mortgage defaults as a result of subprime lending practices and increasing oil prices, may impact some of our markets.

We periodically evaluate and test our internal control over financial reporting in order to satisfy the requirements of Section 404 of the Sarbanes-Oxley Act. Although our management concluded that our internal control over financial reporting was effective as of December 31, 2007, and while no change in our internal control over financial reporting occurred during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting, if in the future we are unable to report that our internal control over financial reporting is effective (or if our auditors do not agree with our assessment of the effectiveness of, or are unable to express an opinion on, our internal control over financial reporting), we could lose investor confidence in our financial reports, which could have a material adverse effect on our stock price and our business.

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. We assume no responsibility for updating forward-looking information contained or incorporated by reference herein or in other reports we file with the SEC.

In this report, the words DISH Network, the Company, we, our and us refer to DISH Network Corporation and i subsidiaries, unless the context otherwise requires. EchoStar refers to EchoStar Corporation and its subsidiaries.

Item 1. FINANCIAL STATEMENTS

DISH NETWORK CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(Dollars in thousands, except share amounts)
(Unaudited)

	As of	
	March 31, 2008	**December 31, 2007**
Assets		
Current Assets:		
Cash and cash equivalents	$ 989,678	$ 1,180,818
Marketable investment securities	578,968	1,607,378
Trade accounts receivable other, net of allowance for uncollectible accounts of $12,456 and $14,019, respectively	667,649	699,101
Trade accounts receivable EchoStar	280,735	
Inventories, net	319,622	306,915
Current deferred tax assets	86,871	342,813
Other current assets (Note 7)	200,493	108,113
Other current assets EchoStar	6,306	
Total current assets	3,130,322	4,245,138
Restricted cash and marketable investment securities	171,082	172,520
Property and equipment, net of accumulated depreciation of $2,441,604 and $3,591,594, respectively	2,534,973	4,058,189
FCC authorizations	679,570	845,564
Intangible assets, net		218,875
Goodwill		256,917
Long-term deferred tax assets	7,400	
Marketable investment securities	155,182	
Other noncurrent assets, net (Note 5)	186,909	289,326
Total assets	$ 6,865,438	$ 10,086,529
Liabilities and Stockholders Equity (Deficit)		
Current Liabilities:		
Trade accounts payable other	$ 259,409	$ 314,825
Trade accounts payable EchoStar	478,299	
Deferred revenue and other	870,643	857,846
Accrued programming	1,020,509	914,074
Other accrued expenses	591,932	587,942
Current portion of capital lease obligations, mortgages and other notes payable	10,070	50,454
3% Convertible Subordinated Notes due 2010	500,000	500,000
5 3/4% Senior Notes due 2008	1,000,000	1,000,000
Total current liabilities	4,730,862	4,225,141

Long-term obligations, net of current portion:		
6 3/8% Senior Notes due 2011	1,000,000	1,000,000
3% Convertible Subordinated Note due 2011	25,000	25,000
6 5/8% Senior Notes due 2014	1,000,000	1,000,000
7 1/8% Senior Notes due 2016	1,500,000	1,500,000
7% Senior Notes due 2013	500,000	500,000
Capital lease obligations, mortgages and other notes payable, net of current portion	206,238	550,250
Deferred tax liabilities		386,493
Long-term deferred revenue, distribution and carriage payments and other long-term liabilities	341,102	259,656
Total long-term obligations, net of current portion	4,572,340	5,221,399
Total liabilities	9,303,202	9,446,540
Commitments and Contingencies (Note 9)		
Stockholders Equity (Deficit):		
Class A common stock, $.01 par value, 1,600,000,000 shares authorized, 255,810,986 and 255,138,160 shares issued, 210,798,186 and 210,125,360 shares outstanding, respectively	2,558	2,551
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	2,057,924	2,033,865
Accumulated other comprehensive income (loss)	(26,408)	46,698
Accumulated earnings (deficit)	(3,113,169)	(84,456)
Treasury stock, at cost	(1,361,053)	(1,361,053)
Total stockholders equity (deficit)	(2,437,764)	639,989
Total liabilities and stockholders equity (deficit)	$ 6,865,438	$ 10,086,529

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements.

DISH NETWORK CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Dollars in thousands, except share amounts)
(Unaudited)

	For the Three Months Ended March 31, 2008	2007
Revenue:		
Subscriber-related revenue	$ 2,810,426	$ 2,552,063
Equipment sales and other revenue	25,052	92,922
Equipment sales EchoStar	2,638	
Transitional services and other revenue EchoStar	6,278	
Total revenue	2,844,394	2,644,985
Costs and Expenses:		
Subscriber-related expenses (exclusive of depreciation shown below Note 10)	1,444,641	1,328,621
Satellite and transmission expenses (exclusive of depreciation shown below Note 10):		
EchoStar	78,253	
Other	7,664	34,919
Equipment, transitional services and other cost of sales	31,814	62,756
Subscriber acquisition costs:		
Cost of sales subscriber promotion subsidies EchoStar (exclusive of depreciation shown below Note 10)	30,787	27,974
Other subscriber promotion subsidies	280,197	322,732
Subscriber acquisition advertising	63,972	50,379
Total subscriber acquisition costs	374,956	401,085
General and administrative EchoStar	13,770	
General and administrative	115,760	157,287
Depreciation and amortization (Note 10)	272,368	320,119
Total costs and expenses	2,339,226	2,304,787
Operating income (loss)	505,168	340,198
Other Income (Expense):		
Interest income	14,101	33,432
Interest expense, net of amounts capitalized	(89,812)	(119,500)
Other	(7,028)	(1,836)
Total other income (expense)	(82,739)	(87,904)

Income (loss) before income taxes	422,429	252,294
Income tax (provision) benefit, net	(163,846)	(95,154)
Net income (loss)	$ 258,583	$ 157,140
Denominator for basic and diluted net income (loss) per share Class A and B common stock:		
Denominator for basic net income (loss) per share weighted-average common shares outstanding	448,803	446,278
Denominator for diluted net income (loss) per share weighted-average common shares outstanding	460,218	455,208
Net income (loss) per share Class A and B common stock:		
Basic net income (loss)	$ 0.58	$ 0.35
Diluted net income (loss)	$ 0.57	$ 0.35

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements.

DISH NETWORK CORPORATION
CONDENSED CONSOLIDATED STATEMENT OF CASH FLOWS
(In thousands)
(Unaudited)

	For the Three Months Ended March 31, 2008	2007
Cash Flows From Operating Activities:		
Net income (loss)	$ 258,583	$ 157,140
Adjustments to reconcile net income (loss) to net cash flows from operating activities:		
Depreciation and amortization.	272,368	320,119
Equity in losses (earnings) of affiliates	2,318	155
Realized and unrealized losses (gains) on investments	2,357	775
Non-cash, stock-based compensation recognized	3,559	5,533
Deferred tax expense (benefit)	14,520	74,925
Other, net	1,472	1,670
Change in noncurrent assets	1,664	3,366
Change in long-term deferred revenue, distribution and carriage payments and other long-term liabilities	81,446	(8,532)
Changes in current assets and current liabilities, net	267,450	(50,682)
Net cash flows from operating activities	905,737	504,469
Cash Flows From Investing Activities:		
Purchases of marketable investment securities	(237,356)	(955,578)
Sales and maturities of marketable investment securities	217,064	865,819
Purchases of property and equipment	(266,771)	(330,784)
Change in restricted cash and marketable investment securities	(77)	2,390
Purchase of strategic investments included in noncurrent assets and other	(115,253)	(41,775)
Other	(2,569)	127
Net cash flows from investing activities	(404,962)	(459,801)
Cash Flows From Financing Activities:		
Distribution of cash and cash equivalents to EchoStar in connection with the Spin-off (Note 1)	(690,866)	
Redemption of 5 3/4% Convertible Subordinated Notes due 2008		(999,985)
Repayment of capital lease obligations, mortgages and other notes payable	(1,979)	(9,346)
Net proceeds from Class A common stock options exercised and Class A common stock issued under the Employee Stock Purchase Plan	930	6,025
Excess tax benefits recognized on stock option exercises		730
Net cash flows from financing activities	(691,915)	(1,002,576)

Net increase (decrease) in cash and cash equivalents	(191,140)	(957,908)
Cash and cash equivalents, beginning of period	1,180,818	1,923,105
Cash and cash equivalents, end of period	$ 989,678	$ 965,197
Supplemental Disclosure of Cash Flow Information:		
Cash paid for interest	$ 57,221	$ 76,739
Capitalized interest	$ 3,848	$ 4,679
Cash received for interest	$ 12,976	$ 23,826
Cash paid for income taxes	$ 17,393	$ 38,880
Employee benefits paid in Class A common stock	$ 19,374	$ 17,674
Net assets contributed in connection with the Spin-off, excluding cash and cash equivalents	$ 2,635,680	$

The accompanying notes are an integral part of the Condensed Consolidated Financial Statements.

DISH NETWORK CORPORATION
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization and Business Activities

Principal Business

DISH Network Corporation, formerly known as EchoStar Communications Corporation, is a holding company. Its subsidiaries (which together with DISH Network Corporation are referred to as DISH Network, the Company, we, u and/or our) operate the DISH Network® which provides a direct broadcast satellite (DBS) subscription television service in the United States and had 13.815 million subscribers as of March 31, 2008.

We have deployed substantial resources to develop the DISH Network DBS System. The DISH Network DBS System consists of our owned and leased Federal Communications Commission (FCC) authorized DBS and Fixed Satellite Service (FSS) spectrum, our owned and leased satellites, receiver systems, digital broadcast operations, customer service facilities, in-home service and call center operations and certain 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 others in the multi-channel video programming distribution (MVPD) industry.

Spin-off of EchoStar Corporation and Technology and Certain Infrastructure Assets

On January 1, 2008, we completed a, tax-free distribution of our technology and set-top box business, and certain infrastructure assets (the Spin-off) into a separate publicly-traded company, EchoStar Corporation (EchoStar). DISH Network and EchoStar now operate independently, and neither entity has any ownership interest in the other. However, both companies are under the common control of Charles W. Ergen, our Chief Executive Officer and Chairman of our Board of Directors. The two entities consist of the following:

DISH Network Corporation which retains its subscription television business, the DISH Network®, and

EchoStar Corporation which sells equipment, including set-top boxes and related components, to DISH Network and international customers, and provides digital broadcast operations and fixed satellite services to DISH Network and other customers.

The cash flows related to, among others things, purchases of set-top boxes, transponder leasing and digital broadcasting services that we continue to purchase from EchoStar have not been eliminated from our ongoing operations.

Our shareholders of record on December 27, 2007 received one share of EchoStar common stock for every five shares of each class of Dish Network common stock they held as of the record date.

DISH NETWORK CORPORATION
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS Continued
(Unaudited)

The table below summarizes the assets and liabilities that were distributed to EchoStar in connection with the Spin-off. The distribution was accounted for at historical cost given the nature of the distribution.

	January 1, 2008 (In thousands)
Assets	
Current Assets:	
Cash and cash equivalents	$ 690,866
Marketable investment securities	841,401
Trade accounts receivable, net	38,054
Inventories, net	31,000
Current deferred tax assets	8,459
Other current assets	32,351
Total current assets	1,642,131
Restricted cash and marketable investment securities	3,150
Property and equipment, net	1,516,604
FCC authorizations	165,994
Intangible assets, net	214,544
Goodwill	256,917
Other noncurrent assets, net	93,707
Total assets	$ 3,893,047
Liabilities	
Current Liabilities:	
Trade accounts payable	$ 5,825
Deferred revenue and other accrued expenses	38,460
Current portion of capital lease obligations, mortgages and other notes payable	40,533
Total current liabilities	84,818
Long-term obligations, net of current portion:	
Capital lease obligations, mortgages and other notes payable, net of current portion	341,886
Deferred tax liabilities	139,797
Total long-term obligations, net of current portion	481,683
Total liabilities	566,501
Net assets distributed	$ 3,326,546

2. Significant Accounting Policies

Basis of Presentation

The accompanying unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles genera