DISH Network CORP
Form 10-K
February 24, 2011
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

(Mark One)

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2010

OR

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

FOR THE TRANSITION PERIOD FROM TO .

Commission file number: 0-26176

DISH Network Corporation

(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)

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

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

Title of each class	**Name of each exchange on which registered**
Class A common stock, $0.01 par value	The Nasdaq Stock Market L.L.C.

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

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

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

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 **x** No **o**

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

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

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

Large accelerated filer x	Accelerated filer o
Non-accelerated filer o (Do not check if a smaller reporting company)	Smaller reporting company o

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

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

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

DOCUMENTS INCORPORATED BY REFERENCE

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

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

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DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- We have substantial debt outstanding and may incur additional debt.

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

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

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

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

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

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

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

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

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

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

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

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

- We may face other risks described from time to time in periodic and current reports we file with the Securities and Exchange Commission, or SEC.

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

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

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PART I

Item 1. BUSINESS

OVERVIEW

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

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

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

Business Strategy

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

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

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

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

Products and Services

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

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

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

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

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

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

Content Delivery

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

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

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

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

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

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

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

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

Distribution Channels

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

Competition

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

- *Other Direct Broadcast Satellite Operators.* We compete directly with the DirecTV Group, Inc., or DirecTV, the largest satellite TV provider in the U.S. which had over 19.2 million subscribers at the end of 2010, representing approximately 20% of pay-TV subscribers.

- *Cable Television Companies.* We encounter substantial competition in the pay-TV industry from numerous cable television companies that operate via franchise licenses across the U.S. According to the National Cable & Telecommunications Association s 2009 Industry Overview, 98% of the 130 million U.S. housing units are passed by cable. More than 95 million households subscribe to a pay-TV service and approximately 63% of pay-TV subscribers receive their programming from a cable operator. Cable companies are typically able to bundle their video services with broadband Internet access and voice services and many have significant investments in companies that provide programming content.

- *Telecommunications Companies*. Large telecommunications companies have upgraded older copper wire lines with fiber optic lines in their larger markets. These fiber optic lines provide high capacity bandwidth, enabling telecommunications companies to offer video content that can be bundled with their broadband Internet access and voice services. In particular, AT&T and Verizon have built fiber-optic based networks to provide video services in substantial portions of their service areas.

- *Internet Delivered Video.* We face competition from content providers who distribute video directly to consumers over the Internet. Programming offered over the Internet has become more prevalent as the speed and quality of broadband networks have improved. Significant changes in consumer behavior with regard to the means by which they obtain video entertainment and information in response to this emerging digital media competition could materially adversely affect our business, results of operations and financial condition or otherwise disrupt our business.

- *Wireless Mobile Video.* We also expect to face increasing competition from wireless telecommunications providers who offer mobile video offerings. We expect mobile video offerings will likely become more prevalent in the marketplace as wireless telecommunications providers implement the fourth generation of wireless communications.

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Acquisition of New Subscribers

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

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

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

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

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

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

Customer Retention

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

Customer Service

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

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

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

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New Business Opportunities

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

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

SATELLITES

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

Launch	Degree	Original Useful