ICO Global Communications (Holdings) LTD
Form 10-Q
May 06, 2011
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# UNITED STATES

# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# FORM 10-Q

**(Mark One)**

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

**For the quarterly period ended March 31, 2011**

**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 001-33008**

# ICO GLOBAL COMMUNICATIONS (HOLDINGS) LIMITED

**(Exact name of registrant as specified in its charter)**

| | |
|---|---|
| **Delaware** | **98-0221142** |
| **(State or other jurisdiction of incorporation or organization)** | **(IRS Employer Identification No.)** |

**2300 Carillon Point, Kirkland, Washington 98033**

**(Address of principal executive offices including zip code)**

**(425) 278-7100**

**(Registrant s telephone number, including area code)**

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 ¨.

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

Indicate by check mark 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 | ¨ | Accelerated filer | x |
| Non-accelerated filer | ¨ (Do not check if a smaller reporting company) | Smaller reporting company | ¨ |

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

As of May 1, 2011, the registrant had 200,412,660 shares of Class A common stock and 53,660,000 shares of Class B common stock outstanding.

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**ICO GLOBAL COMMUNICATIONS (HOLDINGS) LIMITED**

**FORM 10-Q**

**For the three months ended March 31, 2011**

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## PART I FINANCIAL INFORMATION

**Item 1. Financial Statements**

**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Condensed Consolidated Balance Sheets**

**(In thousands, except share data, unaudited)**

| | March 31, 2011 | December 31, 2010 |
|---|---|---|
| **ASSETS** | | |
| Current assets: | | |
| Cash and cash equivalents | $ 51,860 | $ 20,771 |
| Receivable from DISH Network associated with disposition of assets | 289,536 | |
| Prepaid expenses and other current assets | 686 | 701 |
| Total current assets | 342,082 | 21,472 |
| Property in service net of accumulated depreciation of $549 and $511, respectively | 271 | 286 |
| Other assets | 169 | 169 |
| Investment in DBSD | | 23,650 |
| Total | $ 342,522 | $ 45,577 |
| **LIABILITIES AND STOCKHOLDERS EQUITY (DEFICIENCY) IN ASSETS** | | |
| Current liabilities: | | |
| Accounts payable | $ 579 | $ 403 |
| Accrued expenses | 11,203 | 14,836 |
| Payable to affiliates | 743 | 1,292 |
| Accrued interest | 25,081 | 23,759 |
| Capital lease obligations | 15,055 | 14,948 |
| Total current liabilities | 52,661 | 55,238 |
| Income tax | 10,669 | 12,973 |
| Total liabilities | 63,330 | 68,211 |
| Commitments and contingencies (Note 6) | | |
| Stockholders equity (deficiency) in assets: | | |
| Preferred stock, $.01 par value, 75,000,000 shares authorized, no shares issued or outstanding | | |
| Class A common stock, $.01 par value, 900,000,000 shares authorized, 258,684,520 and 258,294,712 shares issued, and 200,387,660 and 200,069,966 shares outstanding | 2,587 | 2,583 |
| Class B convertible common stock, $.01 par value, 150,000,000 shares authorized, 84,663,382 shares issued and 53,660,000 shares outstanding | 847 | 847 |
| Additional paid-in capital | 2,789,494 | 2,787,533 |
| Treasury stock, 58,296,860 and 58,224,746 shares of Class A common stock and 31,003,382 shares of Class B convertible common stock | (877,833) | (877,725) |
| Accumulated other comprehensive loss | (14,295) | (13,071) |
| Deficit accumulated during the development stage | (1,621,608) | (1,922,801) |

| | | |
|---|---|---|
| Total stockholders equity (deficiency) in assets | 279,192 | (22,634) |
| Total | $ 342,522 | $ 45,577 |

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

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Condensed Consolidated Statements of Operations**

**(In thousands, except share and per share data, unaudited)**

| | Three months ended March 31, 2011 | Three months ended March 31, 2010 | February 9, 2000 (inception) to March 31, 2011 (development stage period) |
|---|---|---|---|
| Operating expenses: | | | |
| General and administrative | $ 6,485 | $ 4,546 | $ 735,504 |
| Research and development | | | 83,792 |
| Contract settlements | (4,735) | | (95,356) |
| Impairment of property under construction | | | 1,438,304 |
| Loss on disposal of assets | | | 11,117 |
| Total operating expenses | 1,750 | 4,546 | 2,173,361 |
| Operating loss | (1,750) | (4,546) | (2,173,361) |
| Interest income | 7 | | 138,292 |
| Interest expense | (1,079) | (1,072) | (273,018) |
| Gain on deconsolidation of DBSD | | | 280,971 |
| Gain on liquidation of subsidiaries | | | 3,319 |
| Gain associated with disposition of assets | 300,886 | | 300,886 |
| Other income (expense) | 397 | (752) | (7,555) |
| Income (loss) before income taxes | 298,461 | (6,370) | (1,730,466) |
| Income tax benefit | 2,732 | 1,725 | 118,590 |
| Net income (loss) before cumulative effect of change in accounting principle | 301,193 | (4,645) | (1,611,876) |
| Cumulative effect of change in accounting principle | | | (1,944) |
| Net income (loss) | $ 301,193 | $ (4,645) | $ (1,613,820) |
| Basic income (loss) per share: | | | |
| Income (loss) before cumulative effect of change in accounting principle | $ 1.20 | $ (0.02) | $ (8.01) |
| Cumulative effect of change in accounting principle | | | (0.01) |
| Basic income (loss) per share | $ 1.20 | $ (0.02) | $ (8.02) |
| Diluted income (loss) per share: | | | |
| Income (loss) before cumulative effect of change in accounting principle | $ 1.18 | $ (0.02) | $ (8.01) |
| Cumulative effect of change in accounting principle | | | (0.01) |
| Diluted income (loss) per share | $ 1.18 | $ (0.02) | $ (8.02) |
| Weighted average shares outstanding used to compute basic income (loss) per share | 251,959,984 | 218,914,593 | 201,287,003 |
| | 255,360,490 | 218,914,593 | 201,287,003 |

| | |
|---|---|
| Weighted average shares outstanding used to compute diluted income (loss) per share | |

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

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Condensed Consolidated Statements of Comprehensive Income (Loss)**

**(In thousands, unaudited)**

| | Three months ended March 31, 2011 | Three months ended March 31, 2010 | February 9, 2000 (inception) to March 31, 2011 (development stage period) |
|---|---|---|---|
| Net income (loss) | $ 301,193 | $ (4,645) | $ (1,613,820) |
| Other comprehensive loss: | | | |
| Cumulative translation adjustments | (1,224) | (803) | (14,295) |
| Comprehensive income (loss) | $ 299,969 | $ (5,448) | $ (1,628,115) |

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

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Condensed Consolidated Statements of Cash Flows**

**(In thousands, except share data, unaudited)**

| | Three months ended March 31, 2011 | Three months ended March 31, 2010 | February 9, 2000 (inception) to March 31, 2011 (development stage period) |
|---|---|---|---|
| Operating activities: | | | |
| Net income (loss) | $ 301,193 | $ (4,645) | $ (1,613,820) |
| Adjustments to reconcile net income (loss) to net cash used in operating activities: | | | |
| Stock-based compensation | 1,754 | 327 | 50,067 |
| Depreciation | 22 | 32 | 4,652 |
| Non-cash interest expense | | | 54,638 |
| Non-cash settlement of litigation matter | | | 2,385 |
| Gain on deconsolidation of DBSD | | | (280,971) |
| Unrealized foreign exchange (gains) losses | (440) | 380 | (5,774) |
| Losses on disposal of assets | | | 11,117 |
| Impairment of property under construction | | | 1,438,304 |
| Gains associated with contract settlements | (4,735) | | (95,356) |
| Gain associated with disposition of assets | (300,886) | | (300,886) |
| Gain on Nextel share-pledge derivative | | | (9,168) |
| Deferred income tax credit | | | (122,031) |
| Realized losses on sales of investment securities | | | 7,779 |
| Unrealized losses on investment securities | | | 11,378 |
| Fair value adjustment for ARS Put Option | | | (4,442) |
| Amortization of capitalized Gateway Operator incentive | | | 2,593 |
| Cost of issuance of shares to distribution partners | | | 37,440 |
| Net gain on liquidation of subsidiaries | | | (3,319) |
| Other | (217) | 266 | 32,059 |
| Other changes in certain assets and liabilities: | | | |
| Prepaid expenses and other current/non-current assets | (52) | 175 | 46,524 |
| Accounts payable | 175 | 197 | 1,795 |
| Accrued interest payable | 860 | 1,346 | 92,643 |
| Other accrued expenses | (1,472) | (778) | 66,932 |
| Net cash used in operating activities | (3,798) | (2,700) | (575,461) |
| Investing activities: | | | |
| Proceeds from launch insurance | | | 225,000 |
| Debtor in possession advance in relation to Old ICO | | | (275,000) |
| Acquisition of net assets of Old ICO | | | (117,590) |
| Cash received from Old ICO at acquisition | | | 107,436 |
| Restricted cash | | | (5,074) |
| Purchases of satellite system under construction | | | (414,618) |
| Purchases of property under construction | | | (497,890) |
| Purchases of property in service | (23) | | (3,638) |
| Investments in unconsolidated subsidiaries | | | (6,221) |
| Payments to affiliates | (270) | (202) | (1,584) |
| Purchases of other assets | | | (14,000) |

| | | | |
|---|---|---|---|
| Purchases of investment securities | | | (4,404,343) |
| Maturities and sales of investment securities | | | 4,332,756 |
| Purchases of restricted investments | | | (94,283) |
| Maturities and sales of restricted investments | | | 94,305 |
| Proceeds from contract amendments | | | 44,434 |
| Proceeds from sale of assets | | | 12,106 |
| Proceeds associated with disposition of assets | 35,000 | | 35,000 |
| Net cash provided by (used in) investing activities | 34,707 | (202) | (983,204) |
| Financing activities: | | | |
| Proceeds from issuance of common stock | | | 625,353 |
| Proceeds from exercise of stock options | 48 | | 187 |
| Proceeds from issuance of convertible notes | | | 650,000 |
| Convertible notes debt issuance costs | | | (29,558) |
| Proceeds from working capital facility | | | 40,000 |
| Working capital facility debt issuance costs | | | (2,461) |
| Proceeds from sales of subsidiary stock and stock options | | | 9,920 |
| Proceeds from Rights Offering | | 30,009 | 30,009 |
| Rights Offering issuance costs | | (904) | (770) |
| Payment of withholding taxes from stock awards | (119) | (31) | (1,122) |
| Advances from affiliates | | | 324,395 |
| Repayment of advances from affiliates | | | (324,395) |
| Repayment of note payable to Eagle River | | | (37,500) |
| Repayment of operator financing | | | (5,727) |
| Proceeds from pledge of Nextel shares | | | 351,600 |
| Proceeds from loan from Teledesic LLC | | | 20,000 |
| Acquisition of ICO shares from minority interest stockholder | | | (30,868) |
| Net cash provided by (used in) financing activities | (71) | 29,074 | 1,619,063 |
| Effect of foreign exchange rate changes on cash | 251 | (258) | (8,538) |
| Net increase in cash and cash equivalents | 31,089 | 25,914 | 51,860 |
| Cash and cash equivalents beginning of period | 20,771 | 4,983 | |
| Cash and cash equivalents end of period | $ 51,860 | $ 30,897 | $ 51,860 |

(continued)

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Condensed Consolidated Statements of Cash Flows (Continued)**

**(In thousands, except share data, unaudited)**

| | Three months ended March 31, 2011 | Three months ended March 31, 2010 | February 9, 2000 (inception) to March 31, 2011 (development stage period) |
|---|---|---|---|
| Supplemental disclosures: | | | |
| Income taxes paid | $ | $ | $ 7,873 |
| Interest paid | | | 150,948 |
| Capitalized interest | | | 98,504 |
| Supplemental disclosures of non-cash activities: | | | |
| Issuance of Class A common shares in respect of investment in Ellipso, Inc. | | | 6,863 |
| Issuance of Class B common shares in respect of investment in Ellipso, Inc. | | | 74 |
| Issuance of Class A common shares in respect of investment in Constellation Communications Holdings, Inc. | | | 904 |
| Issuance of Class A common shares for settlement of litigation matter | | | 2,385 |
| Issuance of Class A common shares for advisory services | 125 | 125 | 2,653 |
| Issuance of Class A common shares for stock-based compensation | 391 | 26 | 4,377 |
| Payment in form of ARS as compensation for advisory services | | | 500 |
| Equipment acquired in capital lease agreements | | | 42,096 |
| Issuance of warrants for the repayment of debt | | | 4,950 |
| Interest payment on convertible debt in the form of additional notes | | | 86,276 |
| Investment in DBSD upon deconsolidation | | | 23,650 |
| Increase (decrease) in payable to affiliates | (279) | 252 | 2,328 |
| The following securities of ICO arose from the acquisition of Old ICO s net assets: | | | |
| 93,700,041 Class A common shares and options to acquire Class A common shares issued | | | 679,873 |
| 31,003,382 Class B common shares issued | | | 275,000 |
| 1,600,000 Class A common shares issued to distribution partners | | | 16,720 |
| 200,000 Class A common shares committed to distribution partners | | | 2,090 |
| 50,000,000 warrants issued to acquire Class A common shares | | | 180,000 |

(concluded)

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

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Notes to Condensed Consolidated Financial Statements**

**(unaudited)**

**1. Organization and Business**

***Overview*** ICO Global Communications (Holdings) Limited ( ICO Global ) was established in 2000 as a development stage next-generation mobile satellite service ( MSS ) operator. These condensed consolidated financial statements include the accounts of ICO Global, a development stage enterprise, and its consolidated subsidiaries (collectively referred to as Company ). Prior to May 15, 2009, the Company s consolidated subsidiaries included DBSD North America, Inc. (formerly ICO North America, Inc.), and its subsidiaries (collectively referred to as DBSD ), which are developing a next-generation hybrid mobile satellite service/ancillary terrestrial component system covering the United States and Canada that combines satellite and terrestrial communications capabilities ( MSS/ATC System ). As further discussed below, DBSD and its subsidiaries filed voluntary petitions for bankruptcy and have been deconsolidated for financial accounting and reporting purposes.

In 2001, the Company successfully launched, and currently operates, one medium earth orbit ( MEO ) satellite ( F2 ). The Company also owns ten additional MEO satellites in various stages of completion, related ground station equipment, and the right to use certain C-band radio frequencies globally and S-band frequencies outside of North America (collectively, MEO Assets ). By late 2004, the Company had invested approximately $2.6 billion, in the aggregate, into the MEO Assets. Following the Company s disagreements with its satellite manufacturer, Boeing Satellite Systems International, Inc. ( BSSI ) and the commencement of litigation in 2004 related to those disagreements (as summarized in Note 6), the Company has not advanced the development or deployment of the MEO Assets. On April 6, 2011, the Company agreed to sell to Jay & Jayendra (Pty) Ltd, a South African corporation ( J&J Group ) substantially all of its MEO Assets, including the Company s trademarks and trade names. Closing of the transaction is expected to occur following receipt of regulatory approvals and the satisfaction of certain other conditions (see Note 10). Due to the sale of the Company s trademarks to J&J Group, the Company will propose a change to its corporate name in the near future.

***DBSD Chapter 11 Filing*** On May 15, 2009, DBSD filed for bankruptcy protection under Chapter 11 of Title 11 of the United States Bankruptcy Code ( Chapter 11 Case ) in the United States Bankruptcy Court for the Southern District of New York ( Bankruptcy Court ). In order to exit the Chapter 11 Case successfully, DBSD is required to propose, and obtain from the Bankruptcy Court, confirmation of a plan of reorganization or liquidation that satisfies the requirements of the Bankruptcy Code. The Bankruptcy Court confirmed a plan of reorganization for DBSD on October 26, 2009, but the plan was not implemented because the U.S. Second Circuit Court of Appeals ( Court of Appeals ) rejected the plan on the grounds that the plan violated the Bankruptcy Code s absolute priority rule. The Court of Appeals issued its decision in December 2010, at which time it remanded the Chapter 11 Case to the District Court with instructions to remand to the Bankruptcy Court for further proceedings.

DBSD responded to the Court of Appeals rejection of DBSD s confirmed plan of reorganization by negotiating in February 2011 an investment agreement with DISH Network Corporation ( DISH Network ), pursuant to which DISH Network conditionally agreed to invest more than $1 billion into the reorganized DBSD in exchange for 100% of the stock of the reorganized DBSD. Prior to obtaining Bankruptcy Court approval of the investment agreement, other parties expressed interest in acquiring DBSD, leading to an auction process that culminated in DISH Network increasing its offer to approximately $1.4 billion. DISH Network s enhanced offer was memorialized in an amended and restated investment agreement that was approved by the Bankruptcy Court on March 15, 2011 and which is referred to in this document as the Amended Investment Agreement.

In connection with the signing and approval of the Amended Investment Agreement, the Company granted to DISH Network a contingent option to acquire the MEO Assets if the J&J Group does not complete its purchase of the MEO Assets ( DISH Option ). The DISH Option is part of a comprehensive implementation agreement, dated March 15, 2011 ( Implementation Agreement ), under which DISH Network agreed to pay the Company approximately $325 million for the Company s support of DISH Network s plan of reorganization for DBSD, certain spectrum priority rights, the delivery of any distributions to the Company from DBSD, and the DISH Option (see Note 11).

Due to the Chapter 11 Case, ICO Global does not have control or significant influence over the operating decisions of DBSD, and is not expected to regain control or significant influence over DBSD. Therefore, the Company deconsolidated DBSD from its financial operating results effective May 15, 2009 and was accounting for its remaining investment in DBSD as a cost method investment. On March 15, 2011, the Company sold substantially all of its interests associated with its investment in DBSD to DISH Network. Accordingly, the Company no longer carries a cost method investment in DBSD on its condensed consolidated balance sheet as of March 31, 2011. See Notes 3 and 4 for a discussion of the deconsolidation and ICO Global s accounting for its cost method investment in DBSD.

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(unaudited)**

**2. Development Stage Enterprise**

The Company is a development stage enterprise as defined in Accounting Standards Codification ( ASC ) 915, *Development Stage Entities* ( ASC 915 ), and will continue to be so unless and until it commences commercial operations. The development stage is from February 9, 2000 (inception) through March 31, 2011. The Company is not currently generating revenue from operations and it may not obtain funding necessary to fund its future working capital requirements or achieve positive cash flow from operations. The attainment of profitable operations is dependent upon future events, including obtaining adequate financing to complete development activities, and achieving a level of sales adequate to support the Company s cost structure.

On March 9, 2010, the Company completed a rights offering ( Rights Offering ) under which it received gross proceeds of approximately $30 million.

On March 21, 2011 and April 26, 2011, the Company received proceeds of approximately $35 million and $280 million, respectively, from DISH Network pursuant to the terms of the Implementation Agreement between the parties. Refer to Note 11 for further discussion of the Implementation Agreement.

The proceeds from the Implementation Agreement, as well as the remaining proceeds from the Rights Offering, are expected to fund the Company s working capital needs for at least the next twelve months. The Company also intends to use these proceeds, and may incur debt, to acquire or invest in other businesses, products or technologies, which are unlikely to be related to its historical business activities.

**3. Summary of Significant Accounting Policies**

***Interim Financial Statements*** The financial information included in the accompanying condensed consolidated financial statements is unaudited and includes all adjustments, consisting of normal recurring adjustments and accruals, considered necessary for a fair presentation in accordance with accounting principles generally accepted in the United States of America ( GAAP ). Certain information and footnote disclosures have been condensed or omitted. The financial information as of December 31, 2010 is derived from the Company s audited consolidated financial statements and notes included in Item 8 in the Company s Annual Report on Form 10-K for the fiscal year ended December 31, 2010 ( 2010 Form 10-K ), filed with the U.S. Securities and Exchange Commission ( SEC ) on March 22, 2011. The financial information included in this quarterly report should be read in conjunction with management s discussion and analysis of financial condition and results of operations and the consolidated financial statements and notes included in the 2010 Form 10-K. Operating results and cash flows for the interim periods presented are not necessarily indicative of the results that may be expected for the fiscal year ending December 31, 2011 or any other interim period.

***Use of Estimates*** The preparation of financial statements requires management 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 during the reporting period. As of March 31, 2011 and December 31, 2010, significant estimates were used when accounting for the Company s investment in DBSD, income taxes, contingencies, stock-based compensation awards and foreign currency transactions. Actual results could differ from those estimates. Estimates are evaluated on an ongoing basis.

***Cash and Cash Equivalents*** Cash and cash equivalents are defined as short-term, highly liquid investments with original maturities from the date of purchase of 90 days or less. Cash and cash equivalents are comprised of the following (in thousands):

| | March 31, 2011 | December 31, 2010 |
|---|---|---|
| Cash | $ 35,015 | $ 15,928 |
| Money market funds | 16,845 | 4,843 |
| | $ 51,860 | $ 20,771 |

As of March 31, 2011, cash and cash equivalents included in cash and money market funds above reflect the receipt of $35 million from DISH Network pursuant to the terms of the Implementation Agreement as well as the remaining proceeds from the Rights Offering. The fair value of money market funds at March 31, 2011 and December 31, 2010 was classified as Level 1 under ASC 820, *Fair Value Measurements and Disclosures* ( ASC 820 ), as amounts were based on quoted prices available in active markets for identical investments as of the reporting date.

***Receivable from DISH Network Associated with Disposition of Assets*** On March 15, 2011, the Company entered into an Implementation Agreement with DISH Network, under which DISH Network agreed to pay the Company approximately $325 million for its support of DISH Network s plan of reorganization for DBSD, certain spectrum priority rights, the delivery of any distributions to the Company from DBSD, and the DISH Option (see Note 11). On March 21, 2011, the Company received a payment of $35 million from DISH Network. This payment is the first of three anticipated payments from DISH Network pursuant to the

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**ICO Global Communications (Holdings) Limited**

**(A Development Stage Enterprise)**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(unaudited)**

Implementation Agreement. As of March 31, 2011, the Company recorded a receivable from DISH Network of approximately $290 million associated with all remaining amounts due under the Implementation Agreement. On April 26, 2011, the Company received the second payment from DISH Network of approximately $280 million pursuant to the terms of the Implementation Agreement, and will receive the final payment of $10 million from DISH Network at the earlier of (i) five days after DBSD s emergence from its pending Chapter 11 bankruptcy proceeding, or (ii) five days after termination of the Amended Investment Agreement.

***Prepaid Expenses and Other Current Assets*** As of March 31, 2011 and December 31, 2010, prepaid expenses and other current assets consist primarily of prepayments related to rent and security deposits associated with certain of the Company s leased facilities, prepaid satellite operating costs and prepaid director and officer s insurance.

***Property in Service*** Property in service consists primarily of computer equipment, software, furniture and fixtures and leasehold improvements. Property in service is recorded at cost, net of accumulated depreciation, and is depreciated using the straight-line method. Computer equipment and furniture and fixtures are depreciated over their estimated useful lives ranging from three to five years. Software is depreciated over the shorter of its contractual license period or three years. Leasehold improvements are amortized over the shorter of their estimated useful lives or the term of the respective lease. Significant additions and improvements to property in service are capitalized. Repair and maintenance costs are expensed as incurred.

***Other Assets*** As of March 31, 2011 and December 31, 2010, other assets consist primarily of long-term security deposits associated with the Company s leased facilities.

***Impairment of Long-Lived Assets*** Pursuant to ASC 360, *Property, Plant and Equipment*, the carrying values of long-lived assets are reviewed whenever events or changes in circumstances indicate that their carrying value may not be recoverable. Management considers whether specific events have occurred in determining whether long-lived assets are impaired at each balance sheet date or whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable. The determination of whether impairment exists is based on any excess of the carrying value over the expected future cash flows. Any resulting impairment charge is measured based on the difference between the carrying value of the asset and its fair value, as estimated using undiscounted future cash flows expected to be generated by the assets. No impairment of long-lived assets was determined as a result of the Company s analysis as of March 31, 2011.

***Investment in DBSD*** Under ASC 810, consolidation of a majority-owned subsidiary is precluded when control, either directly or indirectly, does not rest with the majority voting interest of an entity. Bankruptcy represents a condition which can preclude consolidation or equity method accounting as control rests with the Bankruptcy Court, rather than the majority owner. As described in Note 1, DBSD f