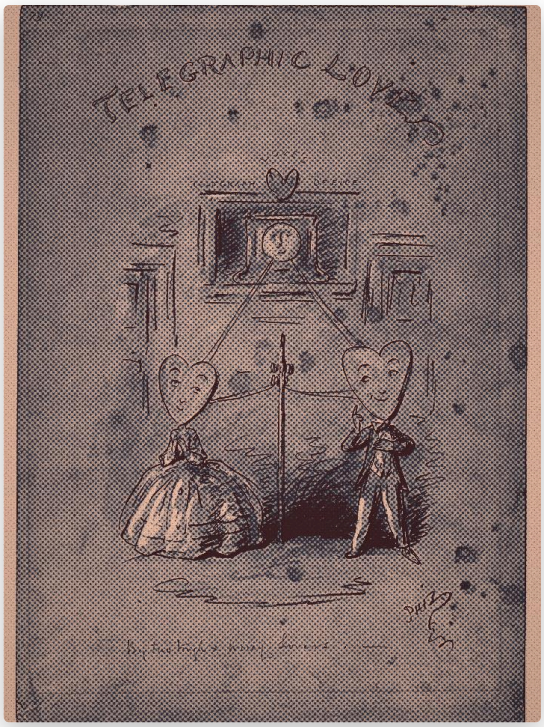
FORM S-1 · REGISTRATION STATEMENT

InPhonic Inc

IPO priced 2004-11-16 · $19.00 a share · INPC



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AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON JUNE 14, 2004

REGISTRATION NO. 333-

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-1

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

InPhonic, Inc.

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

1010 WISCONSIN AVENUE, SUITE 600

WASHINGTON, DC 20007

(202) 333-0001

(Address, including zip code, and telephone number, including area code of registrant's principal executive offices)

Delaware	**4899**	**52-2199384**
(STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION)	**(Primary Standard Industrial Classification Code Number)**	(IRS EMPLOYER IDENTIFICATION NUMBER)

DAVID A. STEINBERG

CHAIRMAN AND CHIEF EXECUTIVE OFFICER

InPhonic, Inc.

1010 WISCONSIN AVENUE, SUITE 600

WASHINGTON, DC 20007

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(NAME, ADDRESS, INCLUDING ZIP CODE AND TELEPHONE NUMBER, INCLUDING AREA CODE OF AGENT FOR SERVICE)

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CALCULATION OF REGISTRATION FEE

TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED	**Proposed maximum aggregate offeringprice(1)(2)**	**Amount of registrationfee(2)(3)**
Common Stock, $0.01 par value	$100,000,000	$12,670

(1) Includes amount attributable to shares that may be purchased by the underwriters under an option to purchase additional shares of common stock at the initial public offering price less the underwriters discount and commissions.

(2) Estimate solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended and Fee Rate Advisory #7 for Fiscal Year 2004, dated January 26, 2004.

(3) Pursuant to Rule 457(p) under the Securities Act, $8,280 has been previously paid with the filing of our Registration Statement on Form S-1 (Reg. No. 333-100941) filed with the Securities and Exchange Commission on November 1, 2002.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SECURITIES AND EXCHANGE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION

PRELIMINARY PROSPECTUS DATED JUNE 14, 2004

PROSPECTUS

SHARES

COMMON STOCK

This is InPhonic, Inc.'s initial public offering. We are selling all of the shares.

We expect the public offering price to be between $ and $ per share. Currently, no public market exists for the shares. After the pricing of the offering, we expect that the shares will trade on the Nasdaq National Market under the symbol "INPC."

Investing in our common stock involves risks that are described in the " Risk Factors" section beginning on page 5 of this prospectus.

	Per share	Total
Public offering price		$$
Underwriting discount		$$
Proceeds, before expenses, to InPhonic, Inc.		$$

The underwriters may also purchase up to shares of common stock from the selling stockholders at the public offering price, less the underwriting discounts and commissions, within 30 days from the date of this prospectus to cover over-allotments.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The shares will be ready for delivery on or about , 2004.

DEUTSCHE BANK SECURITIES JPMORGAN

Joint Book-Running Managers

THOMAS WEISEL PARTNERS LLC
ALLEN & COMPANY LLC
PACIFIC CREST SECURITIES

The date of this prospectus is , 2004.

[INSIDE FRONT COVER PAGE OF PROSPECTUS] Gatefolds Left and Right:

The upper left side of the left gatefold has the InPhonic logo. The text below the logo reads: "We connect wireless carriers, marketers and consumers of wireless services and devices through private-labeled websites we create and manage for marketers, as well as through our own branded websites." On the right side of the left gatefold there are three paragraphs of text, one beneath the other. The first paragraph of text has the heading "Wireless Activation and Services" shaded-in. The text below the heading reads as follows: "We offer consumers competitive prices, broad selection and convenience for purchasing wireless services and devices on the Internet." Below this paragraph is another paragraph with the heading "Mobile Virtual Network Operator Services" shaded-in. The text below the heading reads as follows: "We market and sell wireless airtime—purchased wholesale from a national carrier—through our Liberty Wireless brand. We plan on expanding our MVNO services by offering marketers the ability to sell branded wireless services to their customers." Below this paragraph there is a third, and final, paragraph with the heading "Data Services" shaded-in. The text below the heading reads as follows: "Building on established customer relationships, we offer a variety of data services including unified communications, wireless email and mobile marketing."

On the right gatefold there are nine pictures arranged in a three across by three down matrix. In the top row there is a computer screen snapshot of a website on the left, a picture of a woman using a wireless device in the middle and a computer screen snapshot of a website on the right. In the middle row, there is a picture of a woman using a wireless device on the left, a computer screen snapshot of a website in the middle and a picture of a man using a wireless device on the right. In the bottom row there is a computer screen snapshot of a website on the left, a picture of two women using wireless devices in the middle and a computer screen snapshot of a website on the right.

TABLE OF CONTENTS

	Page
Prospectus Summary	1
Risk Factors	5
Forward-Looking Statements	19
Use of Proceeds	20
Dividend Policy	20
Capitalization	21
Dilution	23
Selected Consolidated Financial Information	25
Management's Discussion and Analysis of Financial Condition and Results of Operations	27
Business	43
Management	53
Related Party Transactions	65
Principal and Selling Stockholders	68

Description of Capital Stock	70
Shares Eligible for Future Sale	74
Underwriting	76
Legal Matters	78
Experts	78
Where You Can Find Additional Information	80
Index to Consolidated Financial Statements	F-1

You should rely only on the information contained in this prospectus. We have not and the underwriters have not, authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not and the underwriters are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate only as of the date on the front cover of this prospectus. Our business, financial condition, results of operations and prospects may have changed since that date.

Market data and industry statistics used throughout this prospectus are based on independent industry publications and other publicly available information. We do not guarantee, and we have not independently verified this information. Accordingly, investors should not place undue reliance on this information.

"InPhonic," "Wirefly," "Powered by InPhonic" and "Welcome to Our Wireless World" are registered trademarks of InPhonic and we have a pending trademark for "Liberty Wireless." All other trademarks or service marks appearing in this prospectus are trademarks or service marks of others.

Our fiscal year runs concurrently with the calendar year.

Prospectus Summary

PROSPECTUS SUMMARY *This summary does not contain all of the information that you should consider before investing in our common stock. You should read this entire prospectus carefully, including "Risk Factors," our consolidated financial statements and the related notes and the other financial information appearing elsewhere in this prospectus, before you decide to invest in our common stock. Unless otherwise indicated, references to "InPhonic," the "Company," "we," "us" and "our" refer to InPhonic, Inc.*

InPhonic, Inc.

We are a leading online seller of wireless services and devices. We sell these services and devices through private-labeled websites that we create and manage for online businesses, affinity organizations and national retailers, whom we refer to collectively as marketers. We also sell services and devices through our own branded websites, including Wirefly.com. We have developed a proprietary e-commerce platform that integrates merchandising, provisioning, procurement, customer care and billing operations into a single system for the online sale of wireless services and devices. Our five largest sources of customers include Yahoo, Quixtar, MSN and AOL, for whom we create and manage private-labeled websites, and Google, from whom we purchase advertising.

We also operate as a mobile virtual network operator, or MVNO, under our Liberty Wireless brand. As an MVNO, we market and sell to consumers wireless airtime service that we purchase wholesale from a national carrier. This service utilizes the same e-commerce platform, operational infrastructure and marketing relationships we have developed to sell our other products and services resulting in what we believe is a cost effective means of acquiring customers. We plan to expand our MVNO business by offering marketers the ability to sell a branded wireless service to their customers using our e-commerce platform, operational infrastructure and wireless airtime that we purchase. To further leverage the relationships we have established with customers through the sale of wireless services from carriers, as well as our MVNO service, we sell a variety of wireless data services such as unified communications, wireless email and mobile marketing.

In recent years, wireless communication services have grown significantly in the United States fueled by enhanced convenience, mobility and affordability. According to The Yankee Group, an independent research company, the estimated number of wireless subscribers in the United States has more than doubled from 68.7 million in 1998 to 153.9 million in 2003. As wireless carriers face increasing competition, excess network capacity as well as new challenges resulting from wireless local number portability, they are turning to the Internet as a cost-effective and growing channel to acquire customers. In addition, as consumers are faced with an increasingly complex and constantly changing selection of wireless service plans and devices, they are turning to the Internet to find real-time comparative pricing and feature information to help them make an informed choice. Forrester Research, Inc., an independent research company, estimates that online retail sales of consumer electronics, which include sales of wireless devices, will increase from an estimated $4.7 billion in 2003 to $11.7 billion in 2008, representing a compound annual growth rate of 20%. We believe the growing proportion of wireless services and devices sold on the Internet creates a significant market opportunity for us.

Our online business model connects wireless carriers, marketers and consumers of wireless services and devices more effectively and efficiently than traditional retail channels. Our value to wireless carriers is broader access to consumers who shop on the Internet through our marketing relationships with highly-trafficked websites as well as our own branded websites. Our value to marketers is the additional revenue they can generate from selling wireless services and devices through the private-labeled websites we create and manage. Our value to consumers is competitive pricing, broad selection and the convenience of using the Internet for comparing and purchasing wireless services and devices. Through agreements we have with the seven largest U.S. wireless carriers, as well as with several regional carriers, we offer consumers a selection of at least four carriers in each of the top 100 U.S. metropolitan markets. Collectively, these carriers' networks cover 99.4% of the U.S. population.

Our business is subject to numerous risks, which are highlighted in the section entitled "Risk Factors" immediately following this prospectus summary. In particular, our limited operating history makes it difficult for us to accurately forecast revenues and appropriately plan for our expenses. Furthermore, we have incurred significant operating losses in the past and may incur significant operating losses in the future.

Corporate Information

We were incorporated in Delaware in January 1997 and we began operations in October 1999. Our principal executive offices are located at 1010 Wisconsin Avenue, Suite 600, Washington, DC 20007 and our telephone number is (202) 333-0001. We maintain our technology and operations center in Largo, Maryland. Our website address is located at www.inphonic.com. The information on, or that can be accessed through, our website is not part of this prospectus.

The Offering

Common stock offered by InPhonic	shares
Common stock to be outstanding after this offering	shares
Use of proceeds	We estimate that our net proceeds from this offering will be approximately $ million. We intend to use approximately $6.7 million to repay existing debt, approximately $4.6 million to pay accrued and unpaid dividends on our preferred stock and the remainder for working capital and other general corporate purposes, including potential acquisitions. See "Use of Proceeds."
Risk factors	See "Risk Factors" and the other information included in this prospectus for a discussion of the factors you should consider carefully before deciding to invest in shares of our common stock.
Proposed Nasdaq National Market symbol	INPC

Unless specifically stated otherwise, all information contained in this prospectus:

- gives effect to a -for- reverse split of our common stock prior to the closing of this offering;
- gives effect to the conversion of all outstanding shares of preferred stock into 40,859,089 shares of common stock immediately upon the closing of this offering;
- gives effect to the conversion of all outstanding warrants to purchase preferred stock into warrants to purchase 2,967,672 shares of common stock;
- assumes the exercise of warrants to purchase 939,929 shares of our common stock each with an exercise price of $0.01 per share, at the closing of this offering that will terminate if not exercised at that time;
- assumes that the underwriters do not exercise their option to purchase up to additional shares of common stock from the selling stockholders in this offering to cover over-allotments; and
- assumes an initial public offering price of $ per share.

The number of shares of common stock to be outstanding after this offering is based on the pro forma number of shares outstanding as of March 31, 2004. The number of shares of common stock to be outstanding immediately after this offering excludes the following:

- 11,471,316 shares of common stock issuable upon exercise of options outstanding under our stock incentive plan with a weighted-average exercise price of $1.98 per share;
- 610,007 shares of common stock issuable upon exercise of outstanding warrants with a weighted-average exercise price of $1.80 per share;
- 1,092,693 shares of common stock issuable beginning June 12, 2004, upon exercise of outstanding warrants with an exercise price of $0.01 per share which number of shares automatically increases on a monthly basis until the earlier of closing of this offering or June 30, 2006 to a maximum increase in shares issuable upon exercise of outstanding warrants of 2,733,326, as more fully described in "Description of Capital Stock;" and
- 7,021,109 shares of common stock authorized for future issuance under our stock incentive plan.

Summary Consolidated Financial Data

The summary consolidated financial data set forth below should be read in conjunction with "Selected Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and the notes to the consolidated financial statements included elsewhere in this prospectus. Our historical results are not necessarily indicative of results for any future period. The "pro forma" consolidated balance sheet data in the table below reflects our capitalization as of March 31, 2004, with adjustments for the automatic conversion of all shares of our outstanding preferred stock into 40,859,089 shares of common stock upon the closing of this offering, the application of the net proceeds from the sale by us of the shares of common stock in this offering, after the deduction of the underwriting discount and estimated offering expenses, and the exercise of warrants to acquire an aggregate of 939,929 shares of our common stock that would otherwise terminate upon the completion of this offering.

	Year Ended December 31,			Three Months Ended March 31,	
	2001	2002	2003	2003	2004
				(unaudited)	
	(in thousands, except per share and share amounts)				

Consolidated statements of operations data					
Revenues:					
Wireless activation and services	$9,278	$69,194	$74,423	$14,055	$23,502
MVNO and data services	3,806	13,402	41,157	7,548	12,718
MVNO equipment	—	440	3,811	375	1,785
Total revenues	13,084	83,036	119,391	21,978	38,005
Cost of revenues:					
Wireless activation and services	6,895	30,129	45,359	8,381	14,611
MVNO and data services	3,189	8,501	21,270	3,803	6,034
MVNO equipment	—	763	9,884	788	2,330
Total cost of revenues	10,084	39,393	76,513	12,972	22,975
Gross profit	3,000	43,643	42,878	9,006	15,030
Operating expenses:					
General and administrative, excluding depreciation and amortization and stock-based compensation	12,907	23,588	36,904	7,703	9,936
Sales and marketing, excluding depreciation and amortization and stock-based compensation	5,023	17,578	30,344	5,730	10,002
Depreciation and amortization	487	2,600	5,434	988	1,609
Impairment of goodwill and intangibles	—	3,315	2,431	1	—
Stock-based compensation	1,697	5,095	3,611	846	224
Total operating expenses	20,114	52,176	78,724	15,268	21,771
Loss from operations	(17,114)	(8,533)	(35,846)	(6,262)	(6,741)
Other income (expense):					
Interest income	155	289	287	65	64
Interest expense	(300)	(737)	(1,408)	(233)	(176)
Total other income (expense)	(145)	(448)	(1,121)	(168)	(112)
Net loss	$(17,259)	$(8,981)	$(36,967)	$(6,430)	$(6,853)
Net loss attributable to common stockholders	$(19,308)	$(17,029)	$(44,276)	$(9,288)	$(8,968)
Basic and diluted net loss per share	$(0.81)	$(0.55)	$(1.32)	$(0.29)	$(0.26)
Basic and diluted weighted average shares outstanding	23,907,209	31,219,752	33,614,372	31,952,818	34,645,014
Pro forma basic and diluted net loss per share					

	As of March 31, 2004	Pro Forma (unaudited) As of March 31, 2004
Consolidated balance sheet data		
Cash and cash equivalents	$25,290	
Working capital (deficit)(1)	(5,902)	
Total assets	59,496	
Total debt	6,725	
Total long-term debt	2,708	
Redeemable preferred stock	69,941	
Non-redeemable preferred stock	5,209	
Common stock	161	
Total stockholders' deficit	(60,908)	

(1) Working capital (deficit) consists of total current assets, including cash and cash equivalents, less total current liabilities.

Risk Factors

RISK FACTORS *You should carefully consider the risks described below and the other information in this prospectus before making a decision to invest in our common stock. If any of the following risks actually occur, our business, results of operations or financial condition could be adversely affected. In those cases, the trading price of our common stock could decline and you may lose all or part of your investment.*

`Risks Related to Our Business`

Our short operating history makes it difficult for us to accurately forecast revenues and appropriately plan our expenses.

We commenced operations in 1999 and have a limited operating history. As a result, it is difficult for us to predict future revenues and operating expenses. Many of our expenses, such as compensation for employees and lease payments for facilities and equipment, are relatively fixed. We base these expense levels, in part, on our expectations of future revenues. A softening in demand for our wireless services and devices, whether caused by changes in consumer spending, consumer preferences, weakness in the U.S. or global economies or other factors, may result in decreased revenues and significant changes in our operating results from period to period and may cause our stock price to decline.

We have historically incurred significant losses and may not be profitable in the future.

We have experienced significant net losses each year since our inception. For the year ended December 31, 2003 and the quarter ended March 31, 2004, we had net losses of $37.0 million and $6.9 million, respectively. As of March 31, 2004, we had an accumulated deficit of $99.9 million. We may continue to incur losses and we cannot assure you that we will be profitable in future periods. We may not be able to adequately control costs and expenses or achieve or maintain adequate operating margins. Our financial results may also be impacted by stock-based compensation charges and possible limitations on the amount of net operating loss carryforwards that we can utilize annually in the future to offset any taxable income. Additionally, as a public company, we will be subject to SEC reporting obligations and, given the significant costs associated with compliance with the Sarbanes-Oxley Act of 2002, we are likely to incur increased expenses related to regulatory and legal compliance. As a result, our ability to achieve and sustain profitability will depend on our ability to generate and sustain substantially higher revenues while maintaining reasonable cost and expense levels. If we fail to generate sufficient revenues or achieve profitability, we will continue to incur significant losses. We may then be forced to reduce operating expenses by taking actions not contemplated in our business plan, such as discontinuing sales of certain of our wireless services and devices, curtailing our marketing efforts or reducing the size of our workforce.

We expect our quarterly financial results to fluctuate, which may lead to volatility in our stock price.

Our business is affected by seasonal fluctuations in both Internet usage and purchases of wireless services and devices, which generally decline during the summer months and increase in the fourth quarter of the calendar year, correlating with traditional retail seasonality. We experience seasonal changes in the fourth quarter that reflect an increase in wireless service activations due to the holiday season. Therefore, quarter-to-quarter comparisons of our operating results may not be good indicators of our future performance.

Additionally, our revenues and operating results may vary significantly from quarter to quarter due to a number of factors, including:

- economic conditions specific to online commerce and the wireless communications industry;
- our ability to attract visitors to our websites or the websites that we create and manage for our marketers, and our ability to convert those visitors into customers;
- our ability to retain existing customers;
- delays in market acceptance or adoption by consumers of our services, including our mobile virtual network operator, or MVNO, services;
- revenue recognition policies applicable to bonuses we are paid by wireless carriers;
- delays in our development and offering of new wireless services and devices;
- changes in our use of sales and distribution channels;
- our ability to source wireless devices at competitive prices;
- our ability to manage our procurement and delivery operations;
- the amount of our marketing and other advertising costs;
- our or our competitors' pricing and marketing strategies;
- our competitors' introduction of new or enhanced products and services;
- the length of the sales and implementation cycles for our data services; and
- the amount and timing of operating costs relating to expansion of our operations.

If we are unable to maintain strong relationships with wireless carriers, our business would be adversely affected.

We depend upon a small number of wireless carriers for a substantial portion of our revenues and the loss of any one of these relationships could cause our revenues to decline substantially. For the year ended December 31, 2003 and the quarter ended March 31, 2004, revenues from T-Mobile represented 24% and 22% of our total revenues, respectively. For the same two periods, revenues from our top three wireless carriers represented 41% and 35% of our total

revenues, respectively. Our wireless carriers could terminate their agreements with us without penalty and with little notice. Our agreements with these carriers are non-exclusive, and they have entered into similar agreements with our competitors, which may be on more favorable terms. Our revenues may decline if:

- one or more of the wireless carriers terminates its agreement with us or we are unable to negotiate extensions of these agreements on acceptable terms;
- there is a downturn in the business of any of these wireless carriers; or
- there is continued significant consolidation in the wireless services industry.

In addition, if the wireless carriers were to discontinue allowing us to sell and activate wireless service plans on their networks and instead were to provide these activation services exclusively themselves, this would have an adverse effect on our revenues.

A decrease in the growth rate of our wireless service activations could adversely affect our operating results.

A substantial portion of our revenues consists of commissions we earn from the wireless carriers for the activation of new customer accounts. We may also receive bonuses for meeting volume and other performance-based targets. If the growth rate in the number of new activations declines, we may not earn these additional bonuses and our revenues could decline.

The commissions we receive from wireless carriers are not earned unless the customer maintains an active account with the carrier for a pre-determined period of time, and any increase in our rate of deactivation of active accounts could result in a decrease in our revenues.

Under our agreements with wireless carriers, commissions are not earned if the customer's service is deactivated with the carrier before a pre-determined period of time, usually between 90 and 180 calendar days.

We maintain a reserve to cover the commissions lost through deactivations, based upon our historical experience. If the rate of our deactivations increases in excess of our historical experience, we would have to increase our deactivation reserve, which would cause our revenues to decline. An increase in our deactivation rate could also cause carriers to modify the commission terms with us or even terminate our agreements.

Our revenues and operating results are dependent on our ability to collect additional airtime usage payments from our Liberty Wireless customers.

In August 2002, we launched Liberty Wireless, our MVNO service, to market and sell to customers wireless airtime minutes that we purchase wholesale from Sprint, which owns and operates the underlying wireless network. Liberty Wireless is marketed to those customers who order wireless service plans and devices through our websites but do not accept traditional post-paid service on the security deposit terms required by the wireless carriers. These customers generally have lower credit quality and present a greater non-payment risk than customers who are approved for post-paid service plans. Liberty Wireless offers a service plan that enables a subscriber to purchase bundles of minutes for a specific monthly price and charges the subscriber in advance of the usage. While we continually monitor our Liberty Wireless customers' usage of pre-paid airtime minutes, these customers may, under certain circumstances, use more airtime minutes than they have purchased. We bear the cost for this additional airtime usage if we are not paid, as well as collection costs and other risks associated with serving lower credit quality customers.

Our future growth is dependent in part on increasing revenues from MVNO services.

We believe sales of MVNO services through Liberty Wireless will be an important element of our future revenue growth. We plan to utilize the e-commerce platform, operational infrastructure and wireless carrier agreement we have in place for Liberty Wireless to extend our MVNO capabilities to marketers who want to offer a branded wireless service to their customers without having to own or operate a wireless network or operational infrastructure. We cannot assure that marketers will enter into agreements with us for these private-labeled MVNOs on acceptable terms. Because we have only limited experience selling MVNO services, we are unable to predict the rate at which revenues from these services will grow or the profitability that we will be able to generate from this business, if any. This profitability is dependent primarily on the difference in the price at which we purchase wholesale wireless airtime minutes and the price at which we sell airtime minutes to consumers through the MVNO service, as well as our ability to collect payment from MVNO service customers.

We are dependent on Sprint to provide the airtime minutes and network coverage for Liberty Wireless service.

To provide our Liberty Wireless MVNO service, we must purchase wholesale wireless airtime from a national wireless carrier. Currently, Sprint is our sole provider of this airtime. Our non-exclusive agreement with Sprint expires on August 2, 2005, unless renewed. We may not be able to renew this agreement on terms favorable to us, if at all. If this agreement is terminated or we are unable to renew this agreement, we would be required to enter into an agreement with a new wireless carrier to purchase wholesale wireless airtime minutes or we would not be able to continue to offer our Liberty Wireless service, or any new MVNO services.

Sprint does not provide network coverage for the entire U.S. market. If the Sprint network does not provide sufficient coverage and is unable to address increased demands as our MVNO business grows, or if Sprint's wireless network does not perform in a manner that meets our customer expectations, we may lose existing customers or be unable to add new customers.

If we experience high rates of customer churn, our revenues and financial performance will be harmed.

A key element in the success of our MVNO business is our ability to minimize the rate of customer turnover, or churn. We must minimize the rate of loss of existing customers of our MVNO business while adding new ones. Customers cancel their subscriptions for many reasons, including delayed delivery of the product, poor service, difficulty in understanding bills or transfer of their service to another wireless service. We must continually add new customers both to replace lost customers and to grow our business. If we do not maintain and expand our customer service and retention efforts, we could experience greater churn and loss of customers. A high rate of customer churn would impair our ability to increase our revenues, depress our operating cash flow and cause a deterioration in our operating margins.

If we do not continue to attract customers through our existing online marketing programs, our revenues may be affected adversely and our marketing expenses may increase.

We obtain a large portion of our customers through incentive-based online marketing programs. We engage third parties to acquire customers through different marketing initiatives, including the use of websites that we create and manage under our marketers' brands. We also use online advertising and other forms of direct marketing. Additionally, we have an affiliate program in which third parties register with us and obtain particular advertisements from us for use on their websites or through other online marketing programs. Our marketers may not continue to participate in our marketing programs if the programs do not provide sufficient value, our competitors offer better terms, the third parties elect to provide these products and services directly or the market for incentive-based advertising decreases. If our marketers do not market our services to their customers, our revenues will not grow as anticipated and our marketing expenses may increase.

We depend on Internet search engines to attract a substantial portion of the customers who use our websites, and losing these customers would adversely affect our revenues and financial results.

Many consumers access our services by clicking through on search results displayed by an Internet search engine. Internet search engines typically provide two types of search results, algorithmic listings and purchased listings. Algorithmic listings cannot be purchased, and instead are determined and displayed solely by a set of formulas designed by the search engine. Purchased listings can be purchased by advertisers in order to attract users to their websites. We rely on both algorithmic and purchased listings to attract and direct consumers to our websites. Search engines revise their algorithms from time to time in an attempt to optimize their search results. If one or more search engines which we rely on for algorithmic listings modifies its algorithms, resulting in fewer consumers clicking through to our websites, we would need to increase our marketing expenditures, which would adversely affect our financial results, or we would experience a reduction in our revenues, and our business would be harmed. If one or more of the search engines which we rely on for purchased listings modifies or terminates its relationship with us, our expenses could rise and our business may suffer.

We have entered into an agreement with a vendor in Manila, the Philippines to support our call center activities. Any difficulties experienced in this arrangement could result in additional expense or loss of customers and revenues.

We have entered into an outsourcing agreement with a vendor in Manila, the Philippines, to provide additional call center support. As a result, we rely on this vendor to provide customer service and interface with our customers. If this vendor is unable to perform satisfactory customer service, we could lose customers and would have to pursue alternative strategies to provide these services, which could result in delays, interruptions, additional expense and loss of customers. A variety of proposed federal and state legislation, if enacted, could restrict or discourage U.S. companies from outsourcing their services to companies outside the United States. Such legislation may impact our ability to use internationally outsourced services to support our call center activities.

An interruption in the supply of wireless devices could hinder our ability to fulfill customer orders and cause a decline in our revenues.

In fulfilling customer orders for wireless devices, we rely on wireless carriers and wireless device suppliers. These suppliers may experience difficulty in providing us sufficient wireless devices to meet our needs or they may terminate or fail to renew contracts for supplying us these devices on terms we find acceptable. Our agreements with these suppliers are non-exclusive, and these suppliers have entered into similar agreements with our competitors, which may be on more favorable terms. From time to time, we may experience delays in receiving shipments of wireless devices from one or more of the wireless device suppliers, thereby preventing us from offering a wireless device until the shipment is received. Any significant interruption in the supply of any of these devices could hinder our ability to fulfill customer orders and result in the loss of customers, causing a decline in our revenues.

If our distribution operations are interrupted for any significant period of time, our business and results of operations would be substantially harmed.

Our success depends on our ability to successfully receive and fulfill orders and to promptly deliver our products to our customers. Our packaging, labeling and product return processes are performed both internally through our own distribution operations and to a lesser extent, by a third party. Our distribution operations are located in a single facility that is susceptible to damage or interruption from human error, fire, flood, power loss, telecommunications failure, theft, terrorist attacks and similar events. We do not presently have a formal disaster recovery plan and our business interruption insurance may be insufficient to compensate us for losses that may occur. Any interruptions in our distribution center operations for a significant period of time could damage our reputation and substantially harm our business and results of operations.

We are dependent on a single vendor for the billing services software we use to monitor and collect amounts due by customers for our Liberty Wireless services.

Currently, we utilize a single vendor for the billing services software for our Liberty Wireless customers. We do not have a long-term contract with this vendor and our agreement is non-exclusive. If we are unable to maintain our relationship with this vendor, we may experience a significant delay in the collection of amounts due from customers for their wireless services until we either obtain a new vendor or develop our own billing services software, which could result in a decline in our revenues and an increase in our costs.

Interruptions or delays in service from third parties could impair our service offerings.

We rely on third parties for both our primary network operations hosting center, which is located in Sterling, Virginia, and our back-up facility, which is located in Dulles, Virginia. Any disruption of our access to Internet service could result in delays in our ability to receive information or transact business. We also rely on third-party software, suppliers and wireless carriers to process applications for credit approval and to bill our customers. If we are unable to process credit applications in a timely manner or if our billing software fails and we are unable to bill customers on a timely basis, our business will be affected adversely. Any interruptions in these or other third-party services, or a deterioration in their performance, could impair the quality of our services. If our arrangement with any of these third parties was terminated or if a third party ceased operations, discontinued business or altered the terms on which it does business with us, we might not be able to find an alternative provider on a timely basis or on reasonable terms, which would adversely affect our operating results.

The market for our services is becoming increasingly competitive with the emergence of additional retail and online distributors of wireless services and devices and new or additional MVNOs, which could adversely affect our business.

There is substantial competition in the wireless services industry. We expect competition to intensify as a result of the entrance of new competitors and the development of new technologies, products and services. We compete with wireless carriers' own direct retail stores and online websites as well as other retail stores and online businesses that provide similar products and services in competition with us. All of our agreements with wireless carriers and wireless device suppliers are non-exclusive, and these parties may provide the same or similar devices and services to our competitors on terms more favorable than ours. Due to the low barrier to entry in this industry, with sufficient time and capital, it would be possible for additional competitors to replicate our services.

Companies that compete with our wireless activation and services business include:

- online distributors of wireless services and devices, such as Amazon.com;
- wireless carriers who sell wireless services and devices to customers through their own websites, traditional retail operations and direct sales forces; and
- mass market retailers such as Best Buy, Circuit City and Radio Shack and other retailers of wireless services.

We currently or potentially compete with two different types of companies in our Liberty Wireless and potential private-labeled MVNO business:

- other providers of MVNO services, such as Boost and Virgin Mobile, who offer pre-paid services; companies that provide billing and customer care for MVNO services, such as Amdocs, Convergys and CSG Systems International; and companies that provide fulfillment services, such as Brightpoint, Brightstar and Cellstar; and
- wireless carriers.

Our data services business competes against a variety of companies including Call Sciences and J2 Global Communications.

Many of our existing and potential competitors have substantially greater financial, technical and marketing resources than we do. Additionally, many of these companies have greater name recognition and more established relationships in many of our market segments. These competitors may be able to adopt more aggressive pricing policies and offer customers more attractive terms than we can. We may face increasing price pressure from the wireless carriers. In addition, current and potential competitors have established, or may establish, cooperative relationships among themselves or with third parties to compete more effectively.

We may face competition from additional MVNO service providers, adversely affecting our ability to expand our MVNO business.

We believe that there will be increased competition from additional MVNO service providers. For example, it was recently announced that AT&T has reached an agreement with Sprint pursuant to which AT&T will begin offering wireless services. Existing telecommunications companies, such as AT&T, may be able to use their established branding, customer base, service knowledge and supplier relationships to compete against independent MVNO service providers, including Liberty Wireless, and any private-labeled customers we develop. Other MVNO service providers may also have greater financial resources or more favorable agreements with wireless carriers to provide better service coverage in competition with us. Additionally, well-diversified MVNO service providers may be able to offer a broader product mix that we may not be able to match.

We have grown rapidly, and we must manage additional growth and the demands on our resources and personnel in order to be successful.

We have grown from three employees since we began operations in October 1999 to approximately 350 employees as of May 31, 2004. Our growth has resulted, and any future growth will result, in increased responsibility for our management and increased demands on our resources. Several of our executive officers, including our president and chief operating officer and our chief financial officer, joined us in 2004. Our business strategy is based on the assumption that we will continue to retain qualified personnel who can expand our customer base and continue to develop and deliver innovative customer-driven solutions. We must continue to enhance and expand our business processes, information systems and operations to accommodate this growth. To manage future growth, we will need to:

- implement additional management information systems;
- retain qualified personnel to manage our operating, administrative, financial and accounting systems;
- maintain and expand our wireless service and device activation capacity;
- continue to train, motivate, manage and retain our existing employees and attract and integrate new employees;
- expand our sales force to sell our new and existing offerings; and
- maintain close coordination among our executive, information technology, accounting and finance, sales and operations organizations.

If we are unable to manage future expansion, our ability to provide a high quality customer experience could be harmed, which would damage our reputation and substantially harm our business and results of operations.

If we are unable to integrate our services with the wireless carriers' existing credit and activation systems, we will be unable to process orders in a timely manner and our business may suffer.

To activate wireless services for customers, we rely on access to the wireless carriers' proprietary credit and activation systems through direct data, online and telephone interfaces. If, as a result of technology enhancements or upgrades of these systems by the wireless carriers, we are unable to integrate our services with these systems we could be required to redesign or upgrade our information systems or software which could be costly and negatively affect our

operating results. If we are unable to gain access to these systems, we would be unable to process orders, the wireless carriers could terminate their underlying agreements with us, and our business may suffer.

Our failure to protect our customers' confidential information and our network against security breaches could damage our reputation and substantially harm our business and results of operations.

A significant barrier to online commerce is concern regarding the secure transmission of confidential information over public networks. Currently, a majority of our wireless service activations and device sales are billed to our customers' credit card accounts directly. We rely on encryption and authentication technology licensed from third parties to securely transmit confidential information, including credit card numbers. Advances in computing capabilities, new discoveries in the field of cryptography or other developments may result in a compromise or breach of the technology used by us to protect customer transaction data. Any such compromise of our security could damage our reputation and expose us to a risk of loss or litigation and possible liability which would substantially harm our business and results of operations. Although we carry general liability insurance, our insurance may not cover potential claims of this type or may not be adequate to cover all costs incurred in defense of potential claims or to indemnify us for all liability that may be imposed. In addition, anyone who is able to circumvent our security measures could misappropriate proprietary information or cause interruptions in our operations. We may need to expend significant resources to protect against security breaches or to address problems caused by breaches.

We may require additional cash to upgrade and expand our operations, which may not be available on terms acceptable to us, or at all.

Since our inception, our operating and investing activities have used more cash than they have generated. While we believe that our current cash and cash equivalents together with the proceeds of this offering will be sufficient to fund our working capital and capital expenditures for at least the next 12 months, our revenues may not meet our expectations, we may be unable to control costs or we may incur expenses such as expansion of our office locations and distribution center, investment in redesigning or upgrading our information systems or hardware, or integration of new systems for our MVNO offering. If we incur additional expenses or experience a revenue shortfall, our current resources may not be sufficient. To remain competitive, we must continue to enhance and improve the functionality and features of our e-commerce platform and the websites we create and manage. If competitors introduce new services embodying new technologies, or if new industry standards and practices emerge, we may have to spend resources on the purchase or development of new functionalities or technologies. We may then find it necessary to obtain additional financing. In the event that additional financing is required, we may not be able to raise it on terms acceptable to us, if at all.

If we do not adequately protect our intellectual property, others could copy aspects of our services and operational technology, which could force us to become involved in expensive and time-consuming litigation.

Our ability to compete and continue to provide technological innovation is substantially dependent upon our technology. We rely on a combination of intellectual property laws and confidentiality agreements to protect our technology. We generally enter into confidentiality and nondisclosure agreements with our employees, consultants and prospective and existing marketers. In addition, we seek to control access to our proprietary information. Despite our efforts to protect our intellectual property, unauthorized parties may attempt to copy or otherwise obtain and use our services or technology. Effectively policing the unauthorized use of our technology is time-consuming and costly, and there can be no assurance that the steps taken by us will prevent misappropriation of our technology. Our failure to adequately protect our intellectual property rights could harm our business by making it easier for others to duplicate our services.

If the technology we use infringes on the proprietary rights of others, we may be forced to seek expensive licenses, reengineer our services, engage in expensive and time-consuming litigation or stop selling our services.

If we were to discover that our services violated or potentially violated the proprietary rights of others, we might not be able to obtain licenses to continue offering those services without substantial reengineering. Any reengineering effort may not be successful, nor can we be certain that any licenses would be available on commercially reasonable terms. Although we are not presently involved in any litigation concerning the infringement of another party's rights, a claim of infringement against us, with or without merit, could be time-consuming and expensive to litigate or settle, and could divert management's attention from executing our business plan. An adverse determination against us could prevent us from offering our services.

If we are unable to attract and retain management and key personnel, we may not be able to implement our business plan.

We believe that the successful implementation of our business plan will depend on our management team, particularly the chairman of our board of directors and chief executive officer, David A. Steinberg. Losing the services of one or more members of our management team could adversely affect our business and our expansion efforts, and possibly prevent us from further improving our information management, financial and operational systems and controls. As we continue to grow, we will need to hire and retain qualified sales, marketing, administrative, operating and technical personnel with knowledge of the wireless services industry and online marketing, and to train and manage new personnel. We may not be able to identify and hire qualified personnel due to competition for such personnel. The failure to hire and retain these personnel would have an adverse effect on our business.

Our failure to identify and integrate successfully any businesses or technologies that we acquire may increase our costs and reduce our revenues.

As part of our business strategy, we continue to seek to expand our service offerings through investments in, or acquisitions of, other businesses or technologies that we believe are complementary to our business. Although we regularly engage in discussions relating to potential acquisitions, we may not be able to identify, negotiate or finance any future acquisitions. If we do identify acquisitions, it may be necessary for us to raise additional funds to finance those acquisitions. Additional funds may not be available on terms that are favorable to us, or at all. If we issue our stock as consideration, our stockholders would experience dilution of their percentage ownership in our stock. Upon completion of any acquisitions, we may be unsuccessful in integrating and operating such acquired businesses profitably or otherwise implementing our strategy successfully. If we are unable to integrate any newly-acquired entities or technologies effectively, our business and results of operations could suffer. The time and expense associated with finding suitable and compatible businesses, technologies or services could also disrupt our ongoing business and divert our management's attention. In addition, we may be required to reduce the carrying amount on our balance sheet of any acquired intangible assets; this reduction would adversely affect our financial results in the period in which it occurs.

We have limited experience operating internationally, which may make it difficult and costly to expand in other countries.

To date, we have derived the substantial majority of our revenues from sales in the United States. As part of our business strategy, we may expand our international operations. We face many barriers to competing successfully internationally, including:

- varying technology standards and capabilities;
- insufficient or unreliable telecommunication infrastructure and Internet access;
- difficulties staffing and managing foreign operations;
- fluctuations in currency exchange rates;
- disruption from political and economic instability in the countries in which we may conduct business;
- reduced protection for intellectual property rights in some countries; and
- import and export restrictions and tariffs.

As a result of these factors, we may not be able to successfully market, sell or deliver our services in international markets.

Risks Related to Our Industry

If the online market for wireless services and devices does not gain widespread acceptance, our business would suffer.

Our success will depend in part on our ability to attract consumers who have historically purchased wireless services and devices through traditional retail stores. Furthermore, we may have to incur significantly higher and more sustained advertising and promotional expenditures or price our products more competitively than we currently anticipate in order to attract additional online consumers and sell wireless services and devices to more customers. Specific factors that could deter consumers from purchasing wireless services and devices from us include:

- concerns about buying wireless devices without a face-to-face interaction with sales personnel and the ability to physically handle and examine the devices;
- pricing that does not meet their expectations;
- concerns about the security of online transactions and the privacy of personal information;
- delivery time associated with Internet orders;
- delayed shipments or shipments of incorrect or damaged products;
- inconvenience associated with returning or exchanging purchased items;
- inability to maintain good standing with business rating services; and
- possible disruptions, computer viruses or other damage to the Internet servers or to the consumers' computers.

We may be exposed to risks associated with Internet credit card fraud and identity theft, that could cause us to incur unexpected expenditures and loss of revenues.

Under current credit card practices, a merchant is liable for fraudulent credit card transactions when, as is the case with the transactions we process, that merchant does not obtain a cardholder's signature. Any failure to prevent fraudulent credit card transactions would adversely affect our business and our revenues. We do not currently carry insurance to protect us against this risk. We do not receive any revenues from fraudulently placed orders. We bear the risk of future losses as a result of orders placed with fraudulent credit card data or fraudulent identity information, even though the associated financial institution approved payment of the orders.

Our net sales may be negatively affected if we are required to charge taxes on purchases.

We do not collect or have imposed upon us sales or other taxes related to the products we sell, except for certain corporate level taxes and sales taxes with respect to purchases by customers located in a limited number of states. However, one or more states or foreign countries may seek to impose sales or other tax collection obligations on us in the future. A successful assertion by one or more states or foreign countries that we should be collecting sales or other taxes on the sale of our products could result in substantial tax liabilities for past sales, discourage customers from purchasing products from us, decrease our ability to compete with traditional retailers or otherwise substantially harm our business and results of operations.

Currently, decisions of the U.S. Supreme Court restrict the imposition of obligations to collect state and local sales and use taxes with respect to sales made over the Internet where the seller does not otherwise have a physical presence in the state. However, implementation of the restrictions imposed by these Supreme Court decisions is subject to interpretation by state and local taxing authorities. While we believe that these Supreme Court decisions currently restrict state and local taxing authorities from outside the states where we have an office, distribution facility or personnel from requiring us to collect sales and use taxes from purchasers located within their jurisdictions, other taxing authorities could disagree with our interpretation of these decisions. Moreover, a number of states, as well as the U.S. Congress, have been considering various initiatives that could limit or supersede the Supreme Court's position regarding sales and use taxes on Internet sales. If any state or local taxing jurisdiction were to disagree with our interpretation of the Supreme Court's current position regarding state and local taxation of Internet sales, or if any of these initiatives were to address the Supreme Court's constitutional

concerns and result in a reversal of its current position, we could be required to collect sales and use taxes from purchasers located in states other than states where we have an office, distribution facility or personnel. The imposition by state and local governments of various taxes upon Internet commerce could create administrative burdens for us and could decrease our future revenues.

Government regulation of the Internet and e-commerce is evolving and unfavorable changes could substantially harm our business and results of operations.

We are subject to general business regulations and laws as well as regulations and laws specifically governing the Internet and e-commerce. Existing and future laws and regulations may impede the growth of the Internet or other online services. These regulations and laws may cover taxation, restrictions on imports and exports, customs, tariffs, user privacy, data protection, pricing, content, copyrights, distribution, electronic contracts and other communications, consumer protection, the provision of online payment services, broadband residential Internet access and the characteristics and quality of products and services. It is not clear how existing laws governing issues such as property ownership, sales and other taxes, libel and personal privacy apply to the Internet and e-commerce. Laws or regulations may be enacted that prohibit use of mass emails or similar marketing activities. We may not be able to support the marketing of our products and services by mass email or other online means if such activities are adverse to our business. Even if no relevant law or regulation is enacted, we may discontinue use or support of these activities if we become concerned that customers deem them intrusive or they otherwise adversely affect our goodwill. Unfavorable resolution of these issues may substantially harm our business and results of operations.

The wireless services industry has experienced a decline in new subscriber growth rate.

The wireless services industry has faced an increasing number of challenges, including a slowdown in new subscriber growth. According to The Yankee Group, an independent research firm, the wireless subscriber market in the United States has grown an average of over 18% per year from 1998 through 2003. The Yankee Group forecasts this growth rate will fall to an average of over 4% per year through 2008. If the wireless services industry experiences a decline in subscribers our business may suffer.

We may be unable to effectively market our wireless services if wireless carriers do not deliver acceptable wireless networks and service plans, which would cause our revenues to decline.

The success of our business depends on the capacity, affordability and reliability of wireless voice and data access provided by wireless carriers. Growth in demand for wireless voice and data services may be limited if wireless carriers fail to maintain sufficient capacity to meet demand for these services, delay the expansion of their wireless networks and services, fail to offer and maintain reliable wireless network services or fail to market their services effectively. We also depend on wireless carriers to provide credit verification and approval to activate wireless service for customers. If wireless carriers are unable to verify credit information in a timely manner, we may lose marketers and customers.

Ongoing consolidation among wireless carriers could result in pricing pressure and adversely impact our results of operations.

In recent years, there has been a trend in the wireless industry toward consolidation of wireless carriers. For example, in February 2004, Cingular Wireless announced an agreement to acquire AT&T Wireless. Ongoing consolidation among the wireless carriers would reduce the number of companies whose wireless services we offer, which could adversely affect our results of operations. We rely on the leading wireless carriers for a substantial portion of our revenues, and we expect this to continue for the foreseeable future. We may be subject to pricing pressures that may result from a further consolidation among wireless carriers, which could have an adverse effect on our operations. If consolidation continues, the commissions and bonuses paid to us could decrease or the prices charged to us for the supply of wireless devices and wireless airtime minutes could increase, resulting in a decrease in our gross margin.

Use of wireless devices may pose health risks, which could increase our exposure to litigation and result in increased operating expenses.

Radio frequency emissions from wireless devices may be linked to various health concerns, including cancer, and may interfere with various electronic medical devices, including hearing aids and pacemakers. The actual or perceived risk of radio frequency emissions from wireless devices could adversely affect our business through a decline in sales of wireless services, a reduction in subscriber usage for our MVNO services and increased exposure to potential litigation.

We may be subject to potential litigation relating to the use by our customers of wireless devices while driving, which could result in additional operating expense and negatively impact our results of operation.

Some studies have indicated that the use of wireless devices while driving may impair drivers' attention in certain circumstances, making accidents more likely. These concerns could lead to potential litigation relating to accidents, deaths or serious bodily injuries or to new restrictions or regulations on wireless devices use, any of which could also result in a decline in our activation of wireless services, a reduction in subscriber usage for our MVNO services and increased exposure to potential litigation.

Risks Related to This Offering

Our stock price will fluctuate after this offering, which could result in substantial losses for investors and significant costs related to litigation.

The market price for our common stock will vary from the initial public offering price after trading commences. This could result in substantial losses for investors. The market price of our common stock may fluctuate significantly in response to a number of factors, some of which are beyond our control. These factors include:

- quarterly and seasonal variations in operating results;
- changes in financial estimates and ratings by securities analysts;
- announcements by us or our competitors of new product and service offerings, significant contracts, acquisitions or strategic relationships;

- publicity about our company, our products and services, our competitors or e-commerce in general;
- additions or departures of key personnel;
- any future sales of our common stock or other securities; and
- stock market price and volume fluctuations of publicly-traded companies in general and Internet-related companies and specialty retailers in particular.

The trading prices of Internet-related companies and e-commerce companies have been especially volatile. Investors may be unable to resell their shares of our common stock at or above the initial public offering price. In the past, securities class action litigation has often been brought against a company following periods of volatility in the market price of its securities. We may be the target of similar litigation in the future. Securities litigation could result in significant costs and divert management's attention and resources, which could substantially harm our business and results of operations.

No public market for our common stock currently exists and an active trading market may not develop or be sustained following this offering.

Prior to this offering, there has been no public market for our common stock. We cannot be certain that an active trading market for our common stock will develop or be sustained following this offering. Further, we cannot be certain that the market price of our common stock will not decline below the initial public offering price. The initial public offering price was determined by negotiation among us and the underwriters based upon several factors and may not be indicative of future market prices for our common stock.

If securities or industry analysts do not publish research or reports about our business, our stock price and trading volume could decline.

The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. We do not currently have and may never obtain research coverage by securities and industry analysts. If no securities or industry analysts commence coverage of our company, the trading price for our stock would be negatively impacted. In the event we obtain securities or industry analyst coverage, if one or more of the analysts who covers us downgrades our stock, our stock price would likely decline. If one or more of these analysts ceases coverage of our company or fails to regularly publish reports on us, interest in the purchase of our stock could decrease, which could cause our stock price or trading volume to decline.

Future sales of our common stock could depress the market price of our common stock.

Sales of substantial amounts of our stock in the public market, or the perception that these sales may occur, could adversely affect the market price of our stock. The shares offered under this prospectus will be freely tradeable. The remaining outstanding shares of the Company will be available for sale at various times, provided that a substantial portion of such shares are subject to a 180-day lockup period, which may be waived by Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc., in whole or in part, at any time, in their sole discretion. See "Shares Eligible for Future Sale" for a discussion of potential future sales of our common stock.

We will record substantial expenses related to our issuance of stock options that may have a material negative impact on our operating results for the foreseeable future.

We are required to recognize, as a reduction of stockholders' equity, deferred compensation equal to the difference between the deemed fair market value of our common stock for financial reporting purposes and the exercise price of these options at the date of grant. This deferred compensation is amortized over the vesting period of the applicable options, generally four years. As of March 31, 2004, approximately $1.9 million of deferred compensation related to employee stock options remained unamortized. The resulting amortization expense will have a material negative impact on our operating results in future periods.

Our executive officers and directors hold a substantial portion of our stock and will be able to exercise significant influence over matters requiring stockholder approval, which will likely limit your ability to influence corporate matters.

Following the completion of the offering, our executive officers and directors will control a significant percentage of our common stock. Specifically, Mr. Steinberg will control 19,114,302 shares of our common stock, representing % of our common stock (% if the underwriters' over-allotment option is fully exercised). In addition, after the completion of this offering, our executive officers and directors as a group will control % of our common stock (% if the underwriters' over-allotment option is fully exercised). As a result, if these officers and directors act together, they will be able to exercise significant control over all matters requiring stockholder approval, including the determination of the composition of the board of directors, and may be able to exercise significant influence on fundamental corporate transactions. These stockholders may have interests that are different from yours. Corporate action might be taken even if other stockholders, including those who purchase shares in this offering, oppose them. This concentration of ownership might also have the effect of delaying or preventing a change of control of our company that other stockholders may view as beneficial.

Changes in accounting standards or our accounting policy relating to stock-based compensation may negatively affect our reported results of operations.

We currently are not required to record stock-based compensation charges if the employee's stock option exercise price equals or exceeds the deemed fair value of our common stock at the date of grant and the number of shares subject to the option, the vesting schedule and the exercise price are fixed. However, several companies recently have elected to change their accounting policies and have begun to record the fair value of stock options as an expense. Although the standards have not been finalized and the timing of a final statement has not been established, the Financial Accounting Standards Board, or FASB, has announced its support for recording expense for the fair market value of stock options granted. We account for stock-based employee compensation arrangements in accordance with the provisions of Accounting Principles Board Opinion No. 25, "*Accounting for Stock Issued to Employees*", or APB 25, and related interpretations. Under APB 25, compensation expense is recognized for the difference between the fair value of our stock on the date of grant and the exercise price. We have elected to apply the disclosure-only provisions of Statement of Financial Accounting Standards No. 123, "*Accounting*

for Stock Based Compensation", or SFAS No. 123. Had compensation cost for the Company's stock options been determined based on the fair value of the options at the date of grant under SFAS No. 123, our net loss would have been as set forth in Note 2p to our consolidated financial statements included elsewhere in this prospectus.

Anti-takeover provisions and other restrictions in our certificate of incorporation, bylaws and applicable law might discourage, delay or prevent a change of control of our company or changes in our management that our stockholders might find desirable.

At the closing of this offering, our certificate of incorporation and bylaws will provide for, among other things:

- a classified board of directors;
- restrictions on the ability of our stockholders to call special meetings of stockholders;
- restrictions on the ability of our stockholders to act by written consent;
- restrictions on the ability of our stockholders to remove any director or the entire board of directors without cause;
- restrictions on the ability of our stockholders to fill a vacancy on the board of directors; and
- advance notice requirements for stockholder proposals.

These provisions may have the effect of delaying or preventing an acquisition of us or changes in our management, even if stockholders of our company deem such changes to be advantageous.

In addition, our board of directors will be permitted to authorize the issuance of undesignated capital stock without any vote or further action by the stockholders.

Because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibits us from engaging in a business combination with an interested stockholder for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. These provisions and other provisions of the Delaware General Corporation Law applicable to us may restrain large stockholders, in particular those owning 15% or more of our outstanding voting stock, from consummating a merger or business combination with us without the approval of the board of directors, even if doing so would benefit our stockholders.

Investors will experience immediate and substantial dilution of $ in the book value of their investment.

If you purchase shares of our common stock in this offering, you will experience immediate dilution of $ per share, because the price that you pay will be substantially greater than the net tangible book value per share of the shares you acquire. This dilution is due in large part to the fact that our earlier investors paid substantially less than the initial public offering price when they purchased their shares. You will experience additional dilution upon the exercise of stock options and warrants to purchase common stock.

Our management will have broad discretion in applying the net proceeds of this offering and may not apply the proceeds of this offering in ways that increase the value of your investment.

We have not yet determined the specific dollar amount of net proceeds to be allocated to any of the uses indicated in use of proceeds, other than the repayment of debt and payment of accrued and unpaid dividends on our preferred stock. Accordingly, our management will have broad discretion in applying the net proceeds of this offering and you will be relying on the judgment of our management regarding the application of these proceeds. Management's allocation of the net proceeds will affect how our business grows. They may not apply the net proceeds of this offering in ways that increase the value of your investment and management might not be able to yield a significant return, if any, on any investment of these net proceeds.

Completion of this offering may limit our ability to use our net operating loss carryforwards.

As of March 31, 2004, we had substantial federal and state net operating loss carryforwards. Under the provisions of the Internal Revenue Code, substantial changes in our ownership may limit the amount of net operating loss carryforwards that can be utilized annually in the future to offset taxable income. We believe that, as a result of this offering, it is possible that a change in our ownership will be deemed to have occurred. If such a change in our ownership occurs, our ability to use our net operating loss carryforwards in any fiscal year may be significantly limited under these provisions.

Forward-Looking Statements

FORWARD-LOOKING STATEMENTS This prospectus contains forward-looking statements that are based upon our current expectations and projections about future events and trends affecting the financial condition of our business. These forward-looking statements are subject to a number of risks, uncertainties and assumptions about us. These statements relate to future events or our future financial performance. In some cases, you can identify forward-looking statements by terminology including "would," "could," "may," "will," "should," "expect," "intend," "plan," "anticipate," "believe," "estimate," "predict," "potential," or "continue," the negative of these terms or other comparable terminology. In evaluating these statements, you should specifically consider various factors, including the risks described above and in other parts of this prospectus. These factors may cause our actual results to differ materially from those anticipated or implied in the forward-looking statements. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. We cannot guarantee future results, levels of activity, performance or achievements.

Use of Proceeds

USE OF PROCEEDS At an assumed initial public offering price of $ per share, the mid-point of the initial public offering price range, we will receive $ from our sale of shares of common stock in this offering, after deducting estimated offering expenses of approximately $ and the underwriting discount. If the underwriters exercise their over-allotment option in full, the selling stockholders will receive $ in net proceeds after deducting underwriting discounts and commissions. We will not receive any portion of the net proceeds received by the selling stockholders from the sale of their shares.

The principal purposes of this offering are to create a public market for our common stock, to facilitate our future access to the public capital markets and to provide us with flexibility in the future, including the flexibility to acquire additional businesses, products or technologies either with the net proceeds from this offering or through the publicly traded common stock we create through this offering. We presently have no intention to acquire any such businesses, products or technologies. We intend to use the net proceeds of this offering to repay indebtedness in the aggregate amount of $6.7 million, pay $4.6 million of accrued and unpaid dividends on shares of our preferred stock and cover general corporate purposes, including working capital. Pending use of the net proceeds of this offering, we intend to invest the funds in short-term, interest bearing, investment grade securities. We currently have a line of credit and term loan facility with Comerica Bank which consists of a $25.0 million revolving line of credit and a $5.0 million term loan. This facility is secured by a first lien on substantially all of our assets. Our revolving line of credit matures on December 31, 2005 and accrues interest at the London Interbank Offer Rate, or LIBOR, plus 2.75%. Our term loan matures on August 7, 2008 and accrues interest at LIBOR plus 3.0%.

Management's plans for the net proceeds of this offering may vary significantly depending on a number of factors, including future revenue growth, if any, and cash flow. We cannot specify with certainty the particular uses for the net proceeds to be received upon completion of this offering. Accordingly, our management team will have broad discretion in using the net proceeds of this offering.

Dividend Policy

DIVIDEND POLICY We have never declared or paid cash dividends on our common stock. We currently expect to retain future earnings, if any, for use in the operation and expansion of our business and do not anticipate paying cash dividends in the foreseeable future. The declaration and payment of any dividends in the future will be determined by our board of directors, in its discretion, and will depend on a number of factors, including our earnings, capital requirements and overall financial condition. In addition, our ability to declare and pay dividends is substantially restricted under our secured credit facility.

Capitalization

CAPITALIZATION The following table sets forth our capitalization and our cash and cash equivalents as of March 31, 2004 on:

- an actual basis;
- a pro forma basis giving effect to the automatic conversion of our outstanding shares of convertible preferred stock into 40,859,089 shares of our common stock upon the closing of this offering, the issuance of 939,929 shares of common stock upon the exercise of outstanding warrants that will terminate if not exercised prior to the closing of this offering, the sale of shares of common stock by us in this offering after deducting the underwriting discount and estimated offering expenses payable by us, repayment of approximately $6.7 million in existing debt and payment of $4.6 million in accrued and unpaid dividends on certain shares of preferred stock.

You should read this table together with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and notes thereto included elsewhere in this prospectus.

	As of March 31, 2004	
	Actual	Pro Forma
	(unaudited) (in thousands, except per share andshare amounts)	
Cash and cash equivalents	$25,290	$
Bank line of credit	4,017	
Term loan	2,708	
Total debt	6,725	
Redeemable convertible preferred stock, par value $0.01 per share: 41,476,816 shares authorized; 29,548,285 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma	67,197	
Warrants to purchase redeemable convertible preferred stock	2,744	
Total redeemable preferred stock and warrants	69,941	
Non-redeemable convertible preferred stock, par value $0.01 per share: 3,891,171 shares authorized; 2,550,613 shares issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma	5,209	
Common stock, par value $0.01 per share: 100,000,000 shares authorized; 34,642,533 shares issued and outstanding, actual; and 200,000,000 shares authorized; shares issued and outstanding, pro forma	161	

Additional paid-in capital	34,750	
Note receivable from stockholder	(1,135)	
Accumulated deficit	(99,893)	
Total stockholders' deficit	(60,908)	
Total capitalization	$15,758	$

The number of shares of common stock to be outstanding immediately after this offering excludes the following:

- 11,471,316 shares of common stock issuable upon exercise of options outstanding under our stock incentive plan with a weighted-average exercise price of $1.98 per share;
- 610,007 shares of common stock issuable upon exercise of outstanding warrants with a weighted-average exercise price of $1.80 per share;
- 1,092,693 shares issuable beginning June 12, 2004 upon exercise of outstanding warrants with an exercise price of $0.01 per share, which number of shares automatically increases on a monthly basis until the earlier of the closing of this offering or June 30, 2006 to a maximum increase in shares issuable upon exercise of outstanding warrants of 2,733,326, as more fully described in "Description of Capital Stock;" and
- 7,021,109 shares of common stock authorized for future issuance under our stock incentive plan.

Dilution

DILUTION

If you invest in our common stock, your interest will be diluted to the extent of the difference between the public offering price per share of our common stock and the pro forma net tangible book value per share of our common stock upon the completion of this offering. The pro forma net tangible book value attributable to our common stock as of March 31, 2004 was $ million, or $ per share. Our pro forma net tangible book value assumes the automatic conversion of our outstanding shares of convertible preferred stock into shares of our common stock immediately upon the closing of this offering and assumes the exercise of warrants to purchase 939,929 shares of our common stock that will terminate if not exercised prior to the closing of this offering.

Net tangible book value per share of common stock is determined by dividing the number of outstanding shares of common stock into the pro forma net tangible book value attributable to our common stock, which is our total tangible assets less our total liabilities. After giving effect to the sale of common stock by us in this offering at an assumed initial public offering price of $ per share and after deducting the estimated underwriting discount and offering expenses payable by us, the adjusted pro forma net tangible book value attributable to our common stock as of March 31, 2004 would have been approximately $ million, or $ per share. This represents an immediate increase in pro forma net tangible book value of $ per share to the holders of our existing common stock and an immediate dilution of $ per share to new investors purchasing shares of common stock at the initial public offering price.

Assumed initial public offering price per share	$
Pro forma net tangible book value per share as of March 31, 2004	$
Increase in pro forma net tangible book value	
Pro forma net tangible book value per share after this offering	
Dilution in pro forma net tangible book value per share to new investors	$

The following table summarizes, on a pro forma basis as of March 31, 2004, the differences between the number of shares of common stock purchased from us, the total consideration paid and the average price per share paid by existing stockholders and by the new investors in this offering at an assumed initial public offering price of $ per share, before deducting estimated underwriting discounts and commissions and offering expenses payable by us.

	Shares Purchased		Total Consideration		Average
	Number	Percent	Amount	Percent	Price PerShare
Existing stockholders	76,441,551	%	$81,389,000	%	$1.06
New investors		%		%	
Total		100.0 %		$100.0 %	

If the underwriters' over-allotment option is exercised in full, the following will occur:

- the number of shares of common stock held by existing stockholders would represent approximately % of the total number of shares of our common stock outstanding after this offering; and
- the number of shares held by new investors would increase to , or approximately % of the total number of shares of our common stock outstanding after this offering.

The foregoing table assumes no exercise of stock options or warrants, other than warrants to purchase 939,929 shares of common stock that will terminate if not exercised prior to the closing of this offering. As of March 31, 2004, there were options outstanding to purchase 11,471,316 shares of common stock at a weighted-average exercise price of $1.98 per share and warrants outstanding to purchase 610,007 shares of common stock at a weighted-average exercise price of $1.80 per share. To the extent outstanding options or warrants having an exercise price that is less than the offering price of this offering are exercised, new investors will experience further dilution.

Selected Consolidated Financial Information

SELECTED CONSOLIDATED FINANCIAL INFORMATION The following tables set forth certain of our historical consolidated financial data as of December 31, 1999, 2000, 2001, 2002, 2003 and for the period from October 26, 1999, the date we began operations, through December 31, 1999, and the years ended December 31, 2000, 2001, 2002, 2003 and as of March 31, 2004 and for each of the three month periods ended March 31, 2003 and 2004. The statement of operations data set forth below for each of the three years ended December 31, 2003 and the balance sheet data as of December 31, 2002 and 2003, are derived from, and qualified by reference to, our audited consolidated financial statements included elsewhere in this prospectus. The statement of operations data set forth below for the period from October 26, 1999, the date we began operations, through December 31, 1999 and the year-ended December 31, 2000 and the balance sheet data as of December 31, 1999, 2000 and 2001 are derived from audited financial statements not included in this prospectus. We derived our selected consolidated financial data as of March 31, 2004 and for each of the three month periods ended March 31, 2003 and 2004 from our unaudited consolidated financial statements included elsewhere in this prospectus. Due to fluctuations in our quarterly operating results as a result of seasonality and other factors, the results of operations for the three months ended March 31, 2004 are not necessarily indicative of the results that may be expected for the full year ending December 31, 2004, or any future period.

You should read the following selected consolidated financial information together with "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our audited consolidated financial statements and the related notes thereto included elsewhere in this prospectus. The pro forma basic and diluted net income per share data reflect the conversion of all outstanding shares of convertible preferred stock into common stock immediately upon the closing of this offering and the issuance of 939,929 shares of common stock upon the cash exercise of outstanding warrants that will expire if not exercised prior to the closing of this offering. See Note 2(q) of the accompanying notes to our consolidated financial statements for the calculation of weighted average shares outstanding used in computing pro forma basic and diluted net loss per share.

	October 26, 1999 (Commencement of Operations) toDecember 31, 1999	Year Ended December 31,				Three Months Ended March 31,	
		2000	2001	2002	2003	2003	2004
						(unaudited)	
	(in thousands, except per share and share amounts)						
Consolidated Statements of Operations Data							
Revenues:							
Wireless activation and services	$—	$499	$9,278	$69,194	$74,423	$14,055	$23,502
MVNO and data services	—	—	3,806	13,402	41,157	7,548	12,718
MVNO equipment	—	—	—	440	3,811	375	1,785
Total revenues	—	499	13,084	83,036	119,391	21,978	38,005
Cost of revenues:							
Wireless activation and services	—	504	6,895	30,129	45,359	8,381	14,611
MVNO and data services	—	—	3,189	8,501	21,270	3,803	6,034
MVNO equipment	—	—	—	763	9,884	788	2,330
Total cost of revenues	—	504	10,084	39,393	76,513	12,972	22,975
Gross profit (loss)	—	(5)	3,000	43,643	42,878	9,006	15,030
Operating expenses:							
General and administrative—excluding depreciation and amortization and stock-based compensation	904	4,540	12,907	23,588	36,904	7,703	9,936
Sales and marketing—excluding depreciation and amortization and stock-based compensation	—	3,303	5,023	17,578	30,344	5,730	10,002
Depreciation and amortization	—	60	487	2,600	5,434	988	1,609
Impairment of goodwill and intangibles	—	—	—	3,315	2,431	1	—
Stock-based compensation	—	947	1,697	5,095	3,611	846	224
Total operating expenses	904	8,850	20,114	52,176	78,724	15,268	21,771
Loss from operations	(904)	(8,855)	(17,114)	(8,533)	(35,846)	(6,262)	(6,741)

Other income (expense)							
Interest income	3	116	155	289	287	65	64
Interest expense	—	(94)	(300)	(737)	(1,408)	(233)	(176)
Total other income (expense)	3	22	(145)	(448)	(1,121)	(168)	(112)
Net loss	$(901)	$(8,833)	$(17,259)	$(8,981)	$(36,967)	$(6,430)	$(6,853)
Net loss attributable to common stockholders	$(901)	$(9,471)	$(19,308)	$(17,029)	$(44,276)	$(9,288)	$(8,968)
Basic and diluted net loss per share	$(0.04)	$(0.42)	$(0.81)	$(0.55)	$(1.32)	$(0.29)	$(0.27)
Basic and diluted weighted average shares outstanding	21,250,000	22,679,000	23,907,209	31,219,752	33,614,372	31,952,818	34,645,014

	As of December 31,						
	1999	2000	2001	2002	2003	As of March 31,2004	Pro Forma as ofMarch 31,2004
						(unaudited)	
	(in thousands)						
Consolidated balance sheet data							
Cash and cash equivalents	$465	$2,524	$13,936	$12,626	$29,048	$25,290	
Working capital (deficit)(1)	(860)	(611)	872	5,277	859	(5,902)	
Total assets	476	3,800	28,921	47,109	64,189	59,496	
Total debt	697	952	3,619	6,670	6,879	6,725	
Total long-term debt	—	—	2,213	6,276	2,804	2,708	
Redeemable preferred stock	—	8,812	25,498	36,297	67,794	69,941	
Non-redeemable preferred stock	—	500	1,188	3,325	5,209	5,209	
Common stock	45	58	90	133	161	161	
Total stockholders' deficit	(856)	(8,609)	(21,349)	(19,978)	(52,147)	(60,908)	

(1) Working capital (deficit) consists of total current assets, including cash and cash equivalents, less total current liabilities.

Management's Discussion and Analysis of Financial Condition and Results of Operations

MANAGEMENT'S DISCUSSION AND ANALYSIS

Of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes that appear elsewhere in this prospectus. In addition to historical consolidated financial information, the following discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this prospectus, particularly in "Risk Factors."

Overview

We are a leading online seller of wireless services and devices. We sell these services and devices through private-labeled websites that we create and manage for online businesses, affinity organizations and national retailers, whom we refer to collectively as marketers. We also sell services and devices through our own branded websites, including Wirefly.com. We also operate as a mobile virtual network operator, or MVNO, under our Liberty Wireless brand, marketing and selling to consumers wireless airtime services that we purchase wholesale from a national wireless carrier. Additionally, we sell a variety of wireless data services. We have developed a proprietary e-commerce platform that integrates merchandising, provisioning, procurement, customer care and billing into a single system for the online sale of wireless services and devices. Our five largest sources of customers include Yahoo, Quixtar, MSN and AOL, for whom we create and manage private-labeled websites, and Google, from whom we purchase advertising.

In recent years, wireless communication services have grown significantly in the United States fueled by enhanced convenience, mobility and affordability. Notwithstanding this growth, wireless carriers are facing increasing competition, excess network capacity as well as new challenges resulting from wireless local number portability. To combat these challenges, wireless carriers are turning to the Internet as a cost-effective and growing channel to acquire new customers, allowing them to boost profitability and increase their return on investment. For consumers, the Internet represents a convenient way to purchase wireless services and devices at a lower cost. In addition to the growth in traditional post-paid services, the wireless services industry has recently seen growth in pre-paid and other non-post-paid service plans. Furthermore, the wireless services industry is experiencing the emergence of MVNO service models, through which third parties are able to market and sell wireless service plans without having to own and operate the underlying wireless network.

We measure success based on our financial results as well as various non-financial measures. Among the key financial factors upon which management focuses in reviewing performance are growth in revenues, gross profit margin and operating income. We believe that our online business model allows us to maintain a lower cost structure than traditional wireless retail stores, allowing us to pass these savings onto our customers. Our financial results, including our revenues, gross profit margin and operating income can, and do, vary significantly from quarter to quarter as a result of a number of factors, many of which are beyond our control. These factors include the seasonality of our revenues, economic conditions specific to the Internet and online e-commerce and wireless services industries, our ability to attract visitors to our websites, changes in wireless carrier commission and bonus structures, the timing of recognition of bonuses paid to us by wireless carriers and our competitors' pricing and marketing strategies.

Among the key non-financial measures of our success are customer feedback and customer satisfaction ratings compiled by third parties. We believe that maintaining high overall customer satisfaction is critical to our ongoing efforts to promote the use of the private-labeled websites that we create and manage for our marketers, as well our own branded websites, and to improve our operating results. We actively solicit customer feedback on our website functionality as well as the entire purchase experience. To maintain a high level of performance by our customer service representatives, we also undertake an ongoing customer feedback process. If we are unable to meet customer expectations with respect to price or do not successfully expand our product lines or otherwise fail to maintain high overall customer satisfaction, our business and results of operations would be harmed.

We manage our business through three reportable segments: wireless activation and services, MVNO services and data services. Through our wireless activation and services segment, we sell and activate wireless services and devices through private-labeled websites that we create and manage for marketers as well through our own branded websites. The wireless carriers pay us commissions and bonuses for activating these wireless services. In connection with these activations, we provide customers with wireless devices and accessories at significant discounts. In our MVNO services segment, we operate as an MVNO, and market and sell to consumers our own branded wireless services based on wireless airtime minutes that we purchase wholesale from Sprint. We sell devices to consumers in connection with the sale of MVNO services. We also sell a variety of wireless data services through our data services segment.

The following is a summary of our results of operations for our reportable segments for the three months ended March 31, 2003 and 2004 and the three years ended December 31, 2001, 2002 and 2003:

	Year Ended December 31,			Three Months Ended, March 31,	
	2001	2002	2003	2003	2004
				(unaudited)	
Revenues:	(in thousands)				
Wireless activation and services	$9,278	$ 69,194	$74,423	$14,055	$23,502
MVNO services	—	5,621	36,060	5,791	12,521
Data services	3,806	8,221	8,908	2,132	1,982
Total revenues	13,084	83,036	119,391	21,978	38,005
Gross profit:					
Wireless activation and services	2,383	39,065	29,064	5,674	8,891
MVNO services	—	2,194	8,838	2,707	4,828
Data services	617	2,384	4,976	625	1,311
Total gross profit	$3,000	$43,643	$42,878	$9,006	$15,030

Since we began operations in 1999, we have grown our business, expanded our services and broadened our customer base through internal growth and acquisitions. To date, we have completed four material acquisitions. In December 2001, we acquired the assets of GadgetSpace, Inc. for approximately $4.9 million in cash and stock. We completed this transaction to enhance our wireless email and data applications offerings in our data services segment. In January 2002, we acquired the assets of Reason, Inc. for approximately $4.2 million in stock. This acquisition provided us with wireless cost management software for our wireless activation and services segment. In February 2002, we acquired the assets of Simplexity, Inc. for approximately $8.1 million in cash and stock. This acquisition expanded our marketer relationships in our wireless activation and services segment. In May 2003, we acquired the assets of Avesair, Inc. for approximately $3.5 million in cash and stock. We completed this transaction to enhance our mobile marketing platform in our data services segment.

One of our key goals is to reduce the costs of our operations. As part of those efforts, we have entered into agreements to outsource portions of our customer support activities. In addition, we have further reduced costs associated with our customer service operations by deploying an advanced interactive voice response system and developing web-based customer care services and tools.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements and the related notes, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these consolidated financial statements and the related notes requires us to make estimates and judgments that affect the reported amount of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making the judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Because this can vary in each situation, actual results may differ from the estimates under different assumptions and conditions. The most significant of such estimates include:

Ÿ reserve for future deactivations;

- allowance for uncollectible accounts;
- allowance for rebates;
- valuation of inventory;
- estimated useful life of assets;
- impairment of long-lived assets and goodwill;
- valuation of deferred tax assets;
- reserves for contingent tax liabilities; and
- valuation of equity instruments.

We believe the following critical accounting policies affect our more significant judgments used in the preparation of our consolidated financial statements.

Revenues

Wireless Activation and Services. We generate revenues from wireless carriers who pay us commissions, as well as volume and performance-based bonuses for activating wireless services on their networks. We may also charge for devices, shipping and handling. We do not sell wireless devices separate from service plans.

We recognize commissions from wireless carriers upon shipment of activated devices to the customer. Our revenues are reduced for estimated deactivations of the wireless services by customers prior to the expiration of a time period that ranges from 90 to 180 days from the date of activation, depending on the wireless carrier. We estimate deactivations based on historical experience. Some wireless carriers pay us bonuses for meeting specified volumes of activations, and/or achieving certain performance measurements such as customer base attrition. We bill the carriers for these bonuses on a monthly basis, and the carriers typically pay us in advance of the bonuses being fully earned. We record these bonuses as deferred revenue at the time of billing until they are earned. In the case of bonuses based upon other performance measurements, including volume-based bonuses, we recognize revenues during the course of the year based upon whether we are on target to meet the specified performance measurement. For 2003 and 2004, we deferred 100% of the revenues related to annual volume-based bonuses during the first quarter of each year. This resulted in the recognition of a disproportionate amount of volume bonuses during the second half of 2003. We expect this to recur in 2004. In 2003, we recognized $7.0 million in annual volume bonuses. In connection with wireless activations, we sell the customer the wireless devices at a significant discount, which may be in the form of a rebate. Rebates are recorded as a reduction of revenues. We recognize net revenues based on our historical experience of rebates claimed. Future experience could vary based upon rates of consumers redeeming rebates.

From October 1999 through March 2002, the provisions of Securities and Exchange Commission Staff Accounting Bulletin No. 101, *Revenue Recognition in Financial Statements*, or SAB No. 101, required us to defer 100% of our revenues from carriers until the expiration of any applicable commission chargeback period which typically ranges from 90 to 180 days depending on the wireless carrier. SAB No. 101 required us to recognize these deferred revenues once we had experienced two years of operating history with the wireless carriers. Beginning in March 2002, we had sufficient historical evidence to accurately estimate and reserve for future deactivations. As a result, in the three months ended March 31, 2002, we recorded the cumulative revenues previously deferred and provided a reserve for future deactivations based on historical experience. SAB No. 101 also required that we defer, during our first two years of operations, the revenues for purchases of wireless devices, including accessories and shipping, until the expiration of the return period, which was generally 30 days.

MVNO and Data Services MVNO Services. We sell wireless services under our Liberty Wireless brand. We generate revenues from our customers for monthly recurring usage of wireless airtime minutes and optional features, including voicemail and text messaging. In addition, we bill customers for airtime usage in excess of the monthly minutes included in each customer's monthly service plan. MVNO services revenues also include non-recurring activation service charges to customers to the extent not allocated to wireless device revenues, which is included in MVNO equipment revenues. Our MVNO services are provided on a month-to-month basis and are generally paid in advance.

Amounts paid in advance for MVNO services are recorded as deferred revenue and recognized in the month that the services are provided. For those customers paying for service all or in part on a post-paid basis, we recognize revenues for customers whose service has been discontinued for non-payment based upon our historical collection experience.

Beginning July 1, 2003, we adopted the provisions of Emerging Issues Task Force, or EITF, Issue No. 00-21 for sales arrangements with multiple deliverables with respect to our MVNO services. As a result, we are required to account for the sale of a device separately from the provision of services to the customer. Accordingly, we recognize the portion of the fee attributable to the device revenue and related costs, including activation, when the device is delivered to the customer to the extent cash is received in advance. We defer the portion of the fee attributable to the provision of services, and recognize these deferred fees and costs on a straight-line basis over the term of the services. We use the residual value method in allocating revenues between service revenues and device sales.

In some indirect distribution arrangements, the fee attributable to the provision of services exceeds the total consideration received. In these circumstances, the entire fee is deferred and recognized on a straight-line basis over the term of service when the end-customer activates the service.

Data Services. We sell data services, including a service that allows customers to access email, voicemail, facsimiles, contacts and personal calendar information through a website or a telephone; wireless email; and mobile marketing services.

Revenues for data services are recognized when the services are performed.

MVNO Equipment. We sell wireless devices and accessories in connection with our MVNO services. This equipment is also sold to indirect retailers to facilitate distribution to our MVNO services customers.

Revenues from the sale of devices and accessories in connection with our MVNO services are recognized at the time of sale. The revenue of wireless devices sold to indirect retailers are recognized when they are sold to the indirect retailers. Customers have the right to return devices within a specific period of time or usage, whichever occurs first. We provide an allowance for estimated returns on devices based on historical experience. Return rights of indirect retailers for wireless devices are limited to warranty claims, which are generally covered by the device manufacturers' original warranty.

Cost of Revenues

The major components of our cost of revenues, excluding depreciation and amortization, are:

Wireless Activation and Services. Cost of wireless activation and services revenues includes the costs of the wireless devices and accessories that are bundled with each service plan activation, as well as the cost of shipping. Costs of the wireless devices and accessories that are bundled with each service plan activation and the shipping costs are recognized at the time of shipment.

MVNO and Data Services. Cost of MVNO and data services revenues includes the amounts paid to Sprint for airtime and amounts paid to providers of telecommunications and data center services for our data services segment. Amounts paid to wireless carriers for airtime, overage and activations are recognized when the services are performed.

MVNO Equipment. We purchase wireless devices and accessories from wireless carriers, device manufacturers and third-party vendors to sell to our customers and indirect retailers in connection with our MVNO services. We subsidize the sale of wireless devices and accessories to encourage the sale and use of our services. We do not manufacture any of this equipment.

Costs from the sale of wireless devices and accessories sold directly to MVNO services customers are recognized at the time of sale. Cost of wireless devices and accessories sold to indirect retailers are recognized when they are shipped to the indirect retailers.

Operating Expenses

General and Administrative Expenses. General and administrative expenses, excluding depreciation and amortization, include salaries and benefits and related costs for support functions, including information technology, customer care, credit processing and activations, fulfillment, operations, billing, finance, accounting, human resources, management, professional services and bad debt expense. We expect to have increased general and administrative costs associated with being a public company, including higher legal, auditing, administrative support and insurance expenses. General and administrative expenses exclude stock-based compensation and depreciation and amortization.

Sales and Marketing Expenses. Our sales and marketing expenses, excluding depreciation and amortization, include advertising and promotional costs associated with acquiring customers and compensation and benefits for sales and marketing personnel. These costs principally include marketing expenses paid for advertising and fees paid to marketers for sales through their private-labeled websites that we create and manage. We anticipate that sales and marketing expenses will increase as we further expand our marketing efforts but will decrease as a percentage of revenues. Sales and marketing expenses exclude stock-based compensation and depreciation and amortization.

Depreciation and Amortization. Depreciation and amortization principally includes depreciation costs associated with computers and equipment, software, leasehold improvements, furniture and fixtures and amortization of acquired intangibles and capitalized software. Depreciation is applied using the straight-line method over the estimated useful lives of the assets once the assets are placed in service, which are three to seven years for computers and equipment, software, furniture and fixtures and leasehold improvements.

Stock-based Compensation. Our stock-based compensation expenses relate to option grants to employees and directors in situations where the exercise price was less than the deemed fair value of our common stock at the date of grant. Our stock-based compensation also includes charges relating to warrants granted to vendors and non-employees. We granted additional options in May 2004 which will increase stock-based compensation by an aggregate of $5.0 million. Based upon outstanding options through May 2004, we expect to amortize stock-based compensation of $1.5 million, $2.0 million, $1.8 million and $1.5 million, in 2004, 2005, 2006 and 2007, respectively.

We have separately disclosed stock option compensation throughout this discussion and in our financial statements and we have shown a reconciliation of stock option compensation as it relates to sales and marketing and general and administrative expenses on the statement of operations because in managing our operations we believe such costs significantly affect our ability to better understand and manage other operating expenses and cash needs.

Interest Income. Interest income is earned primarily on our cash and cash equivalents.

Interest Expense. Interest expense consists of interest on our term loan, revolving credit facility and capital lease obligations. We intend to repay all of our outstanding debt using net proceeds from this offering.

Inventory Valuation. Inventories, consisting of wireless devices and accessories available for sale, are accounted for using a method that approximates FIFO, and are valued at the lower of cost or market value. We record a valuation allowance to adjust the carrying amount of our inventories to lower of cost or market value.

Capitalization of Development Costs. We capitalize the cost of developing software for internal use as well as website development in accordance with Statement of Position, or SOP, No. 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use,* and EITF No. 00-2, *Accounting for Web Site Development Costs.* The capitalized costs include direct labor costs and the cost of outside consultants and purchased software. We amortize these costs over periods between 18 months and three years.

Stock-based Compensation. We account for stock-based employee compensation arrangements in accordance with the provisions of Accounting Principles Board, or APB, Opinion No. 25, *Accounting for Stock Issued to Employees*, and comply with the disclosure provisions of Statement of Financial Accounting Standard, or SFAS, No. 123, *Accounting for Stock-Based Compensation*, as amended by SFAS No. 148, *Accounting for Stock-Based Compensation — Transition and Disclosure, Amendment to* SFAS No. 123. Under APB No. 25, compensation expense is based on the difference, if any, on the date of grant, between the fair value of the stock and the exercise price of the option. We account for stock and stock options issued to non-employees in accordance with the provisions of EITF Consensus on Issue No. 96-18, *Accounting for Equity Instruments that are Issued to Other than Employees for Acquiring or in Conjunction with Selling, Goods or Services*. Compensation and services expense are recognized over the vesting period of the options or the periods the related services are rendered, as appropriate.

Goodwill and Intangible Assets. Effective January 1, 2002, we adopted SFAS No. 142, *Goodwill and Other Intangible Assets*. Under this standard, goodwill and intangible assets deemed to have indefinite lives are not amortized and are subject to annual impairment tests. We have elected to perform the impairment test annually as of December 31 of each year. An interim goodwill impairment test is performed if an event occurs or circumstances change between annual tests that would more likely than not reduce the fair value of a reporting unit below its carrying amount. If facts and circumstances indicate goodwill may be impaired, we perform a recoverability evaluation based upon a determination of fair value.

Impairment of Long-Lived Assets. In accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, we review our long-lived assets, including property and equipment, capitalized software development costs and identifiable intangible assets for impairment, whenever events or changes in circumstances indicate that the carrying amount of the assets may not be fully recoverable. To determine the recoverability of our long-lived assets, we evaluate the probability that future estimated undiscounted net cash flows will be less than the carrying amount of the intangible assets. If we determine that the assets are impaired, the assets are written down to their fair value.

For purposes of measuring and recognizing impairment of long-lived assets, we assess whether separate cash flows can be attributed to the individual asset. We group our long-lived assets by business unit where separately identifiable cash flows are available. In the event that long-lived assets, including intangibles are abandoned or otherwise disposed of, we recognize an impairment charge upon disposition. For our customer relationship intangible assets, we measure and recognize impairment upon the termination or loss of a customer that results in a loss of revenue.

The calculation of fair value in accordance with SFAS Nos. 142 and 144 includes a number of estimates and assumptions, including projections of future income and cash flows, the identification of appropriate market multiples and the choice of an appropriate discount rate. Our estimates of anticipated future income and cash flows used in determining fair value could be reduced significantly in the future due to changes in technologies, regulation, available financing, competition or other circumstances. As a result, the carrying amount of our long-lived assets could be reduced through impairment charges in the future. Additionally, changes in estimated future cash flows could result in a shortening of estimated useful lives for long-lived assets including intangibles.

Income Taxes. To date, we do not have any income tax expense or benefit because we provide a full valuation allowance against our net deferred tax assets. We account for income taxes under the asset and liability method. We recognize tax assets and liabilities for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. We measure deferred tax assets and liabilities using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized as a component of net income in the period that includes the enactment date.

As of December 31, 2003, we had approximately $69.0 million of net operating loss carryforwards, which may be available to offset any future taxable income, subject to ownership change limitations. Net operating loss carryforwards may be used to offset up to 90% of our alternative minimum taxable income. Alternative minimum taxes are allowed as credit carryovers against regular tax in the future in the event that the regular tax exceeds alternative minimum tax expense. The net operating loss carryforwards will begin to expire in 2019. Certain of these net operating losses obtained through our acquisitions are not included in the components of the deferred tax assets, as the use of these losses will be significantly limited under Section 382 of the Internal Revenue Code.

The following table sets forth selected consolidated statements of operations data for each of the periods indicated as a percentage of total revenues:

	Year Ended December 31,			Three Months EndedMarch 31,	
	2001	2002	2003	2003	2004
				(unaudited)	
Revenues:					
Wireless activation and services	71%	83%	62%	64%	62%
MVNO and data services	29	16	35	34	33
MVNO equipment	—	1	3	2	5
Total revenues	100	100	100	100	100
Cost of revenues:					
Wireless activation and services	53	36	38	38	38
MVNO and data services	24	10	18	17	16
MVNO equipment	—	1	8	4	6
Total cost of revenues	77	47	64	59	60
Gross profit	23	53	36	41	40
Operating expenses:					

General and administrative, excluding depreciation and amortization and stock-based compensation	99	28	31	35	26
Sales and marketing, excluding depreciation and amortization and stock-based compensation	38	21	25	26	26
Depreciation and amortization	4	3	5	4	4
Impairment of goodwill and intangibles	—	4	2	—	—
Stock-based compensation	13	6	3	4	1
Total operating expenses	154	63	66	69	57
Operating loss	(131)	(10)	(30)	(28)	(18)
Other expense	(1)	(1)	(1)	(1)	—
Net loss	(132)%	(11)%	(31)%	(29)%	(18)%

Comparison of Three Months Ended March 31, 2004 and March 31, 2003

Revenues

Wireless Activation and Services Our revenues from wireless activation and services increased 67% to $23.5 million for the three months ended March 31, 2004, from $14.1 million for the three months ended March 31, 2003. The increase was primarily attributable to an increased number of activations resulting from increased marketing efforts and to a lesser degree, higher commissions per activation from the wireless carriers.

MVNO and Data Services Our revenues from MVNO and data services increased 69% to $12.7 million for the three months ended March 31, 2004, from $7.5 million for the three months ended March 31, 2003. Revenues for our Liberty Wireless service were $10.7 million and $5.4 million for the three months ended March 31, 2004 and 2003, respectively. The increase was primarily attributable to an increase in the number of subscribers to our Liberty Wireless service. Revenues related to our data services remained relatively constant with higher revenues per subscriber offsetting a decrease in the number of subscribers of our data services. We do not expect the number of subscribers to our data services to increase until the release of a new version of our unified communications data services that we expect will occur in the third quarter of 2004.

MVNO Equipment

Our revenues from MVNO equipment increased 380% to $1.8 million for the three months ended March 31, 2004, from $375,000 for the three months ended March 31, 2003 due to an increased number of subscribers and higher sales price per device. MVNO equipment revenues can vary from period-to-period based on our promotional efforts, which includes subsidizing the costs of the devices purchased with our Liberty Wireless service.

Cost of Revenues

Wireless Activation and Services Our cost of revenues from wireless activation and services increased 74% to $14.6 million for the three months ended March 31, 2004, from $8.4 million for the three months ended March 31, 2003. The increase in cost of revenues reflects the significant increase in activations of wireless devices and to a lesser degree, increase in the cost of wireless devices and shipping costs. As a percentage of wireless activation and services revenues, cost of revenues increased from 60% for the three months ended March 31, 2003 to 62% for the three months ended March 31, 2004 due to the bundling of higher cost, more advanced devices.

MVNO and Data Services Our cost of revenues from MVNO and data services increased 58% to $6.0 million for the three months ended March 31, 2004, from $3.8 million for the three months ended March 31, 2003. The increase is attributable to an increase in the number of subscribers to our Liberty Wireless service, which resulted in an increase in total usage of airtime. As a percentage of MVNO and data services revenue, cost of revenues decreased from 51% for the three months ended March 31, 2003 to 47% for the three months ended March 31, 2004 as we achieved a reduction in our average cost per minute by aligning our airtime costs with customer usage and obtaining volume discounts.

MVNO Equipment

Our cost of revenues from MVNO equipment increased 192% to $2.3 million for the three months ended March 31, 2004, from $788,000 for the three months ended March 31, 2003. The increase is attributable to an increase in volume of MVNO equipment sales and an increase in the cost of the MVNO equipment. As a percentage of MVNO equipment revenues, cost of revenues decreased from 210% for the three months ended March 31, 2003 to 128% for the three months ended March 31, 2004 due to the sale of more advanced devices that we were able to sell for higher prices.

Operating Expenses

General and Administrative. Our general and administrative expenses increased 29% to $9.9 million for the three months ended March 31, 2004, from $7.7 million for the three months ended March 31, 2003. General and administrative expenses increased as a result of increased staffing in the MVNO and data services segment to support its growth, offset in part by the effects of automation of customer care services and outsourcing of call center operations.

Sales and Marketing. Our sales and marketing expenses increased 75% to $10.0 million for the three months ended March 31, 2004, from $5.7 million for the three months ended March 31, 2003. The increase primarily reflects a change in marketing mix from email marketing to higher-cost Internet advertising.

Depreciation and Amortization. Our depreciation and amortization expenses increased 60% to $1.6 million for the three months ended March 31, 2004, from $988,000 for the three months ended March 31, 2003. The increase resulted from the costs associated with developing new functionality and launching our Wirefly.com website and acquisition-related amortization of intangibles.

Stock-based Compensation. Our stock-based compensation expense decreased to $224,000 for the three months ended March 31, 2004, from $846,000 for the three months ended March 31, 2003. The decrease in stock-based compensation expense is due to the decrease in the deemed fair value of our underlying common stock partially offset by grants of additional stock options.

Comparison of Years Ended December 31, 2003 and December 31, 2002

Revenues

Wireless Activation and Services Our revenues from wireless activation and services increased 8% to $74.4 million for 2003, from $69.2 million for 2002. The increase was primarily attributable to an increased number of activations and higher commission per activation. From October 1999 through March 2002, the provisions of Securities and Exchange Commission Staff Accounting Bulletin No. 101 Revenue Recognition, or SAB No. 101, required us to defer 100% of our revenues from carriers until the expiration of any applicable deactivation period, which typically ranges from 90 to 180 days depending on the wireless network carrier. This deferral resulted in a reduction in commissions revenue. SAB No. 101 required us to recognize these deferred revenues once we had experienced two years of operating history with the carriers. As a result, revenues for 2002 included approximately $11.8 million of previously deferred wireless carrier revenues.

MVNO and Data Services Our revenues from MVNO and data services increased 207% to $41.2 million for 2003, from $13.4 million for 2002. Revenues for our Liberty Wireless service were $32.3 million and $5.2 million for 2003 and 2002, respectively. The increase in our revenues is due to the launch of our Liberty Wireless service in August 2002. Data service revenues remained relatively constant with higher revenues per subscriber offsetting a decrease in the number of subscribers.

MVNO Equipment

Our revenues from MVNO equipment increased 764% to $3.8 million for 2003, from $440,000 for 2002. The increase was primarily attributable to increased revenues from our Liberty Wireless service which was launched in August 2002.

Cost of Revenues

Wireless Activation and Services Our cost of revenues from wireless activation and services increased 51% to $45.4 million for 2003, from $30.1 million for 2002. The increase in cost of revenues reflects the significant increase in activations of wireless services as we expanded operations. Costs for 2002 included approximately $2.0 million related to the $11.8 million of previously deferred wireless carrier revenues recognized in 2002. As a percentage of wireless activation and services revenues, cost of revenues increased from 43% in 2002 to 61% in 2003 due to an increase in the number of activations and higher phone costs and an increase in deactivations.

MVNO and Data Services Our cost of revenues from MVNO and data services increased 151% to $21.3 million for 2003, from $8.5 million for 2002. The increase was primarily attributable to amounts paid for wireless airtime minutes in connection with our increase in Liberty Wireless subscribers.

MVNO Equipment

Our cost of revenues from MVNO equipment increased 1198% to $9.9 million for 2003, from $763,000 for 2002. The increase in cost of revenues was attributable to increased costs of equipment and shipping from our Liberty Wireless service which was launched in August 2002. As a percentage of MVNO equipment revenues, the cost of revenues increased in 2003 as we increased the discount on equipment prices that we offered new subscribers in order to drive increased revenues.

Operating Expenses

General and Administrative. Our general and administrative expenses increased 56% to $36.9 million for 2003, from $23.6 million for 2002. The increase primarily reflects increased head count and the overall growth in our infrastructure to support our increased revenues. General and administrative expenses for 2002 included a write-off of $1.3 million in expenses relating to our postponed initial public offering.

Sales and Marketing. Our sales and marketing expenses increased 72% to $30.3 million for 2003, from $17.6 million for 2002. The increase primarily reflects an increase in marketing fees paid to our marketers. The increase in sales and marketing as a percentage of revenue is a result of the impact of the change in our accounting method relating to deactivations and increased sales and marketing expenses.

Depreciation and Amortization. Our depreciation and amortization expenses increased 108% to $5.4 million for 2003, from $2.6 million for 2002. The increase resulted from the development costs associated with the launching of our Wirefly.com website and acquisition related amortization of intangibles.

Impairment of Goodwill and Intangibles. Our impairment of goodwill and intangibles expenses decreased 27% to $2.4 million for 2003 from $3.3 million for 2002. Impairment expenses in 2003 related to the write-off of intangible assets acquired in connection with our acquisition of GadgetSpace. Impairment expenses in 2002 related to the write-off of intangible assets acquired in connection with our acquisition of Reason.

Stock-based Compensation. Our stock-based compensation expense decreased 29% to $3.6 million for 2003, from $5.1 million for 2002. The decrease reflects a decrease in the estimated fair value of our underlying common stock.

Comparison of Years Ended December 31, 2002 and December 31, 2001

Revenues

Wireless Activation and Services Our revenues from wireless activation and services increased 644% to $69.2 million for 2002, from $9.3 million for 2001. As a result of the impact of the change in our accounting method for deactivations, revenues for 2002 included approximately $11.8 million of previously deferred wireless carrier revenues. The increase was primarily attributable to an increased number of activations and higher commission per activation and to a lesser extent, our revenues from the acquisition of Simplexity.

MVNO and Data Services Our revenues from MVNO and data services revenues increased 253% to $13.4 million for 2002, from $3.8 million for 2001. Revenues for our Liberty Wireless service were $5.2 million for 2002. There were no Liberty Wireless service revenues in 2001. The increase in data services revenues was primarily attributable to revenues from our acquisitions of GadgetSpace.

MVNO Equipment

Our revenues from MVNO equipment increased to $440,000 for 2002. We had no MVNO equipment revenues in 2001 as the Liberty Wireless service was not launched until August 2002.

Cost of Revenues

Wireless Activation and Services Our cost of revenues from wireless activation and services increased 336% to $30.1 million for 2002, from $6.9 million for 2001. Costs for 2002 included approximately $2.0 million related to the $11.8 million of previously deferred wireless carrier revenues recognized in 2002. The increase in cost of revenues reflects the significant increase in activations and shipments of wireless devices as we expanded operations and to a lesser extent, the costs associated with Simplexity's operations.

MVNO and Data Services Our cost of revenues from MVNO and data services increased 166% to $8.5 million for 2002, from $3.2 million for 2001. Our costs increased primarily as a result of the launch of our Liberty Wireless service in August 2002.

MVNO Equipment

Our cost of revenues from MVNO equipment were $763,000 for 2002. We had no cost of revenues from MVNO equipment in 2001 as Liberty Wireless service was not launched until August 2002.

Operating Expenses

General and Administrative. Our general and administrative expenses increased 83% to $23.6 million for 2002, from $12.9 million for 2001. The increase primarily reflects increased headcount and the overall growth in our infrastructure to support our increased revenues. Our general and administrative expenses increased from our acquisitions of Reason, GadgetSpace and Simplexity as well as $1.3 million in expenses relating to our postponed initial public offering.

Sales and Marketing. Our sales and marketing expenses increased 252% to $17.6 million for 2002, from $5.0 million for 2001, as a result of our increase in sales.

Depreciation and Amortization. Our depreciation and amortization expenses increased 434% to $2.6 million for 2002, from $487,000 for 2001. The increase reflects increased capital spending, website development and the amortization of acquired intangibles.

Impairment of Goodwill and Intangibles. Our impairment of goodwill and intangibles was $3.3 million for 2002 which related to the write-off of intangibles from our acquisition of Reason in January 2002. We had no such expense in 2001.

Stock-based Compensation. Our stock-based compensation expense increased 200% to $5.1 million for 2002, from $1.7 million for 2001. The increase reflects an increase in the estimated fair value of our underlying common stock.

Quarterly Results of Operations

The following tables set forth selected unaudited quarterly consolidated statement of operations data for the nine most recent quarters, as well as the percentage of total revenues for each line item shown. The information for each of these quarters has been prepared on the same basis as the audited consolidated financial statements included in this prospectus and, in the opinion of management, includes all adjustments necessary for the fair presentation of the results of operations for such periods. This data should be read in conjunction with the audited consolidated financial statements and the related notes included in this prospectus. These quarterly operating results are not necessarily indicative of our operating results for any future period.

	Three Months Ended								
	Mar. 31, 2002	June 30, 2002	Sept. 30, 2002	Dec. 31, 2002	Mar. 31, 2003	June 30, 2003	Sept. 30, 2003	Dec. 31, 2003	Mar. 31, 2004
	(unaudited)								
Revenues:	(in thousands)								
Wireless activation and services	$22,117	$14,832	$18,781	$13,463	$14,055	$18,883	$19,899	$21,586	$23,502
MVNO and data services	2,161	1,990	2,956	6,296	7,548	9,288	11,504	12,817	12,718
MVNO equipment	—	—	13	427	375	695	1,496	1,245	1,785
Total revenues	24,278	16,822	21,750	20,186	21,978	28,866	32,899	35,648	38,005
Cost of revenues:									
Wireless activation and services	7,646	7,003	7,290	8,190	8,381	11,146	12,976	12,856	14,611
MVNO and data services	1,354	1,491	1,954	3,702	3,803	5,532	5,495	6,441	6,034
MVNO equipment	—	—	23	740	788	1,922	4,204	2,969	2,330
Total cost of revenues.	9,000	8,494	9,267	12,632	12,972	18,600	22,675	22,266	22,975

Gross profit	15,278	8,328	12,483	7,554	9,006	10,266	10,224	13,382	15,030
Operating expenses:									
General and administrative, excluding depreciation and amortization and stock-based compensation	4,584	4,766	5,966	8,272	7,703	8,570	9,928	10,704	9,936
Sales and marketing, excluding depreciation and amortization and stock-based compensation	2,963	3,406	5,752	5,457	5,730	7,006	8,122	9,485	10,002
Depreciation and amortization	545	765	452	837	988	1,412	1,353	1,681	1,609
Impairment of goodwill and intangibles	—	3,315	—	—	1	(1)	386	2,045	—
Stock-based compensation	2,232	1,186	884	793	846	2,898	(285)	152	224
Total operating expenses	10,324	13,438	13,054	15,359	15,268	19,885	19,504	24,067	21,771
Operating profit (loss)	4,954	(5,110)	(571)	(7,805)	(6,262)	(9,619)	(9,280)	(10,685)	(6,741)
Interest income	51	43	84	112	65	52	88	82	64
Interest expense	(196)	(188)	(157)	(196)	(233)	(235)	(782)	(158)	(176)
Other expense	(145)	(145)	(73)	(84)	(168)	(183)	(694)	(76)	(112)
Net income (loss)	$4,809	$(5,255)	$(644)	$(7,889)	$(6,430)	$(9,802)	$(9,974)	$(10,761)	$(6,853)
Revenues:									
Wireless activation and services	91%	88%	86%	67%	64%	65%	60%	61%	62%
MVNO and data services	9	12	14	31	34	32	35	36	33
MVNO equipment	—	—	—	2	2	2	5	3	5
Total revenues.	100	100	100	100	100	100	100	100	100
Cost of revenues:									
Wireless activation and services	31	42	34	41	38	39	39	36	38
MVNO and data services	6	8	9	18	17	19	17	18	16
MVNO equipment	—	—	—	4	4	6	13	8	6
Total cost of revenues.	37	50	43	63	59	64	69	62	60
Gross profit	63	50	57	37	41	36	31	38	40
Operating expenses:									
General and administrative, excluding depreciation and amortization and stock-based compensation	18	28	27	41	35	30	30	30	26
Sales and marketing, excluding depreciation and amortization and stock-based compensation	12	20	26	27	26	24	25	27	26
Depreciation and amortization	2	5	2	4	4	5	4	5	4
Impairment of goodwill and intangibles	—	20	—	—	—	—	1	6	—
Stock-based compensation	9	7	5	4	4	10	(1)	—	1
Total operating expenses	43	80	60	76	69	69	59	68	57
Operating income (loss)	20	(30)	(3)	(39)	(28)	(33)	(28)	(30)	(18)
Other expense	(1)	(1)	—	—	(1)	(1)	(2)	—	—
Net income (loss)	20%	(31)%	(3)%	(39)%	(29)%	(34)%	(30)%	(30)%	(18)%

The increases in our revenues are generally attributable to the overall growth in our businesses resulting primarily from an increase in wireless activations and MVNO subscribers. As a result of the impact of the change in our accounting method for deactivations, revenues for the first and third quarters of 2002 included previously deferred wireless carrier revenue. Revenues for the fourth quarter of 2002 decreased in part due to an increase in our deactivation reserve.

The decrease in our gross profit as a percentage of revenues beginning in the fourth quarter of 2002 resulted primarily from the launch of our Liberty Wireless service. More recently, beginning in the third quarter of 2003 our gross profit has improved as a result of increased commissions and lower wholesale per minute pricing in our MVNO business.

Our sales and marketing expenses have increased since the fourth quarter of 2002 as a result of higher marketing and advertising expenditures. We increased our marketing and advertising expenditures in order to increase our volume of activations and to improve the brand awareness of our websites.

Our general and administrative expenses as a percentage of revenues have decreased from the quarter ended December 31, 2002 as our revenues have continued to grow and we have benefited from the leverage of our e-commerce platform and operational infrastructure.

Liquidity and Capital Resources

Since inception, we have funded our operations principally through the sale of equity securities and to a lesser extent, subordinated debt, credit facilities and capital leases. The significant components of our working capital are inventory and liquid assets such as cash and trade accounts receivable, reduced by accounts payable, accrued expenses and the current portion of our bank line of credit.

As of March 31, 2004, we had cash and cash equivalents of $25.3 million and debt obligations of $6.7 million. Due to the seasonal nature of our business, cash and cash equivalents, inventory and accounts payable are generally higher in the fourth quarter, resulting in fluctuations in our working capital.

Net cash used by operating activities was $6.6 million, $4.2 million and $5.5 million in 2003, 2002 and 2001, respectively. The increase in cash used by operating activities in 2003 as compared to 2002 was primarily due to an increase in the net loss from operations which was partially offset by an increase in accounts payable and accrued expenses. Net cash used in operating activities during the quarters ended March 31, 2004 and March 31, 2003 was $1.9 million and $1.8 million, respectively. The increase in cash used in operating activities in the quarter ended March 31, 2004 as compared to the quarter ended March 31, 2003 was primarily due to an increase in the net loss from operations and increasing inventory levels which were partially offset by an increase in accounts payable and accrued expenses.

Net cash used by investing activities was $3.3 million, $3.3 million and $1.3 million in 2003, 2002 and 2001, respectively. The increase in cash used by investing activities in 2002 as compared to 2001 was primarily due to an increase in property, plant and equipment attributable to the increase in capitalized labor cost and costs associated with expanding our infrastructure that was offset by cash received from the acquisitions of Reason and Simplexity. The net cash used by investing activities during the quarters ended March 31, 2004 and March 31, 2003 was $1.8 million and $4.8 million, respectively. The decrease in cash used in investing activities in the quarter ended March 31, 2004 as compared to the quarter ended March 31, 2003 was primarily due to a decrease in liabilities attributable to the payoff of our subordinated indebtedness which was partially offset by an increase in the purchase of property, plant and equipment and an increase in capitalized labor cost and costs associated with expanding our infrastructure.

Net cash provided by financing activities was $26.3 million, $6.2 million and $18.2 million in 2003, 2002 and 2001, respectively, and was ($58,000) and $3.5 million for the three months ended March 31, 2004 and 2003, respectively. Net cash provided in each of these periods was primarily attributable to proceeds from the sale of equity securities, subordinated debt, and credit facilities.

We have also borrowed money to finance our operations and purchase equipment. In March 2002, we entered into a line of credit and term loan facility with Comerica Bank, which we subsequently amended in July 2002, September 2002, August 2003 and June 2004. This credit facility currently consists of a $25.0 million revolving line of credit, and a $5.0 million term loan. This facility is secured by a first lien on all of our assets. Our revolving line of credit matures on December 31, 2005 and accrues interest at the London Interbank Offer Rate, or LIBOR, plus 2.75%. Our term loan matures on August 7, 2008 and accrues interest at LIBOR plus 3.00%. As of March 31, 2004, we are in compliance with the financial and non-financial covenants of our facility.

In connection with our loan arrangement with Comerica Bank, we issued warrants to purchase 34,513, 28,846, 75,758, 11,538, 61,244 and 202,423 shares of common stock at exercise prices of $1.13, $1.04, $1.32, $5.20, $1.96 and $6.00 per share in May 2000, January 2001, March 2002, September 2002, August 2003 and June 2004, respectively. These warrants were recorded at their fair value at the date of issuance as a discount to the related debt and are recorded as additional interest expense over the term of the agreements.

We expect to devote substantial resources to continue to expand our customer base, maintain and enhance our e-commerce platform, and focus on customer service. We believe that our existing cash and cash equivalents and our borrowings available under our credit facilities should be sufficient to fund our activities for at least the next twelve months. However, future capital and operating requirements may change and will depend on many factors, including the level of our revenues, the expansion of our sales and marketing activities, the cost of our fulfillment operations, potential investments in businesses or technologies and continued market acceptance of our products. We could be required, or could elect, to seek additional funding through a public or private equity or debt financing in the future, and this financing may not be available on terms acceptable to us, or at all.

Contractual Obligations

The following table summarizes (in thousands) our contractual obligations and the expected effect on liquidity and cash flows.

Contractual Obligations	Total	1-3 Years	4-5 Years	Over 5 Years
Operating leases	$ 4,643	$2,671	$1,633	$339
Debt maturities	6,879	4,075	2,804	—
	$11,522	$6,746	$4,437	$339

Inflation

We believe that inflation has not affected our operations materially.

Qualitative and Quantitative Disclosures About Market Risk

Market risk is the potential loss arising from adverse changes in market prices and rates, including interest rates. We do not enter into derivatives or other financial instruments for trading, speculative or hedging purposes. Our outstanding indebtedness bears interest at LIBOR plus 2.75% and LIBOR plus 3.00% on a revolving line of credit and a term loan, respectively.

Recent Accounting Pronouncements

In December 2003, the SEC issued SAB No. 104, Revenue Recognition which codifies, revises and rescinds certain sections of SAB No. 101, Revenue Recognition, in order to make this interpretive guidance consistent with current authoritative accounting and auditing guidance and SEC rules and regulations. The changes noted in SAB No. 104 did not have a material effect on our results of operations, financial position or cash flows.

In May 2003, the FASB issued SFAS No. 150*, Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*. This statement establishes standards for classifying and measuring as liabilities certain financial instruments that have characteristics of both liabilities and equity. This statement is effective immediately for instruments entered into or modified after May 31, 2003 and for all other instruments that exist as of the beginning of the first interim financial reporting period beginning after June 15, 2003. The provisions of this statement require that any financial instruments that are mandatory-redeemable on a fixed or determinable date or upon an event certain to occur be classified as liabilities. All classes of our redeemable convertible preferred stock may be converted into common stock at the option of the stockholder, and therefore it will not be classified as a liability under the provisions of SFAS No. 150.

In January 2003, the FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities,* or FIN 46, which clarifies the application of Accounting Research Bulletin No. 51 *Consolidated Financial Statements*, to certain entities in which equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. Certain disclosure requirements of FIN 46 are effective for financial statements of interim or annual periods issued after January 31, 2003. FIN 46 applies immediately to variable interest entities created, or in which an enterprise obtains a variable interest, after January 31, 2003. For variable interest entities in which an enterprise holds a variable interest that it acquired before February 1, 2003, FIN 46 applies to the first interim reporting period ending after March 15, 2004. We do not believe that we have invested in any variable interest entities for which we are the primary beneficiary.

In December 2002, the FASB issued SFAS No. 148, *Accounting for Stock-Based Compensation, Transition and Disclosure*. SFAS No. 148 provides alternative methods of transition for a voluntary change to the fair value based method of accounting for stock-based employee compensation. SFAS No. 148 also requires that disclosures of the pro forma effect of using the fair value method of accounting for stock-based employee compensation be displayed more prominently and in a tabular format. Additionally, SFAS No. 148 requires disclosure of the pro forma effect in interim financial statements. We have adopted the transition and annual disclosure requirements of SFAS No. 148 which are effective for fiscal years ending after December 15, 2002 and have elected to continue to account for employee stock options under APB Opinion No. 25. The interim disclosure requirements are effective for interim periods commencing after December 15, 2002. The adoption of this standard did not have a material effect on our financial position, results of operations or cash flows.

FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others,* or FIN 45, was issued in November 2002. FIN 45 requires that upon issuance of a guarantee, the guarantor must disclose and recognize a liability for the fair value of the obligation it assumes under that guarantee. The initial recognition and measurement requirements of FIN 45 are effective for guarantees issued or modified after December 31, 2002. The disclosure requirements of FIN 45 are effective for interim and annual periods ending after December 15, 2002, and are applicable to certain guarantees issued by us before December 31, 2002. We adopted FIN 45 disclosure requirements as of December 31, 2002. The adoption of the provisions for recognition and initial measurement did not have a material impact on our financial position, results of operations or cash flows.

In August 2001, the FASB issued SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, which supersedes Statement No. 121, *Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of*. SFAS No. 144 retains the basic requirements of SFAS No. 121 regarding when to record an impairment loss and provides additional guidance on how to measure an impairment loss. SFAS No. 144 excludes goodwill and intangibles not being amortized from its scope. SFAS No. 144 also supersedes the provisions of APB Opinion No. 30, Reporting the Results of Operations, pertaining to discontinued operations. The provisions of SFAS No. 144 are effective for fiscal years beginning after December 31, 2001. The adoption of SFAS No. 144 did not have a material effect on our financial position, results of operations or liquidity.

Business

BUSINESS

Overview

We are a leading online seller of wireless services and devices. We sell these services and devices through private-labeled websites that we create and manage for online businesses, affinity organizations and national retailers, whom we refer to collectively as marketers. We also sell services and devices through our own branded websites, including Wirefly.com and Liberty Wireless. We have developed a proprietary e-commerce platform that integrates merchandising, provisioning, procurement, customer care and billing operations into a single system for the online sale of wireless services and devices. Our five largest sources of customers include Yahoo, Quixtar, MSN and AOL, for whom we create and manage private-labeled websites, and Google, from whom we purchase advertising.

Our online business model connects wireless carriers, marketers and consumers of wireless services and devices more effectively and efficiently than traditional retail channels. Our value to wireless carriers is that we offer them broader access to consumers who purchase wireless services and devices on the Internet, which is considered the lowest cost distribution channel, through our marketing relationships with highly-trafficked websites as well as through our

own branded websites. Our value to marketers is the additional revenue they can generate from selling wireless services and devices through their private-labeled websites that we create and manage. Our value to consumers is competitive pricing, broad selection and the convenience of using the Internet for purchasing wireless services and devices. Through agreements we have with the seven largest U.S. wireless carriers, T-Mobile, Cingular, Nextel, AT&T Wireless, ALLTEL, Verizon Wireless and Sprint, as well as with several regional wireless carriers, we are able to offer wireless service plans with service coverage for 99.4% of the United States population.

We also operate as a mobile virtual network operator, or MVNO, under our Liberty Wireless brand. As an MVNO, we market and sell to consumers wireless airtime minutes that we purchase wholesale from a national wireless carrier, which owns and operates the underlying wireless network. This service utilizes the same e-commerce platform, operational infrastructure and marketing relationships we have developed to sell our other products and services resulting in what we believe is a cost effective means of acquiring customers. We plan to expand our MVNO service by offering marketers the ability to sell a branded wireless service to their customers using our e-commerce platform and operational infrastructure and the airtime minutes that we purchase from the national wireless carrier. To further leverage the relationships we have established with customers through the sale of wireless services from carriers, as well as our own MVNO service, we sell a variety of wireless data services.

We are headquartered in Washington, DC and maintain our technology and operations center in Largo, Maryland. Since we began operations in 1999, we have grown our business, expanded our services and broadened our customer base through internal growth and acquisitions. We generate revenues from wireless carriers through commissions and bonuses that we receive for activating wireless subscribers onto their networks. We also generate revenues from customers who purchase wireless service plans and devices from our Liberty Wireless service and from customers who subscribe to our wireless data services. For the year ended December 31, 2003, we reported revenues of $119.4 million and a net loss of $37.0 million. For the three months ended March 31, 2004, we reported revenues of $38.0 million and a net loss of $6.9 million.

Industry Overview

The Internet and Online Commerce Online shopping has grown substantially, providing businesses with a lower cost sales channel. This growth is primarily a result of the convenience, broader selection and breadth of product information available on the Internet. In addition, continued improvements in payment security and growing access to high-speed Internet connections have made online shopping increasingly efficient and attractive to consumers. According to Forrester Research, Inc., an independent research company, online retail sales were estimated to reach $95.7 billion in 2003 and expected to grow at a compound annual growth rate of 19.2% to $229.9 billion in 2008, or approximately eight times faster than overall retail sales.

Online businesses have a number of competitive advantages over traditional businesses, including lower infrastructure costs, broader consumer reach and the potential for personalized low-cost customer interaction. In addition, online businesses can quickly and efficiently react to changing consumer tastes and preferences by adjusting content, shopping interfaces, the product and service offerings they feature on their websites and the pricing of those product and service offerings. Furthermore, online businesses can more easily compile demographic and behavioral data about consumers in order to increase opportunities for direct marketing and personalized services.

The Wireless Services Industry Consumers increasingly understand that wireless communications provide enhanced convenience, mobility and personal safety. As a result, over the past few years wireless services have achieved widespread adoption. This widespread adoption has been aided in part by the increasing availability and affordability of cellular and other mobile communications products. According to The Yankee Group, an independent research company, the estimated number of wireless subscribers in the United States has more than doubled from 68.7 million in 1998 to 153.9 million in 2003, representing 54% of the U.S. population in 2003. The Yankee Group expects the number of wireless subscribers to exceed 64% of the U.S. population by 2008. As a result, according to The Yankee Group, revenues from wireless services in the United States are expected to grow from an estimated $93.8 billion in 2003 to $107.4 billion in 2008.

To date, most wireless services in the United States have been offered on a post-paid basis, where subscribers are billed and pay for services after the services have been delivered and used. Much of the future growth of wireless services, however, is expected to be driven by the growth of pre-paid and other non-post-paid service plan offerings, which require wireless subscribers to pay for all or a portion of their airtime usage in advance of the actual use. According to The Yankee Group, the number of prepaid and other non-post-paid service plan subscribers is expected to more than double, from 18.2 million subscribers in 2003 to 50.9 million subscribers by the end of 2008, representing a compound annual growth rate of 22.8%.

The Opportunity

The Internet represents a fast growing and cost-effective distribution channel for wireless carriers, as well as a convenient way for consumers to shop for and purchase wireless services and devices at a lower price. Forrester Research estimates that online sales of consumer electronics, which includes sales of wireless devices, will increase from $4.7 billion in 2003 to $11.7 billion in 2008, growing from 7.5% in 2003 to 16.9% in 2008 of total consumer electronics sales, and representing a compound annual growth rate of 20.0%.

Wireless carriers are facing increasing competition, excess network capacity as well as new challenges resulting from wireless local number portability. To combat these challenges, the wireless carriers are turning to the Internet as a cost-effective and growing channel to acquire customers, allowing them to boost profitability and increase their return on investment. Additionally, in order to optimize network utilization, carriers are seeking to increase their subscriber base through new product offerings, such as pre-paid services, and new distribution channels such as mobile virtual network operators.

Consumers are faced with an increasingly complex and constantly changing selection of wireless service plans and devices. As the number of service plans offered by wireless carriers has increased, traditional retail channels have been unable to adequately satisfy customers' needs for real-time information regarding wireless services and devices. Retail stores typically feature wireless services and devices from only a limited number of wireless carriers, resulting in fewer options at any given store for consumers. As a result, consumers must either visit multiple stores or select from a limited choice of wireless offerings. In addition, traditional wireless retail stores typically have high cost structures due to the costs of maintaining, managing and staffing a physical storefront,

often resulting in higher wireless device prices to customers. In contrast to the physical retail environment, the Internet offers consumers a number of advantages for purchasing wireless services and devices, including lower prices, broader selection, convenience and the ability to research and comparison shop for the best prices.

Our Value Proposition

We are a leading online seller of wireless services and devices. We have developed a proprietary e-commerce platform to sell these services and devices through private-labeled websites that we create and manage for marketers, as well as through our own branded websites. We have relationships with the seven largest wireless carriers in the United States, allowing us to provide our customers with a broad selection of wireless products and services. Our online business model provides a new and cost-effective customer acquisition channel for the wireless carriers and affords new revenue opportunities for marketers, while offering consumers competitive prices, broad selection and convenience.

Value to Wireless Carriers We provide wireless carriers with new subscribers to their networks. Key advantages for wireless carriers include:

- *Growing Customer Acquisition Channel*. The Internet is one of the fastest growing channels for selling wireless services and devices. We provide the wireless carriers with broader access to this channel through the private-labeled websites we create and manage for marketers and through our own branded websites.

- *Lower Customer Acquisition Cost*. Our online business model enables wireless carriers to acquire customers at a lower cost than they would incur using traditional retail channels.

- *Network Utilization*. By purchasing wholesale airtime minutes and selling them to customers through our MVNO services, we provide an additional channel for a wireless carrier to sell excess network capacity.

Value to Marketers

We provide our marketers with websites, branded to their specifications, which allow them to sell wireless services and devices to consumers. Key advantages for marketers include:

- *Expanded Services*. By enabling marketers to sell wireless services and devices, we expand their service offerings and increase the frequency and length of use of their websites by consumers. Our e-commerce platform enables marketers to focus on marketing and branding, while relieving them of the operational burden associated with merchandising, provisioning, procurement, customer care and billing of wireless services.

- *Ability to Monetize Customers*. Our online business model creates new opportunities for marketers to monetize their customers by generating revenues from the sale of wireless services and devices. Our broad selection of products and services also allows marketers to address multiple demographic segments within their customer base, thus increasing their revenue opportunities.

Value to Consumers

We offer consumers competitive prices, broad selection and the convenience of comparing and purchasing wireless services and devices on the Internet. Key advantages for consumers include:

- *Competitive Pricing*. We are able to offer consumers competitive pricing on wireless devices when they purchase a service plan due to the lower cost structure of our online business model. In addition,

consumers also benefit from the ability to research and comparison shop for the best prices offered by the seven largest U.S. wireless carriers.

- *Broad Selection*. We have agreements with the seven largest U.S. wireless carriers, providing service coverage to 99.4% of the U.S. population. In each of the top 100 U.S. metropolitan markets we offer service plans from at least four wireless carriers. Our websites also feature a broad selection of the latest wireless devices from a variety of leading manufacturers.

- *Superior Shopping Experience*. Our websites provide consumers with access to an extensive amount of information on wireless services and devices. These websites contain user-friendly search functions and navigation tools to help consumers quickly and conveniently identify the wireless services and devices that match their selection criteria, such as monthly service cost, network coverage quality and device features. We also simplify the buying experience for consumers by allowing them to complete the transaction with an easy-to-use one-page order form. We ship products directly to customers generally within 24 hours of order approval and provide customers with updates throughout the provisioning and shipping processes.

- *Knowledgeable Customer Support*. Customers can request assistance at any point in the purchase process from our customer service representatives. Our customer service representatives have access to information about the service plans offered by the seven largest U.S. wireless carriers. As a result, our customer service representatives are better able to suggest service plans that meet the customers' requirements.

Our Strategy

Our objective is to become the leading seller of wireless services and devices in the United States. Key elements of our strategy to achieve this objective include:

Expand Our Wireless Carrier Relationships. We intend to expand our existing relationships with wireless carriers by entering into additional wholesale agreements for excess network capacity. We also intend to continue to improve the automation interface between our e-commerce platform and the wireless carriers' systems as well as cooperate further with wireless carriers on marketing efforts.

Increase Our Customer Base. We plan to target additional marketers in order to expand our sources of customers. We also plan to build consumer and market awareness by expanding the direct marketing of our wireless products and services. Our plans include expanding our use of the "Powered by InPhonic" brand on the websites that we create and manage for marketers, purchasing online advertising to support our existing brands, such as Wirefly.com and Liberty Wireless, and creating additional brands.

Cross-Sell Our Full Range of Products and Services to Existing Customers. Most customers initially purchase a single product or service from us. We plan to increase our revenue opportunities by offering additional products and services to these customers at the point of sale or through follow-up communications such as opt-in emails, outbound calls and direct mail. These offerings may include accessories, wireless content and other communications

services. We also plan to begin customer retention programs that offer existing customers incentives to buy additional products and services from us.

Develop New Products and Services to Address Underserved Market Segments. We believe that much of the future subscriber growth within the wireless services industry will be driven by consumer segments that are underserved by the products and services currently offered by the wireless carriers. We plan to continue to develop new products and services, including pre-paid and spending control services, to address underserved consumer segments, such as the youth and ethnic markets.

Focus on the Customer Shopping Experience. We intend to continue to refine our operations to provide a superior customer experience. The customer experience is important in retaining our customers and expanding relationships we have developed with marketers who use their brands to market our products and services on their websites.

Our Services

Wireless Activation and Services We sell wireless service plans and devices through private-labeled websites that we create and manage for marketers. These private-labeled websites allow marketers to leverage their brands to sell wireless products and services to their customers. We use our proprietary e-commerce platform to activate, configure and ship wireless services and devices to customers on behalf of these marketers. For each marketer for which we create and manage a website, we use that marketer's brand throughout the sales and customer support process. For example, our customer service representatives answer customer calls with each particular marketer's name, and we ship devices with marketer-specific promotional materials and information.

We also offer customers the ability to purchase wireless services and devices directly from websites that we operate under our own brands, such as Wirefly.com. We leverage the same e-commerce platform, operational infrastructure and wireless carrier relationships that we use for marketer-branded websites to acquire customers through our own branded websites.

MVNO Services

In August 2002, we launched Liberty Wireless, our MVNO service, to market and sell wireless services directly to consumers. We purchase wireless airtime minutes wholesale from Sprint, which owns and operates the underlying wireless network. Liberty Wireless is primarily marketed to those customers who order wireless and service plans devices through our websites, but do not accept traditional post-paid service on the security deposit terms required by the wireless carriers. We also sell Liberty Wireless indirectly through retail stores. Liberty Wireless offers a service plan that enables a subscriber to purchase bundles of airtime minutes for a specific monthly price and charges the subscriber in advance of the usage. We also offer Liberty Wireless to certain customers on a traditional post-paid basis. We collect fees from customers for device purchases and airtime usage. We are pursuing opportunities to expand this service to other consumer segments, such as the youth and ethnic markets.

We plan to utilize the e-commerce platform, operational infrastructure and wireless carrier agreement we have in place for Liberty Wireless to extend our MVNO capabilities to marketers who want to offer branded wireless services to their customers without having to own or operate a wireless network or operational infrastructure. The MVNO services include:

- merchandising, which includes creating, pricing and branding the voice and data service plans to be marketed to potential subscribers;
- provisioning, which includes determining subscriber credit-worthiness and service activation;
- procurement, which includes the purchasing, programming, packaging and delivery of wireless devices to subscribers and managing returns;
- customer care, which includes pre-sale and post-sale customer service; and
- billing, which also includes collections.

We believe we are one of the few companies that can offer MVNO services to marketers as a single vendor, turnkey solution.

Data Services

To further leverage the relationships we have established with customers, we sell the following set of wireless data services.

- *Unified Communications*. Our unified communications service allows customers to access email, voicemail, facsimiles, contacts and personal calendar information through both a website and a telephone.
- *Wireless Email*. Our wireless email service enables wireless carriers to offer their customers affordable and real-time access to email on a wide variety of wireless devices.
- *Mobile Marketing*. Our mobile marketing service allows wireless carriers and marketers to deliver wireless advertising and subscription-based content services to wireless devices.

Relationships With Wireless Carriers

We have agreements with the seven largest wireless carriers in the United States, T-Mobile, Cingular, Nextel, AT&T Wireless, ALLTEL, Verizon Wireless and Sprint, as well as with several regional carriers, to sell their wireless service plans. Through our agreements with these wireless carriers, we offer consumers a selection of at least four carriers in each of the top 100 U.S. metropolitan markets. Collectively, these carriers' networks cover 99.4% of the U.S. population. We also purchase wireless devices directly from these carriers and their designated distributors for sale to customers. We sell devices in conjunction with wireless service plans from the leading wireless device manufacturers including Audiovox, Kyocera, LG Electronics, Motorola, Nokia, Samsung, Sanyo and Sony Ericsson.

We provide wireless carriers with a cost-effective online channel to acquire subscribers for their service plans. The wireless carriers pay us commissions and bonuses for activating wireless subscribers onto their networks. We also receive additional financial benefits from the wireless carriers through market development funds, wireless device discounts and other marketing incentives. For the year ended December 31, 2003 and the quarter ended March 31, 2004, revenues from T-Mobile represented 24% and 22% of our total revenues, respectively. For the same two periods, revenues from our top three wireless carriers represented 41% and 35% of our total revenues, respectively.

We also have an agreement with Sprint to purchase wireless airtime minutes on a wholesale basis. We package airtime minutes purchased from Sprint with wireless devices and other services to sell under our Liberty Wireless brand directly to customers and indirectly through retail stores. We pay Sprint fees for airtime minutes and network management services.

Marketing

We have developed a marketing strategy designed to use our marketers' brands to generate sales through their private-labeled websites that we create and manage as well as to use our own branded websites. Our marketing and advertising efforts include online and offline initiatives which primarily consist of the following:

- *Private-Labeled Websites*. We create and manage private-labeled websites for online businesses, affinity organizations and national retailers to sell wireless products and services on their websites. We pay these marketers fees for wireless service plans and devices sold on their websites.

- *Online Search and Advertising.* We utilize online search engine advertising and targeted online advertising on highly-trafficked websites to acquire customers.

- *Brand Development*. We continue to invest in the brands that we own, such as Wirefly.com and Liberty Wireless, in order to build brand awareness and attract new and repeat customers.

- *Direct Marketing.* We utilize direct marketing programs to reach additional consumer segments for our products and services. These marketing programs include permission-based email and call transfer programs.

- *Affiliate Program.* We also acquire customers through an affiliate program that extends the reach of our advertising, drawing customers from a variety of websites. By joining our affiliate program, operators of other websites earn a fee for each wireless device and service plan sold through their website. We utilize a third-party vendor to manage the affiliate program.

Our five largest sources of customers include Yahoo, Quixtar, MSN and AOL, for whom we create and manage private-labeled websites, and Google, from whom we purchase advertising. We also purchase advertising from Yahoo, MSN and AOL.

Operations and Technology

Our operations leverage a common, proprietary e-commerce platform, which we have built using a combination of internally developed and licensed technologies. Our e-commerce platform integrates our merchandising, provisioning, procurement, customer care and billing operations into a single system for the online sale of wireless services and devices. Our e-commerce platform has been designed to serve as a foundation for us to build and offer additional products and services and to maximize performance, scalability, reliability and security.

Merchandising

We sell our customers wireless services and devices through private-labeled websites that we create and manage for marketers as well as through our own branded websites. Since we manage all these websites using the same e-commerce platform, we can update device and service plan pricing information across all the websites in real time. Additionally, we can tailor the wireless service and device offerings presented on any particular website in order to better target each marketer's customer base. The websites we create and manage contain user-friendly search functions and navigation tools to help customers quickly and conveniently identify the wireless service plans and devices that match their selection criteria.

Provisioning

We process orders using a combination of our own proprietary software and commercially available software that we license from third parties. We believe that one of our key competitive advantages is our automated order processing system. Orders from customers are delivered in a common data format that permits us to exchange data with wireless carriers through our automated credit risk assessment and activation interfaces. We have customized these interfaces to integrate with each of our wireless carriers' networks for seamless and faster exchange of data. Once the customer's risk profile has been determined, the order status management process system either activates the customer on the wireless carrier of their choice or automatically suggests an alternative service plan from another wireless carrier for which the customer is eligible. For customers who elect not to accept the security deposit terms sometimes required by a carrier, our system then offers an alternative service plan from Liberty Wireless.

We have designed systems we believe to be secure to protect our corporate data and the information we collect from consumers. Our websites operate on hardware and software co-located in Sterling, Virginia at a service provider offering redundant and reliable network connections, power, security and other essential services. To minimize downtime, we manage and monitor our websites 24 hours a day and maintain redundant systems with an additional service provider at a back-up hosting facility located in Dulles, Virginia.

Procurement

All customer orders are processed at our operations center located in Largo, Maryland. When an order is approved for service by the wireless carrier, our automated order processing system assigns a wireless device to the order, activates the selected service plan and configures the device to the customer's specifications. We typically ship orders within 24 hours of approval.

We track orders in real-time throughout the procurement process allowing us to maintain the appropriate levels of inventory. We use rigorous quality control processes and dedicated quality assurance personnel to minimize errors.

Customer Care and Billing We are focused on providing a high quality customer shopping experience. As part of these efforts, we monitor and track every interaction with each customer through our proprietary customer relationship management system. We deliver customer care through self-service websites, call center representatives, email correspondence and our interactive voice response system.

Our easy-to-navigate, self-service websites enable our customers to check order, rebate, return and exchange status in addition to reviewing service plan information. We also offer our Liberty Wireless customers the ability to purchase airtime minutes, review account status and pay outstanding balances through our website. We operate a call center facility in Largo, Maryland, offering customer service, direct sales support and technical assistance by telephone or email. Using our call management system, our call center representatives can respond to inbound calls using scripts tailored to each marketers' specifications. To further improve efficiency, we employ an integrated voice response system to provide self-service capabilities to consumers for pre-sale and post-sale activities. We operate our call center from 8:30 a.m. to 11:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 5:00 p.m. eastern time on Saturday. Additionally, we use a third party to provide service after hours and to support our call center personnel during peak calling periods.

We have also entered into an outsourcing agreement with a vendor in Manila, the Philippines to provide additional call center support. The vendor supports 200 call center seats dedicated to our customer service operations. The vendor operates from 8:00 a.m. to 11:00 p.m. eastern time, Monday through Saturday and 8:00 a.m. to 5:00 p.m. eastern time on Sunday.

Real-Time Measurement and Reporting Systems We have developed software applications to monitor the effectiveness of our marketing campaigns on a real-time basis. These applications produce reports that we share with marketers. These reports provide us with the number of unique visitors to our marketers' websites, numbers of orders taken, number of orders approved or pending approval and orders shipped. These reports are accessible from desktop computers and wireless devices and allow us to measure the effectiveness of our marketing efforts and respond quickly to changes in market demand.

Competition

The wireless services industry continues to evolve rapidly and is highly fragmented and competitive. We believe we compete on the basis of selection of wireless carriers and devices and service plans; convenience; price; customer service; network coverage; and website features and functionality. We believe we compete favorably on all of these terms.

Companies that compete with our wireless activation and services business include:

- online distributors of wireless services and devices, such as Amazon.com;
- wireless carriers who sell wireless services and devices to customers through their own websites, traditional retail operations and direct sales forces; and
- mass market retailers such as Best Buy, Circuit City and Radio Shack and other retailers of wireless services.

We currently or potentially compete with two different types of companies in our Liberty Wireless and potential private-labeled MVNO business:

- other providers of MVNO services, such as Boost and Virgin Mobile who offer pre-paid services; companies that provide billing and customer care for MVNO services, such as Amdocs, Convergys and CSG Systems International; and companies that provide fulfillment services such as Brightpoint, Brightstar and Cellstar; and
- wireless carriers.

Our data services business competes against a variety of companies including Call Sciences and J2 Global Communications.

Many of our existing and potential competitors have substantially greater financial, technical and marketing resources than we do. Additionally, many of these companies have greater name recognition and more established relationships in many of our market segments. These competitors may be able to adopt more aggressive pricing policies and offer customers more attractive terms than we can. We may face increasing price pressure from the wireless carriers. In addition, current and potential competitors have established or may establish cooperative relationships among themselves or with third parties to compete more effectively.

Intellectual Property Rights

We rely on general intellectual property law and contractual restrictions and to a limited extent, copyrights and patents to protect our proprietary rights and technology. These contractual restrictions include confidentiality agreements, invention assignment agreements and nondisclosure agreements with employees, contractors, suppliers and marketers. In addition, we pursue the registration of our trademarks and service marks in the United States and certain other countries. In the United States, we have registered "InPhonic," "Wirefly," "Welcome to our Wireless World" and "Powered by InPhonic" and other service marks and we have a pending trademark application for "Liberty Wireless." We also have common law copyrights with respect to images and information set forth on our website and the computer code incorporated into our website. To date, we have obtained registration of one U.S. patent.

There can be no assurance that any of our service marks, patents or copyrights will not be challenged or invalidated. Despite the protection of general intellectual property law and our contractual restrictions, steps we have taken to protect our intellectual property may not prove sufficient to prevent misappropriation of our technology or to deter third-parties from copying or otherwise obtaining and using our intellectual property without our authorization.

Government Regulation

We are not currently subject to direct federal, state or local government regulation, other than regulations that apply to businesses generally. The wireless network carriers we contract with are subject to regulation by the Federal Communications Commission, or FCC. Changes in FCC regulations could affect the availability of wireless coverage these wireless network carriers are willing or able to sell. Also, changes in these regulations could create uncertainty in

the marketplace that could reduce demand for our services or increase the cost of doing business as a result of costs of litigation or increased service delivery cost or could in some other manner have a material adverse effect on our business, financial condition or results of operations.

Any new legislation or regulation, or the application of laws or regulations from jurisdictions whose laws do not currently apply to our business, could have an adverse effect on our business.

Facilities

Our principal offices are located in Washington, DC, where we lease 15,780 square feet of office space under a lease that expires in November 2008. Our technology and operations center is located in Largo, Maryland, where we lease approximately 47,350 square feet under a lease that expires in September 2009. In addition, we have offices in Hayward, California; Atlanta, Georgia; and Cary, North Carolina.

Employees

As of May 31, 2004, we had a total of approximately 350 employees. None of our employees is covered by a collective bargaining agreement. We believe that our relations with our employees are good.

Legal Proceedings

In a letter dated May 26, 2004, Avesair, Inc., one of the companies the assets of which we acquired, demanded that we issue them shares of our common stock valued at approximately $4 million as additional consideration for our acquisition of Avesair's assets. This amount represents the maximum number of shares of common stock that Avesair could earn for achieving certain performance-based targets under the agreement pursuant to which we purchased the Avesair assets. We believe Avesair failed to achieve the performance based targets and intend to vigorously contest this matter. However, any adverse resolution of this matter could have a material adverse impact on our financial results.

From time to time we are party to other disputes or legal proceedings. We do not believe that any of the pending proceedings are likely to have a material adverse effect on our business.

Management

MANAGEMENT

Executive Officers, Directors and Key Employees

The following table shows information about our executive officers, directors and key employees as of May 31, 2004:

Name	Age	Position(s)
Executive Officers:		
David A. Steinberg	34	Chairman of the Board and Chief Executive Officer
Richard D. Calder, Jr.	40	President and Chief Operating Officer
Lawrence S. Winkler	37	Chief Financial Officer, Executive Vice President and Treasurer
Gary J. Smith	38	Chief Information Officer and Executive Vice President
Donald Charlton	39	President, Liberty Wireless and Secretary
Non-Management Directors:		
John Sculley(1)(2)	65	Vice Chairman of the Board
Ira Brind(2)(3)	63	Director
Robert A. Fox	74	Director
Jay Hoag(1)(3)	46	Director
Jack Kemp(1)	69	Director
Mark J. Levine(3)	50	Director
Thomas E. Wheeler(2)	58	Director
Key Employees:		
Frank C. Bennett III	45	President, MVNO and Chief Strategy Officer
Michael E. Ferzacca	46	Chief Marketing Officer
Walter W. Leach III	41	General Counsel
Michael Walden	34	Senior Vice President, Corporate Development
Brian T. Westrick	35	President, Wireless Activation and Services
Harold S. Wills	62	President, Data Services

(1)	Member of the Compensation Committee.
(2)	Member of the Nominating and Corporate Governance Committee.
(3)	Member of the Audit Committee.

Executive Officers

David A. Steinberg, our founder, has served as our chairman of the board of directors and chief executive officer since our inception and served as president from August 2002 until March 2004. Prior to founding InPhonic, Mr. Steinberg was chairman, president and chief executive officer of Sterling Cellular, Inc., a distributor of wireless products that he founded in November 1993. In April 2004, Mr. Steinberg was appointed to the board of the United States Chamber of Commerce. In June 2002, Mr. Steinberg was named the Greater Washington Ernst & Young Entrepreneur of the Year in the communications category. Mr. Steinberg holds a B.A. from Washington & Jefferson College.

Richard D. Calder, Jr. has served as our president and chief operating officer since March 2004. Prior to joining us, from July 2001 to October 2003, Mr. Calder was president of business enterprises of Broadwing Communications, Inc., a telecommunications company. From June 1996 to July 2001, Mr. Calder held multiple senior executive positions at Winstar Communications, Inc., a telecommunications company, including president, South Division, and executive vice president and chief marketing officer. Mr. Calder holds a B.S. from Yale and an M.B.A. from Harvard Business School.

Lawrence S. Winkler has served as our chief financial officer, executive vice president and treasurer since January 2004. Prior to joining us, Mr. Winkler was managing director of Stanmore Capital, a private equity and mergers and acquisitions advisory firm, from April 2002 to January 2004. From January 2000 to April 2002, Mr. Winkler served as president and chief operating officer and as chief financial officer of OmniSky Corporation, a wireless data company. Prior to OmniSky, Mr. Winkler was the chief finance officer and treasurer of PSINet, Inc., an Internet carrier, from December 1997 to April 2000. Prior to joining PSINet, Mr. Winkler was with Black and Decker, a global marketer of consumer products, the Mills Corporation, a real estate investment trust, C.R.I. Inc., a private equity investment firm, and Arthur Andersen & Co, where he held various senior leadership positions in finance and operations. Mr. Winkler also serves on the Board of Trustees for the National Foundation for Advancement in the Arts. Mr. Winkler holds a B.A. from the University of Maryland and an M.B.A. from Loyola College.

Gary J. Smith has served as our chief information officer and executive vice president since July 2000. From July 1999 to July 2000, Mr. Smith served as chief information officer and vice president of technology of Varsity Group Inc., formerly known as VarsityBooks.com, LLC, an online retailer of textbooks. From September 1987 to July 1999, Mr. Smith served in various technology management positions at Discovery Communications Inc., an international media company, including most recently vice president of technology. Mr. Smith holds a B.S. from the University of Maryland.

Donald Charlton has served as the president of Liberty Wireless since April 2003 and has held various executive-level positions since joining us in March 2000. From May 1999 to March 2000, Mr. Charlton served as vice president at Osage Venture Partners, a private equity investment firm. From November 1994 to May 1999, Mr. Charlton served as director of business development and finance at Nextran, a spinout of Baxter Healthcare Corporation, a global health care company. From September 1987 to November 1994, Mr. Charlton held various positions, including manager, with Coopers & Lybrand L.L.P. Mr. Charlton is a certified public accountant, holds a B.S. from the University of Scranton and holds an M.B.A. from the New York University Leonard N. Stern School of Business.

Non-Management Directors

John Sculley is vice chairman of our board of directors and has served on our board of directors since February 2000. Since June 1994, Mr. Sculley has served as a partner of Sculley Brothers LLC, a private investment and advisory services company. Prior to forming Sculley Brothers, Mr. Sculley was chief executive officer of Apple Computer, Inc. from 1983 until 1993. From 1967 to 1983, Mr. Sculley held marketing and management positions at the Pepsi-Cola Company, including serving as its president and chief executive officer from 1978 to 1983. Mr. Sculley serves on the board of directors of MetroPCS, Inc. and several private companies. Mr. Sculley holds a B.A. from Brown University and an M.B.A. from The Wharton School of the University of Pennsylvania.

Ira Brind has served on our board of directors since December 2000. Mr. Brind has been the president and co-founder of Brind-Lindsay & Co., Inc., a private equity and venture capital firm, since 1987. From 1967 until 1983, Mr. Brind was the chief executive officer of Brind Leasing Corporation, a full service truck leasing company, that he sold to McDonnell Douglas. He was chief executive officer and president of McDonnell Douglas Truck Services, a truck leasing company, from 1983 until 1987. Mr. Brind is currently the chairman of the board of trustees of Thomas Jefferson University Hospital, vice chairman of the Board of Trustees of University of the Arts, member of the Board of Trustees of the Wistar Institute, the Connelly Foundation, Thomas Jefferson University and the Jefferson Health System. Mr. Brind serves on the board of directors of several private companies. Mr. Brind holds a B.A. and a J.D. from the University of Pennsylvania.

Robert A. Fox has served on our Board of Directors since June 2003. Mr. Fox has been a partner of RAF NetVentures, L.P., a private equity investment firm, since December 1999 and chairman and chief executive officer of RAF Industries, Inc. since 1994. Mr. Fox serves on the boards of all the RAF Companies, and G.H.R. and WineAccess. Mr. Fox, also serves on the boards of the University of Pennsylvania, The Wistar Institute and the Foreign Policy Research Institute. Mr. Fox holds a B.A. from the University of Pennsylvania.

Jay Hoag has served on our board of directors since June 2003. Since June 1995, Mr. Hoag has been a general partner at Technology Crossover Ventures, a venture capital firm. Mr. Hoag serves on the board of directors of Altiris, Inc., eLoyalty Corporation, Netflix, Inc. and several private companies. Mr. Hoag holds a B.A. from Northwestern University and an M.B.A. from the University of Michigan.

Jack Kemp has served on our board of directors since June 2002. Mr. Kemp is a co-founder of Empower America, Inc., an organization devoted to ensuring that government actions foster growth, economic well-being, freedom and individual responsibility. In 1996, Mr. Kemp was the Republican Party candidate for Vice President. Prior to founding Empower America, Mr. Kemp served as U.S. Secretary of Housing and Urban Development from 1989 to 1992, and in

the U.S. House of Representatives from 1971 to 1989. Mr. Kemp also serves as a director of Hawk Corporation, IDT Corporation and Oracle Corporation. Mr. Kemp holds a B.A. from Occidental College.

Mark J. Levine has served on our board of directors since August 2001. Mr. Levine has been managing director of Core Capital Partners, L.P., a venture capital fund, since July 2001. From November 1999 to July 2001, Mr. Levine was the managing member of GCI Venture Partners, a venture capital fund. From April 1984 to June 2001, Mr. Levine was an executive officer of Geo-Centers, Inc., a high technology services firm. From 1979 to 1985, Mr. Levine was the staff director of a subcommittee of the Small Business Committee of the U.S. House of Representatives. Mr. Levine holds a B.A. from Northeastern University and an M.B.A. from George Washington University.

Thomas E. Wheeler has served on our board of directors since January 2004. From June 1992 to November 2004, Mr. Wheeler held the position of president and chief executive officer of the Cellular Telecommunications & Internet Association. Mr. Wheeler has served as a member of the board of trustees for the John F. Kennedy Center for the Performing Arts since 1994. Mr. Wheeler is a director of the Public Broadcasting System (PBS), Earthlink Inc. and Telephia Inc. Mr. Wheeler holds a B.S. from Ohio State University.

Key Employees

Frank C. Bennett III has served as our president, MVNO and chief strategy officer since March 2004, and prior to that he served as our chief operating officer from April 2002. From August 2001 to April 2002 Mr. Bennett was senior vice president and group operations officer for the retail group of Verizon Communications, Inc. From August 2000 to August 2001, Mr. Bennett was the group operations officer for the retail group of Verizon. From October 1999 to August 2000, Mr. Bennett served as vice president, e-commerce and technology of Bell Atlantic Corporation (now part of Verizon). From February 1998 to October 1999, he was vice president, customer billing of Bell Atlantic. In addition, from July 1996 to December 1998, Mr. Bennett served as a founder and vice president, call center development of Bell Atlantic Plus, a provider of bundled wireline and wireless services. Mr. Bennett holds a B.A. from the University of Virginia and an M.B.A. from The Wharton School of the University of Pennsylvania.

Michael E. Ferzacca has served as our chief marketing officer since our February 2002 acquisition of Simplexity. Mr. Ferzacca served as president and chief executive officer of Simplexity from September 2000 to February 2002. From December 1998 to August 2000, Mr. Ferzacca served as executive vice president of Talk.com, an integrated communications provider. From September 1991 to August 1998, Mr. Ferzacca held positions as sales director and senior vice president for alternate channels with Cable & Wireless USA and also served as its co-chief operating officer from September 1997 to September 1998. Mr. Ferzacca holds a B.S. degree from Villanova University.

Walter W. Leach, III has served as our general counsel since January 2001. Mr. Leach served as corporate counsel of Snyder Communications, a marketing and communications solution provider from June 1997 to January 2001. From October 1992 to June 1997, Mr. Leach served as deputy corporate counsel for Inductotherm Industries, Inc., a privately held manufacturer. Mr. Leach holds a B.A. from Syracuse University and a J.D. from Vermont Law School.

Michael Walden has served as our senior vice president of corporate development since January 2002. Prior to that Mr. Walden served as our vice president of corporate development since October 2000. From January 1999 to October 2000, Mr. Walden served as vice president of new media and entertainment at Etensity, Inc., an e-business consulting firm. From November 1995 to January 1999, Mr. Walden served as director of telecommunications services for NDC Group, a technology-consulting firm. From 1991 to 1994, Mr. Walden served on the Washington D.C. legislative staff of U.S. Senator Arlen Specter. Mr. Walden holds a B.S. from the University of Richmond.

Brian T. Westrick has served as president of our wireless activation and services division since July 2002 and has held various executive-level positions since joining us in June 2000. From December 1994 to June 2000, Mr. Westrick was vice president of sales and marketing for Universal Jet Trading. From July 1991 to December 1994, Mr. Westrick was marketing director for Lease Audit and Analysis Services, a real estate consulting company. From June 1990 to July 1991, Mr. Westrick was a marketing representative with Xerox Corporation. Mr. Westrick holds a B.S. from the Wallace E. Carroll School of Management at Boston College.

Harold S. Wills has served as the president of our data services division since March 2004 and has held various executive-level positions since joining in November 2001. From April 1996 to October 2000, Mr. Wills served in various executive capacities at PSINet, Inc. most recently as director, president and chief operating officer. From September 1991 to September 1995, Mr. Wills served as managing director of Granada Computer Services. Mr. Wills has also held various management level positions at Xerox Corporation and IBM. Mr. Wills holds an M.S. degree from Columbia University. Mr. Wills has been a member of the board of directors of Netopia, Inc. since May 2001 where he also serves on the audit and compensation committees.

The following of our executive officers and key employees were executive officers or directors of companies within two years prior to their filing for protection under federal bankruptcy laws: Mr. Calder with Winstar Communications (which filed for bankruptcy protection in April 2001), Mr. Winkler and Mr. Wills with PSINet (which filed for bankruptcy protection in May 2001) and Mr. Winkler with OmniSky (which filed for bankruptcy protection in December 2001).

Board of Directors

Our board of directors currently consists of eight members. Our amended and restated certificate of incorporation to be in effect upon the closing of this offering provides that, our board of directors will be divided into three classes of directors who will serve in staggered three-year terms.

Our amended and restated certificate of incorporation to be in effect upon the closing of the offering will provide that the authorized number of directors may be changed only by resolution of the board of directors. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes with three-year terms so that, as nearly as possible, each class will consist of one-third of the directors. At each annual meeting of stockholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election. The division of our board of directors into these three classes may delay or prevent a change of our board of directors or a change in our control.

A majority of the members of our board of directors are independent as defined under the rules of the Nasdaq Stock Market, or Nasdaq.

Committees of the Board

Our board of directors has established the following committees: an audit committee, a compensation committee and a nominating and corporate governance committee. The composition and responsibilities of each committee are described below, and each committee operates pursuant to a charter approved by our board of directors. Each member of these committees is independent as defined under the rules of Nasdaq and the SEC. Our board of directors may from time to time establish other committees.

Audit Committee

Our audit committee oversees our corporate accounting and financial reporting process and the audits of our financial statements. Among other matters, the audit committee:

- is responsible for the appointment, compensation and retention of our independent auditors and reviews and evaluates the auditors' qualifications, independence and performance;
- oversees the auditors' audit work and reviews and pre-approves all audit and non-audit services that may be performed by them;
- reviews and approves the planned scope of our annual audit;
- monitors the rotation of partners of the independent auditors on our engagement team as required by law;
- reviews our financial statements and discusses with management and the independent auditors the results of the annual audit and the review of our quarterly financial statements;
- reviews our critical accounting policies and estimates;
- oversees the adequacy of our accounting and financial controls;
- annually reviews the audit committee charter and the committee's performance;
- reviews and approves all related-party transactions; and
- establishes and oversees procedures for the receipt, retention and treatment of complaints regarding accounting, internal controls or auditing matters and oversees enforcement, compliance and remedial measures under our code of conduct.

The current members of our audit committee are Mr. Brind, who is the committee chair, and Messrs. Hoag and Levine. Our board of directors has determined that all members of our audit committee meet the applicable tests for independence and the requirements for financial literacy under applicable rules and regulations of the SEC and Nasdaq. Our board has determined that Mr. Brind is an audit committee financial expert, as defined under the SEC rules implementing Section 407 of the Sarbanes-Oxley Act of 2002.

Our board of directors has approved an audit committee charter that meets the applicable standards of the SEC and Nasdaq.

Compensation Committee Our compensation committee approves, administers and interprets our compensation and benefit policies, and administers our stock option and benefit plans. The compensation committee:

- reviews and approves corporate goals and objectives relevant to compensation of the chief executive officer and the other executive officers;
- evaluates the performance of the chief executive officer and the other executive officers in light of those goals and objectives;
- sets compensation of the chief executive officer and the other executive officers;
- approves all executive officer employment, severance, or change-in-control agreements, including all special or supplemental benefits, and all agreements to indemnify executive officers or directors;
- administers the issuance of stock options and other awards to executive officers and directors under our stock plans; and
- reviews and evaluates, annually, the performance of the compensation committee and its members.

The current members of our compensation committee are Mr. Hoag, who is the committee chair, and Messrs. Kemp and Sculley. Our board of directors has determined that all members of our compensation committee meet the applicable tests for independence under the applicable rules and regulations of the SEC and Nasdaq.

Nominating and Corporate Governance Committee Our nominating and corporate governance committee:

- identifies individuals qualified to become directors;
- recommends to our board of directors director nominees for each election of directors;
- develops and recommends to our board of directors criteria for selecting qualified director candidates;
- considers committee member qualifications, appointment and removal;
- recommends corporate governance guidelines applicable to us; and
- provides oversight in the evaluation of our board of directors and each committee.

The current members of the nominating and corporate governance committee are Mr. Sculley, who is the committee chair, and Messrs. Brind and Wheeler. Our board of directors has determined that all members of our nominating and corporate governance committee meet the applicable tests for independence under the applicable rules and regulations of the SEC and Nasdaq.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves as a member of the board of directors or compensation committee of any entity that has one or more executive officers who serve on our board of directors or compensation committee.

Compensation of Directors

Currently, the members of our board of directors do not receive cash compensation for their services as directors. In January 2003, we granted each of Messrs. Brind, Kemp, Levine and Sculley, each of whom is a non- employee director, options to purchase 20,000 shares of our common stock at an exercise price of $4.68 per share. In May 2004, we granted each of Messrs. Brind, Fox, Hoag, Kemp, Levine, Sculley and Wheeler, each of whom is a non-employee director, options to purchase 20,000 shares of our common stock at an exercise price of $1.96 per share. We expect to continue to grant options and other equity awards to our non-employee directors. The members of our board of directors are reimbursed for travel, lodging and other reasonable expenses incurred in attending board and committee meetings. In the near future, we expect to provide cash compensation to members of our board of directors for serving on the board.

Executive Compensation

The following table summarizes for the year ended December 31, 2003, the compensation paid to our chief executive officer and our four other most highly compensated executive officers who held those positions as of December 31, 2003, whom we refer to as our named executive officers.

Summary Compensation Table

	Annual Compensation		Long-Term Compensation	
Name and Principal Positions	Salary	Bonus	Securities UnderlyingOptions(1)	All Other Compensation
David A. Steinberg(2)	$250,000	$120,000	—	$44,286(3)
Chairman of the board and chief executive officer				
Michael E. Ferzacca	231,701	96,025	350,000	11,500(4)
Chief marketing officer				
Frank C. Bennett III(5)	265,000	50,000	—	6,000(4)
Former chief operating officer				
Scott G. Yancey, Jr.(6)	225,000	40,000	—	6,000(4)
Former chief financial officer				
Donald Charlton	188,680	25,000	—	6,000(4)
President, Liberty Wireless and secretary				

(1) These options become exercisable over a four- year period, with 25% vesting on the one year anniversary of the grant date and the remainder vesting in equal installments over the next three years.

(2) Mr. Steinberg also served as president during the year ended December 31, 2003.

(3) Includes (a) $22,377 for transportation allowance, (b) $21,093 for life insurance premiums and (c) $816 for health club dues.

(4) Represents amount paid for transportation allowance.

(5) Mr. Bennett served as chief operating officer during the year ended December 31, 2003 and is currently president, MVNO and chief strategy officer.

(6) As of January 2, 2004, Mr. Yancey is no longer an employee.

Option Grants in 2003 and Year-End Option Values

The table below contains information concerning the grant of options to purchase shares of our common stock to each of our named executive officers during the year ended December 31, 2003.

Option Grants in 2003

	Individual Grants

Name	Number of SecuritiesUnderlyingOptionsGranted (1)	Percent of TotalOptionsGranted toEmployeesin 2003 (2)	Exercise or Base Price($ /Share) (3)	Expiration Date (4)	Potential Realizable Value atAssumed Annual Rates of Stock Price Appreciationfor Option Term (5) (in thousands)		
					0% (6)	5%	10%
David A. Steinberg	–	–	–	–	–	–	–
Michael E. Ferzacca	350,000	16%	$4.98	01/22/13		$$ 1,096	$2,778
Frank C. Bennett III	–	–	–	–	–	–	–
Scott G. Yancey, Jr.	–	–	–	–	–	–	–
Donald Charlton	–	–	–	–	–	–	–

(1) All options were granted under our stock incentive plan.

(2) The percentage of total options granted to employees is based on an aggregate of 2,138,650 options granted to our employees in 2003.

(3) The exercise price per share reflects the fair market value of the common stock at the time of issuance as determined by the board of directors.

(4) The options have ten year terms, subject to earlier termination upon death, disability or termination of employment.

(5) The potential realizable value is calculated based on the term of the option at the time of grant. Hypothetical, potential realizable values are net of exercise price, but before taxes associated with exercise. Stock price appreciation of 5% and 10% is assumed pursuant to rules promulgated by the SEC and does not represent our prediction of our stock price performance. The potential realizable values at 5% and 10% appreciation are calculated by assuming that the exercise price on the date of grant represents the fair value of a share of common stock on that date, that the value appreciates annually at the indicated rate for the entire term of the option and that the option is exercised at the exercise price and sold on the last day of its term at the appreciated price.

(6) Potential realizable value is based on the actual exercise price of $4.98 per share and an assumed initial offering price of $ per share.

Recent Option Grants

In May 2004, Messrs. Steinberg and Calder were granted options to purchase 2,000,000 and 1,300,000 shares of our common stock, respectively, at an exercise price of $1.96 per share, 25% of which vest on the first anniversary of the date of grant, less in the case of Mr. Calder, 50,000 shares which vested immediately. The remainder vest in equal quarterly installments over the next three years. In May 2004, Mr. Winkler was granted options to purchase 300,000 shares of our common stock at an exercise price of $1.96 per share, 25% of which vest on the first anniversary of the grant, less 50,000 shares which vested immediately. The remainder vest in equal quarterly installments over the next two years.

The following table sets forth the number of shares of common stock subject to exercisable and unexercisable options held as of December 31, 2003 by each of the named executive officers.

Year-End Option Values

Name	Number of Unexercised Options at December 31, 2003		Value of Unexercised in-the-MoneyOptions at December 31, 2003 (1)	
	Exercisable	Unexercisable	Exercisable	Unexercisable
			(in thousands)	
David A. Steinberg	–	–	$–	$–
Michael E. Ferzacca	129,664	324,412		
Frank C. Bennett III	545,428	765,786		
Scott G. Yancey, Jr.	168,084	235,992		
Harold S. Wills	53,976	128,664		

(1) There was no public trading market for our common stock as of December 31, 2003. The value of unexercised in-the-money options has been calculated by multiplying the difference between the exercise price per share and an assumed initial public offering price of $ per share by the number of shares underlying the options.

Employment Arrangements

In February 2000, we entered into an employment agreement with Mr. Steinberg which was subsequently amended in March and May 2004. The agreement provides that we will employ Mr. Steinberg as our chief executive officer until May 31, 2008. The terms can be extended if we and Mr. Steinberg agree to do so 30 days prior to the end of the current term. Under this agreement, Mr. Steinberg receives an annual base salary to be established from time to time by the board of directors, which shall not be less than $290,000 per year, and he is eligible for an annual bonus equal to 65% of his then current annual salary based on the attainment of reasonable performance objectives established by the compensation committee of the board of directors. Pursuant to the May 2004 amendment, Mr. Steinberg was granted options to purchase 2,000,000 shares of our common stock, at an exercise price of $1.96 per share, 25% of which vest on the first anniversary of the date of grant and the remainder vest in equal quarterly installments over the next three years. If we terminate Mr. Steinberg's employment without cause or Mr. Steinberg terminates his employment for good reason, Mr. Steinberg is entitled to continue to receive his base salary for one year and all of his unvested options vest in full. If Mr. Steinberg's employment is terminated without cause within 180 days of a change of control of InPhonic, 50% of his unvested options will immediately become vested and exercisable.

In February 2002, we entered into an employment agreement with Mr. Ferzacca which was subsequently amended in January 2003. The agreement provides that we will employ Mr. Ferzacca as our chief marketing officer and executive vice president of sales for an unspecified term. Under this agreement, Mr. Ferzacca receives an annual base salary of $235,000 per year, and he is eligible for a bonus up to $85,000 based on the attainment of reasonable performance goals as set by the chief executive officer. The bonus may be increased if specified goals are attained. Pursuant to the January 2003 amendment, Mr. Ferzacca was granted options to purchase 350,000 shares of our common stock at an exercise price of $1.96 per share, 25% of which vest on the first anniversary of the date of grant and the remainder vest in equal quarterly installments over the next three years. If we terminate Mr. Ferzacca's employment without cause or Mr. Ferzacca terminates his employment for good reason, Mr. Ferzacca is entitled to continue to receive his base salary for six months and all of his unvested options vest in full.

In April 2002, we entered into an employment agreement with Mr. Bennett. Under this agreement, Mr. Bennett receives an annual base salary as determined by the compensation committee, which is currently $225,000 per year and is eligible for a bonus of up to $125,000. In connection with his employment we also granted Mr. Bennett options to purchase 1,489,327 shares of our common stock, of which 148,932 shares of common stock vested October 18, 2002 and the remainder vest quarterly over the next three and one half years.

In June 2002, we entered into an employment agreement with Mr. Charlton. Under this agreement, Mr. Charlton receives an annual base salary as determined by the compensation committee, which is currently $185,000 per year. Mr. Charlton is eligible for a performance-based bonus of up to $35,000, as determined at the discretion of our board of directors and compensation committee. In addition, on the date Mr. Charlton executed his employment agreement, 10% of Mr. Charlton's total granted, but unvested options vested immediately. Mr. Charlton's employment agreement provides that if we terminate his employment without cause, Mr. Charlton will receive payment equal to six months of his base salary and will continue to receive a car allowance and medical insurance for the six-month period following his termination.

In January 2004, Mr. Winkler agreed to the terms of his employment pursuant to a signed offer letter. This offer letter provides that we will employ Mr. Winkler as our executive vice president of finance and chief financial officer. Under this offer letter, Mr. Winkler receives an annual base salary of $225,000 per year and is eligible for a bonus of up to 50% of his annual base salary subject to his achieving certain annual performance goals established during the first 90 days of his employment. In connection with this employment arrangement, we granted Mr. Winkler options to purchase 1,000,000 shares of our common stock at an exercise price of $1.96 per share, 33% of which vest on the first anniversary of the date of grant, less 50,000 shares which vested immediately and the remainder of which vest quarterly over the next two years.

In March 2004, Mr. Calder agreed to the terms of his employment pursuant to a signed offer letter. This offer letter provides that we will employ Mr. Calder as our president. Under the terms of this offer letter, Mr. Calder receives an annual base salary of $250,000 per year and is eligible for a bonus of up to 75% of his annual base salary based on the attainment of reasonable performance goals as established during the first 60 days of his employment. In connection with this employment arrangement, we granted Mr. Calder options to purchase 1,300,000 shares of our common stock at an exercise price of $1.96 per share, 25% of which vest on the first anniversary of the date of grant, less 50,000 shares which vested immediately and the remainder of which vest in equal quarterly installments over the next three years. Under the terms of these options, if Mr. Calder's employment is terminated within six months of a change of control, 50% of his unvested options will vest immediately. Mr. Calder's employment arrangement further provides that if we terminate his employment without cause during the first 12 months of his employment, Mr. Calder will receive payment equal to six months of his base salary. If we terminate Mr. Calder's employment after the one-year anniversary of his employment, he will receive severance equal to 12 months of his base salary.

Mr. Yancey's employment with us was terminated in January 2004. Mr. Yancey holds options to purchase 57,082 shares of our common stock at an exercise price of $2.60 per share, all of which are vested and expire in October 2004.

Employee Confidentiality Arrangements

We enter into agreements with substantially all of our employees containing confidentiality provisions. We enter into non-competition agreements with our executive officers and key employees. The non-competition agreements prohibit these employees from competing with us or disclosing confidential information about us for a period up to 12 months after their employment ends.

Stock Incentive Plan

Our stock incentive plan was adopted by our board of directors and our stockholders in December 1999 and was amended and restated in September 2002. The purpose of the plan is to promote our long-term growth and profitability. The plan is intended to make available incentives that will help us to attract, retain and reward employees whose contributions are essential to our success. We may provide these incentives through the grant of:

Ÿ stock options;

Ÿ stock appreciation rights;

Ÿ stock awards;

Ÿ phantom stock; and

Ÿ performance awards.

A total of 23,492,425 shares are currently reserved for issuance under this plan. The number of shares available for awards under the plan at any given point in time shall equal fifteen percent of the number of shares of common stock issued and outstanding at that time reduced by the number of shares of common stock then subject to any outstanding award under the plan. The compensation committee of our board has been designated to administer our stock incentive plan. Under the plan, our employees, officers, directors and other individuals providing services to us or any of our affiliates are eligible to receive awards. The committee has the authority, consistent with the provisions of our plan, to determine which eligible participants will receive awards, the form of the awards and the number of shares of our common stock covered by each award. The committee may impose terms, limits, restrictions and conditions upon awards, and may modify, amend, extend or renew awards, to accelerate or change the timing of exercise of awards or to waive any restrictions or conditions to an award. As of May 31, 2004, we had outstanding options to purchase 18,277,365 shares of our common stock under this plan.

Stock Options. Our stock incentive plan permits the granting of options to purchase shares of our common stock intended to qualify as incentive stock options, under Section 422 of the Internal Revenue Code, and nonqualified stock options. The option exercise price and the term of each option are determined by the compensation committee. The compensation committee also determines at what time or times each option may be exercised and, the period of time, if any, after retirement, death, disability or termination of employment during which options may be exercised. In general, options granted under this plan vest at the rate of 25% on the one year anniversary of the date of grant and in equal installments quarterly thereafter over the next three years.

Stock Appreciation Rights. The compensation committee may grant a right to receive a number of shares or, in the discretion of the compensation committee, an amount in cash or a combination of shares and cash, based on the increase in the fair market value of the shares underlying the right during a stated period specified by the compensation committee.

Stock Awards. The compensation committee may award shares of our common stock to participants at no cost or for a purchase price. These stock awards may be subject to restrictions or may be free from any restrictions under our stock incentive plan. The purchase price of the shares, if any, and any applicable restrictions, are determined by the compensation committee.

Phantom Stock. The compensation committee may grant stock equivalent rights, or phantom stock, which entitles the recipient to receive credits which are ultimately payable in the form of cash, shares of our common stock or a combination of both. Phantom stock does not entitle the holder to any rights as a stockholder.

Performance Awards. The compensation committee may grant performance awards to participants entitling the participants to receive cash, shares of our common stock, or a combination of both, upon the achievement of performance goals and other conditions determined by the compensation committee. The performance goals may be based on our operating income, or on one or more other business criteria selected by the compensation committee.

In the event of any stock split, stock dividend or similar transaction, the shares subject to the plan and any outstanding awards will automatically be adjusted. The stock incentive plan will continue in effect until the tenth anniversary of its approval by our board, unless earlier terminated. The compensation committee may amend, terminate or modify the plan at any time.

401(k) Plan

On January 1, 2001, we adopted a tax-qualified employee savings and retirement plan, or 401(k) plan, which generally covers our full-time employees. The plan is intended to qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended, so that contributions, and income earned thereon, are not taxable to employees until withdrawn from the plan. Under the plan, employees may elect to reduce their current compensation up to the statutorily prescribed annual limit and have the amount of the reduction contributed to the plan. The plan also permits us to make matching contributions to the plan on behalf of participants. We have never made any discretionary contributions.

Related Party Transactions

Policy Statement

We have a policy whereby all transactions between us and our officers, directors and affiliates will be on terms no less favorable to us than could be obtained from unrelated third parties. These transactions must be approved by the audit committee of our board of directors, and until the closing of this offering, some of these transactions must be approved by the holders of 60% of our outstanding preferred stock, including warrants to purchase shares held by such investors. The transactions set forth below were conducted under application of this policy and we believe were no less favorable to us than we would have obtained in an arms length transaction with an unaffiliated third party.

Sales of Stock

In August 2001 and September 2001, we issued 6,458,251 shares of series D stock for an aggregate purchase price of $10,657,966, including (i) 605,955 shares to RAF NetVentures, L.P., of which Mr. Fox, one of our directors, is a partner, (ii) 121,191 shares to Brind Investment Partners II, of which Mr. Brind, one of our directors, is a partner, (iii) 2,181,439 shares to Core Capital Partners, L.P., of which Mr. Levine, one of our directors, is a managing director, (iv) 545,360 shares to Minotaur, LLC, of which Mr. Levine is a managing member and (v) 307,219 shares to Venture Investment Partners I LLC, over which Mr. Levine may be deemed to exercise influence over the voting and disposition of such shares.

In October 2001, we issued 2,454,120 shares of series D-1 stock for an aggregate purchase price of $4,050,002. In addition, as part of this transaction, we exchanged 3,306,697 shares of series D stock for the same amount of series D-1 stock, including (i) 727,146 shares to Core Capital Partners, L.P. and (ii) 181,787 shares to Minotaur, LLC.

In July 2002, we issued 730,023 shares of our series D-4 stock for an aggregate purchase price of $3,800,000, including (i) 19,211 shares to Brind Investment Partners II, (ii) 230,354 shares to Core Capital Partners, L.P., (iii) 57,633 shares to Minotaur, LLC and (iv) 19,211 shares to Venture Investment Partners I LLC.

In June 2003, we issued 8,709,678 units consisting of 8,709,678 shares of series E stock and warrants to acquire 1,741,935 shares of series E stock for an aggregate purchase price of $27,000,001, including (i) 8,396,581 shares of series E stock and warrants to acquire 1,679,316 shares of series E stock to TCV IV, L.P., of which Mr. Hoag, one of our directors, is founding general partner and (ii) 313,097 shares of series E stock and warrants to acquire 62,619 shares of series E stock to TCV IV Strategic Partners, L.P., of which Mr. Hoag, one of our directors, is founding general partner.

In June 2003, we issued 1,223,963 units consisting of 1,223,963 shares of series E stock and warrants to acquire 244,792 shares of series E stock in exchange for the outstanding shares of our series D-4 stock and warrants to acquire series D-4 stock held by our stockholders, including (i) 238,199 shares of series E stock and warrants to acquire 47,640 shares of series E stock to TCV IV, L.P., (ii) 8,883 shares of series E stock and warrants to acquire 1,777 shares of series E stock to TCV IV Strategic Partners, L.P., (iii) 25,707 shares of series E stock and warrants to acquire 5,141 shares of series E stock to Brind Investment Partners II, (iv) 308,488 shares of series E stock and warrants to acquire 61,698 shares of series E stock to Core Capital Partners, L.P., (v) 77,121 shares of series E stock and warrants to acquire 15,424 shares of series E stock to Minotaur, LLC and (vi) 25,707 shares of series E stock and warrants to acquire 5,141 shares of series E stock to Venture Investment Partners I LLC.

Issuance of Options

In May 2001 and May 2002, we granted Mr. Sculley options to purchase 125,000 and 200,000 shares of our common stock at an exercise price of $0.60 and $2.60 per share, respectively. In September 2001, we granted to each of Messrs. Brind, Sculley and Levine options to purchase 25,000, 25,000 and 12,500 shares, respectively, of our common stock at an exercise price of $1.04 per share. In June 2002, we granted to Mr. Kemp options to purchase 20,000 shares of our common stock at an exercise price of $2.60 per share. In January 2003, we granted to each of Messrs. Brind, Kemp, Levine and Sculley options to purchase 20,000 shares of our common stock at an exercise price of $4.68 per share. In May 2004, we granted to each of Messrs. Hoag, Kemp, Levine, Sculley and Wheeler options to purchase 20,000 shares of our common stock and Mr. Brind 40,000 shares of our common stock at an exercise price of $1.96 per share.

In June 2001, we granted Mr. Wills options to purchase 20,000 shares of our common stock at an exercise price of $0.60 per share. In March 2002, we granted Mr. Ferzacca options to purchase 250,000 shares of our common stock at an exercise price of $2.60 per share. In May 2002, we granted Messrs. Bennett and Yancey options to purchase 1,489,327 and 550,000 shares, respectively, of our common stock at an exercise price of $2.60 per share. In July 2002, we granted Messrs. Wills options to purchase 110,000 shares of our common stock at an exercise price of $2.60 per share. In October 2002, we granted Messrs. Wills options to purchase 100,000 shares of our common stock at an exercise price of $5.20 per share. In January 2003, we granted Mr. Ferzacca options to acquire 350,000 shares of our common stock at an exercise price of $4.68 per share. In January 2004, we granted Messrs. Winkler, Wills, Ferzacca and Bennett options to purchase 1,000,000, 125,000, 125,000 and 40,000 shares, respectively, of our common stock at an exercise price of $1.96 per share. In May 2004, we granted Messrs. Steinberg, Calder, Winkler and Wills options to purchase 2,000,000, 1,300,000, 300,000 and 13,820 shares, respectively, of our common stock at an exercise price of $1.96 per share.

Issuance of Warrants

We have issued the following warrants to entities affiliated with our officers or directors:

In February 2001, in connection with the sale of shares of series C stock, we issued warrants to acquire 186,405 shares of series C stock at an exercise price of $1.04 per share including warrants to acquire 120,262 shares to RAF NetVentures, L.P.

In August 2001, in connection with the sale of shares of series D stock, we issued warrants to acquire 1,291,349 shares of series D stock at an exercise price of $0.01 per share, including warrants to acquire (i) 242,382 shares to RAF NetVentures, L.P., (ii) 48,476 shares to Brind Investment Partners II, (iii) 581,717 shares to Core Capital Partners, L.P. and (iv) 145,429 shares to Minotaur, LLC.

In September 2001, in connection with service on our board of directors, we issued warrants to acquire 50,000 shares of common stock at an exercise price of $1.04 per share, including warrants to acquire 25,000 shares, to RAF NetVentures, L.P.

In October 2001, in connection with the sale of shares of series D-1 stock, we issued warrants to acquire 683,639 shares of series D-1 stock at an exercise price of $0.01 per share. In addition, as part of the exchange of certain shares of series D stock for shares of series D-1 stock, we issued warrants to acquire 330,671 shares of series D-1 stock at an exercise price of $0.01 per share, including warrants to acquire (i) 72,715 shares to Core Capital Partners, L.P., (ii) 18,179 shares to Minotaur, LLC and (iii) 30,722 shares to Venture Investment Partners I LLC.

In January 2002, we issued warrants to acquire 20,000 shares of common stock at an exercise price of $0.01 per share to K3T Partners LLC, of which Mr. Kemp was a partner at the time of such issuance.

In July 2002, in connection with the sale of our shares of series D-4 convertible preferred stock, we issued warrants to acquire an aggregate of 243,142 shares of our common stock at an exercise price of $0.01 per share including warrants to acquire (i) 6,404 shares to Brind Investment Partners II, (ii) 76,644 shares to Core Capital Partners, L.P., (iii) 19,212 shares to Minotaur, LLC and (d) 6,404 shares to Venture Investment Partners I LLC. These warrants were subsequently exchanged in connection with the sale of series E stock.

In June 2003, we issued warrants to acquire common stock at an exercise price of $0.01 per share in connection with the sale and exchange of our series E stock, including warrants to acquire (i) 3,442 shares of common stock held by Brind Investment Partners II, (ii) 41,361 shares of common stock held by Core Capital Partners, L.P., (iii) 10,326 shares of common stock held by Minotaur, LLC and (iv) 3,442 shares of common stock held by Venture Investment Partners I LLC.

In June 2003, we issued warrants to acquire common stock at an exercise price of $0.01 per share in connection with the sale and exchange of our series E stock. Beginning June 12, 2004, these warrants become exercisable for an aggregate of 1,092,693 shares of common stock, including warrants to acquire (i) 949,824 shares of common stock held by TCV IV, L.P., (ii) 35,417 shares of common stock held by TCV IV Strategic Partners, L.P., (iii) 2,827 shares of common stock held by Brind Investment Partners II, (iv) 33,933 shares of common stock held by Core Capital Partners, L.P., (v) 8,483 shares of common stock held by Minotaur, LLC and (vi) 2,827 shares of common stock held by Venture Investment Partners I LLC. If we do not complete this offering in the interim, the number of shares exercisable under these warrants increases on a monthly basis until June 30, 2006 to a maximum increase in shares of 2,733,326.

Loans to Executive Officers

In December 2001, we provided a loan to Mr. Steinberg, our chairman and chief executive officer, evidenced by a limited recourse promissory note in the principal amount of $1,000,000 at a fixed annual interest rate of 6%. This loan is secured by 1,190,476 shares of our common stock owned by Mr. Steinberg and currently held in escrow. The unpaid principal balance of the note together with all accrued and unpaid interest is due and payable on the earlier of (i) November 30, 2004, (ii) six months after the expiration of a lock-up period imposed pursuant to an initial public offering, (iii) the sale by Mr. Steinberg of more than 15% of his capital stock or (iv) upon Mr. Steinberg's voluntary termination of his employment with us. The loan was approved by our independent directors. As of May 31, 2004, the total amount outstanding under the loan was $1,145,000, including accrued and unpaid interest.

Employment Arrangements

We have employment agreements with some of our named executive officers as described previously under "Management—Employment Arrangements."

Principal and Selling Stockholders

The following table sets forth certain information known to us regarding beneficial ownership of our common stock as of May 31, 2004, and as adjusted to reflect the sale of shares offered by:

- each person or entity who we know beneficially owns more than 5% of our outstanding capital stock;
- each of the named executive officers;
- each selling stockholder participating in the over-allotment option;
- each of our directors; and
- all directors and executive officers as a group.

Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, shares of common stock subject to options or warrants held by that person that are currently exercisable or will become exercisable within 60 days after May 31, 2004 are deemed outstanding, while the shares are not deemed outstanding for purposes of computing percentage ownership of any other person. Except as otherwise indicated, and subject to applicable community property laws, each of the persons named in this table has sole voting and investment power with respect to all the shares indicated as beneficially owned by such person.

Applicable percentage ownership in the following table is based on 76,743,895 shares of common stock outstanding as of May 31, 2004 and shares of common stock outstanding immediately following the completion of this offering, as adjusted to reflect the -for- stock split immediately prior to the closing of this offering and conversion of all outstanding shares of convertible preferred stock into 40,859,089 shares of common stock upon the closing of this offering. Unless otherwise indicated, the address for each stockholder listed is c/o InPhonic, Inc., 1010 Wisconsin Avenue, Suite 600, Washington, DC 20007.

	Shares Beneficially Owned Prior to Offering		Shares Beneficially Owned After Offering Assuming No Exercise of Over-allotment Option		Shares Being Offered	Shares Beneficially Owned After Offering Assuming Full Exercise of Over-allotment Option	
Beneficial Owner	Number	Percent	Number	Percent	Number	Number	Percent
Directors and Executive Officers							
David A. Steinberg (1)	19,114,302	24.9%					

Frank C. Bennett III (2)	491,622	*
Donald Charlton (3)	396,692	*
Michael E. Ferzacca (4)	79,616	*
Scott G. Yancey, Jr. (5)	57,082	*
Ira Brind (6)	348,285	*
Robert Fox (7)	4,735,184	6.2
Jay Hoag (8)	24,810,960	30.8
Jack Kemp (9)	84,364	*
Mark J. Levine (10)	4,130,013	5.4
John Sculley (11)	2,154,788	2.8
Thomas Wheeler	—	*
All executive officers and directors as a group (16 persons) (12)	56,713,746	68.3
5% Stockholders (13)		
Entities affiliated with Technology Crossover Ventures L.P. (14)	23,825,719	29.9
RAF NetVentures, L.P. (15)	4,735,184	6.2

(1) Includes (1) 1,187,500 shares beneficially owned by BB&LB Trust dated June 24, 2002, (2) 451,613 shares beneficially owned by the Kristin and David Steinberg Foundation and (3) 269,976 shares beneficially owned by members of Mr. Steinberg's immediate family.

Mr. Steinberg shares dispositive and voting control over these shares. Mr. Steinberg disclaims beneficial ownership of these shares except to the extent of his pecuniary interest.

(2) Includes 491,622 shares issuable upon exercise of vested stock options.

(3) Included 396,692 shares issuable upon exercise of vested stock options.

(4) Includes 79,616 shares issuable upon exercise of vested stock options.

(5) Includes 57,082 shares issuable upon exercise of vested stock options.

(6) Includes (a) 45,000 shares issuable upon exercise of vested options (b) 11,411 shares issuable upon exercise of warrants and (c) 136,480 shares and 54,665 shares issuable upon exercise of warrants beneficially owned by Brind Investment Partners II, of which Mr. Brind is a Partner, and as to which shares Mr. Brind shares dispositive and voting control. Mr. Brind disclaims beneficial ownership of these shares except to the extent of his pecuniary interest. The address of Mr. Brind is c/o Brind Investment Partners II, 1926 Arch Street, Philadelphia, PA 19103.

(7) Includes 4,510,098 shares and 225,086 shares issuable upon exercise of warrants by RAF NetVentures, L.P. All such shares are beneficially owned by RAF NetVentures, L.P. Mr. Fox, a director, is a partner of RAF NetVentures, L.P. Mr. Fox shares dispositive and voting control over these shares. Mr. Fox disclaims beneficial ownership of these shares, except to the extent of his pecuniary interest. The address of RAF NetVentures, L.P. is One Pitcairn Place, Suite 2100, 165 Township Line Road, Jenkintown, PA 19046.

(8) Includes the following shares as to which Mr. Hoag shares dipositive and voting power: (a) 20,204,598 shares and 3,714,462 shares issuable upon exercise of warrants beneficially owned by TCV IV, L.P. and (b) 753,395 shares and 138,505 shares issuable upon exercise of warrants beneficially owned by TCV IV Strategic Partners, L.P. Mr. Hoag, one of our directors, is a managing member of TCM. TCM is the general partner of TCV IV, L.P. and TCV IV Strategic Partners, L.P. The address of Mr. Hoag is c/o Technology Crossover Ventures, 528 Ramona Street, Palo Alto, CA 94301.

(9) Includes 34,364 shares and 10,000 shares issuable upon exercise of warrants beneficially owned by the Jack Kemp Family Trust and 40,000 shares issuable upon exercise of his options. Mr. Kemp disclaims beneficial ownership of these shares except to the extent of his pecuniary interest.

(10) Includes the following shares as to which Mr. Levine shares dispositive and voting power: (a) 2,786,114 shares and 194,663 shares issuable upon exercise of warrants beneficially owned by Core Capital Partners, L.P. of which Mr. Levine is a managing director, (b) 696,530 shares and 48,664 shares issuable upon exercise of warrants beneficially owned by Minotaur, LLC of which Mr. Levine is a managing member, (c) 320,958 shares and 16,220 shares issuable upon exercise of warrants beneficially owned by Venture Investment Partners I LLC, over which Mr. Levine may be deemed to exercise influence over the voting and disposition of such shares, (d) 34,364 shares owned by North Bend Partners I LLC, of which Mr. Levine is a member and (e) 32,500 shares issuable upon exercise of his options. Mr. Levine disclaims beneficial ownership of these shares except to the extent of his pecuniary interest. The address of Mr. Levine is c/o Core Capital Partners, L.P. 901 15th Street, NW, 9th Floor, Washington, DC 20005.

(11) Includes (a) 370,000 shares issuable upon exercise of vested options and (b) 75,164 shares issuable upon exercise of warrants. Also includes (a) 6,875 shares owned by John Sculley Irrevocable Trust Udt 12/30/97 FBO Oliver Allnatt and (b) 6,875 shares owned by John Sculley Irrevocable Trust Udt 12/30/97 FBO Madeline Allnatt. Mr. Sculley disclaims beneficial ownership of these shares except to the extent of his pecuniary interest. The address of Mr. Sculley is c/o Sculley Brothers, 90 Park Avenue, New York, NY 10016.

(12) Includes 1,823,350 shares issuable upon exercise of vested options and 4,488,840 shares issuable upon exercise of warrants.

(13) Mr. Steinberg is also a holder of greater than 5% of our common stock.

(14) Includes the following shares as to which Mr. Hoag shares dispositive and voting power: (a) 20,204,598 shares and 3,714,462 shares issuable upon exercise of warrants beneficially owned by TCV IV, L.P. and (b) 753,395 shares and 138,505 shares issuable upon exercise of warrants beneficially owned by TCV IV Strategic Partners, L.P. Mr. Hoag, one of our directors, is a managing member of TCM. TCM is the general partner of TCV IV, L.P. and TCV IV Strategic Partners, L.P. Mr. Hoag and TCM disclaim beneficial ownership of such shares, except to the extent of his pecuniary interest. The address of TCV IV, L.P. is Technology Crossover Ventures, 528 Ramona Street, Palo Alto, CA 94301.

(15) Includes 225,086 shares issuable upon exercise of warrants. All such shares are beneficially owned by RAF NetVentures, L.P. Mr. Fox, a director, is a partner of RAF NetVentures, L.P. Mr. Fox shares dispositive and voting control over these shares. Mr. Fox disclaims beneficial ownership of these shares, except to the extent of his pecuniary interest. The address of RAF NetVentures, L.P. is One Pitcairn Place, Suite 2100, 165 Township Line Road, Jenkintown, PA 19046.

Description of Capital Stock

DESCRIPTION OF OUR CAPITAL STOCK Upon the completion of this offering, our authorized capital stock will consist of 200,000,000 shares of common stock, $0.01 par value per share, and 10,000,000 shares of undesignated preferred stock, $0.01 par value per share.

The following is a summary of the material terms of our common stock and preferred stock, giving effect to the amendments to the certificate of incorporation to be filed upon completion of the offering, and to the -for- reverse stock split to be effected immediately prior to this offering. Please see our amended and restated certificate of incorporation, filed as an exhibit to the registration statement of which this prospectus is a part, for more detailed information.

Common Stock

As of May 31, 2004, there were 34,945,459 shares of our common stock outstanding, held of record by approximately 145 stockholders, excluding common stock issuable upon conversion of our convertible preferred stock. The holders of our common stock are entitled to one vote for each share held of record on all matters submitted to a vote of stockholders. Upon the completion of this offering, holders of a majority of the shares of common stock entitled to vote in any election of directors may elect all of the directors standing for election. Subject to preferences applicable to any outstanding preferred stock, holders of common stock are entitled to receive ratably any dividend declared by the board. In the event of a liquidation, dissolution or winding up of the company, holders of common stock are entitled to share ratably in the assets remaining after payment of liabilities and the liquidation preferences of any outstanding preferred stock. Holders of our common stock have no preemptive, conversion or redemption rights. Each outstanding share of common stock is, and all shares of common stock to be outstanding after the completion of this offering will be, fully paid and non-assessable.

Preferred Stock

Immediately prior to the completion of this offering, all outstanding shares of our convertible preferred stock will be converted into an aggregate of 40,859,089 shares of common stock, provided that the aggregate offering price of the shares offered in this offering equals or exceeds $30,000,000 and the price per share in this offering equals or exceeds $4.65 per share before deduction of underwriters' discounts and commissions. Following the completion of this offering, 10,000,000 shares of undesignated preferred stock will be authorized for issuance. Our board of directors will have the authority, without further action by the stockholders, to issue preferred stock in one or more series. In addition, the board may fix the rights, preferences and privileges of any preferred stock it determines to issue. Any or all of these rights may be superior to the rights of the common stock. Preferred stock could thus be issued quickly with terms calculated to delay or prevent a change in control of our company or to make removal of management more difficult. Additionally, the issuance of preferred stock may decrease the market price of our common stock. At present, we have no plans to issue any shares of preferred stock.

Warrants

In June 2003, we issued warrants to acquire common stock at an exercise price of $0.01 per share in connection with the sale and exchange of our series E stock. Beginning June 12, 2004, these warrants become exercisable for an aggregate of 1,092,693 shares of common stock. If we do not complete this offering in the interim, the number of shares exercisable under these warrants increases by 101,067 shares on July 31, 2004 and 101,992 shares on August 31, 2004.

As of May 31, 2004, warrants to purchase an additional 1,614,936 shares of our common stock were outstanding, of which 939,929 terminate if not exercised in connection with the closing of this offering, not including warrants to purchase shares of preferred stock that will automatically convert into warrants to purchase 2,894,129 shares of common stock upon the closing of this offering. These warrants generally expire five years from the date of issue.

Registration Rights

After this offering, the holders of approximately 75,077,006 shares of common stock and rights to acquire common stock pursuant to outstanding warrants will be entitled to certain rights with respect to the registration of such shares under the Securities Act. Under the terms of the seventh amended and restated investor rights agreement dated June 12, 2003 between us and the holders of these registrable securities, if we propose to register any of our securities under the Securities Act, either for our own account or for the account of other security holders exercising registration rights, these holders are entitled to notice of the registration and to include shares of common stock therein. Additionally, the holders of at least a majority of the common stock issuable upon conversion of series B, series C, series D, series D-1, series D-5 and series E preferred stock, voting together as a single class, may require us on up to two occasions to file a registration statement under the Securities Act with respect to their shares of common stock, provided that the aggregate offering price would exceed $10,000,000. We must pay for all expenses in connection with these registrations, other than underwriters discounts and commissions. We are required to use our best efforts to effect any such registration. Further, holders may require us to file up to two additional registration statements on Form S-3 in any 12-month period at our expense so long as we are eligible for such registration. Under these registration rights we are not required to effect a registration (i) within six months following the effective date of this offering, (ii) within six months after the effective date of any other registration statement of our company, (iii) if the underwriters of an offering limit the number of shares included in the registration or (iv) if in our good faith judgment it would be seriously detrimental to us to do so.

Antitakeover Provisions

Delaware Law

We will be subject to Section 203 of the Delaware General Corporation Law regulating corporate takeovers, which prohibits a Delaware corporation from engaging in any business combination with an "interested stockholder," unless:

- Ÿ prior to the date of the transaction, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- Ÿ the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the number of shares outstanding (a) shares owned by persons who are directors and also officers, and (b) shares owned by employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- Ÿ on or subsequent to the date of the transaction, the business combination is approved by the board and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 ^{2}/3% of the outstanding voting stock which is not owned by the interested stockholder.

Except as otherwise specified in Section 203, an "interested stockholder" is defined to include:

- Ÿ any person that is the owner of 15% or more of the outstanding voting securities of the corporation, or is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within three years immediately prior to the date of determination; and
- Ÿ the affiliates and associates of any such person.

Certificate of Incorporation and Bylaws Following the completion of this offering, our certificate of incorporation and bylaws to be in effect upon the closing of this offering will provide that:

- Ÿ no action can be taken by stockholders except at an annual or special meeting of the stockholders called in accordance with our bylaws, and stockholders may not act by written consent;
- Ÿ the approval of holders of 66 ^{2}/3% of the shares entitled to vote at an election of directors will be required to adopt, amend or repeal our bylaws or amend or repeal the provisions of our certificate of incorporation regarding the election and removal of directors and the ability of stockholders to take action;
- Ÿ our board of directors will be expressly authorized to make, alter or repeal our bylaws;
- Ÿ stockholders may not call special meetings of the stockholders or fill vacancies on the board of directors;
- Ÿ our board of directors will be divided into three classes of service with staggered three-year terms. This means that only one class of directors will be elected at each annual meeting of stockholders, with the other classes continuing for the remainder of their respective terms;
- Ÿ our board of directors will be authorized to issue preferred stock without stockholder approval;
- Ÿ directors may only be removed for cause by the holders of 66 ^{2}/3% of the shares entitled to vote at an election of directors; and
- Ÿ we will indemnify officers and directors against losses that may incur investigations and legal proceedings resulting from their services to us, which may include services in connection with takeover defense measures.

These provisions may make it more difficult for stockholders to take specific corporate actions and could have the effect of delaying or preventing a change in control of our company.

Limitation of Liability As permitted by the Delaware General Corporation Law, our certificate of incorporation provides that our directors will not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability:

- Ÿ for any breach of the directors duty of loyalty to us or our stockholders;
- Ÿ for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- Ÿ under Section 174 of the Delaware General Corporation Law, relating to unlawful payment of dividends or unlawful stock purchase or redemption of stock; or
- Ÿ for any transaction from which the director derives an improper personal benefit.

As a result of this provision, we and our stockholders may be unable to obtain monetary damages from a director for breach of his or her duty of care.

Our certificate of incorporation and bylaws also provide for the indemnification of our directors and officers to the fullest extent authorized by the Delaware General Corporation Law. The indemnification provided under our certificate of incorporation and bylaws includes the right to be paid expenses in advance of any proceeding for which indemnification may be payable, provided that the payment of these expenses incurred by a director or officer in advance of the final disposition of a proceeding may be made only upon delivery to us of an undertaking by or on behalf of the director or officer to repay all amounts so paid in advance if it is ultimately determined that the director or officer is not entitled to be indemnified.

Under our bylaws, we have the power to purchase and maintain insurance on behalf of any person who is or was one of our directors, officers, employees or agents, or is or was serving at our request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person or incurred by the person in any of these capacities, or arising out of the persons fulfilling one of these capacities, and related expenses, whether or not we would have the power to indemnify the person against the claim under the provisions of the Delaware General Corporation Law. We intend to maintain director and officer liability insurance on behalf of our directors and officers.

We have entered, and intend to continue to enter, into separate indemnification agreements with each of our directors and officers which are broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements require us, among other things, to indemnify our officers and directors against liabilities that may arise by reason of their status or service as directors or officers, other than liabilities arising from wilful misconduct. The indemnification agreements also require us to advance any expenses incurred by the directors or officers as a result of any proceeding against them as to which they could be indemnification and to obtain directors' and officers' insurance if available on reasonable terms.

Stock Transfer Agent and Registrar

The transfer agent and registrar for our common stock is .

Nasdaq National Market Listing

We have applied for quotation of our common stock on the Nasdaq National Market under the symbol "INPC."

Shares Eligible for Future Sale

Before this offering, there has been no public market for our common stock. If our stockholders sell substantial amounts of our common stock in the public market following this offering, the prevailing market price of our common stock could decline. While all currently outstanding shares are subject to contractual and legal restrictions on resale for 180 days after the date of this prospectus, as described below, sales of substantial amounts of our common stock in the public market after these restrictions lapse could adversely affect the prevailing market price and our ability to raise equity capital in the future.

Upon the closing of this offering, we will have outstanding an aggregate of shares of our common stock, based upon the number of shares of common stock outstanding as of May 31, 2004 and assuming automatic conversion of all of our outstanding convertible preferred stock, exercise of warrants to purchase 939,929 shares of common stock that will terminate if not exercised upon completion of the offering, no exercise of the underwriters' over-allotment option, no exercise of outstanding options or other warrants, and no grant of additional options or warrants. All shares sold in this offering will be freely tradable without restriction or the requirement of further registration under the Securities Act, unless they are purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act. The remaining shares are "restricted shares," as that term is defined in Rule 144 under the Securities Act, and will be eligible for sale in the public market as follows:

Lock-up Agreements. All of our directors, officers, warrant holders and holders of all but shares of our outstanding common stock are subject to lock-up agreements under which they have agreed, with limited exceptions, not to transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for shares of our common stock for 180 days after the date of this prospectus without the prior consent of Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc. The shares of our common stock to be sold by the selling stockholders in this offering are not subject to lock-up restrictions. Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc. may, in their sole discretion, at any time and without prior notice or announcement, release all or any portion of shares subject to the lock-up agreements.

Rule 144. In general, under Rule 144, beginning 90 days after the date of this prospectus, a person who has beneficially owned shares of our common stock for at least one year, including the holding period of prior owners other than affiliates, is entitled to sell within any three-month period a number of shares that does not exceed the greater of (a) 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after the offering, or (b) the average weekly trading volume of our common stock on the Nasdaq National Market during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale. Sales under Rule 144 are also subject to manner-of-sale provisions, notice requirements and the availability of current public information about us. Based upon the number of shares outstanding as of May 31, 2004, an aggregate of approximately shares of our common stock will be eligible to be sold pursuant to Rule 144, subject to the volume restrictions described in the previous sentence, beginning 90 days after the date of this prospectus. However, all but of such shares are subject to the lock-up agreements described above and will only become eligible for sale upon the expiration or termination of such agreements.

Rule 144(k). Under Rule 144(k), a person who is not deemed to have been one of our affiliates at any time during the three months preceding a sale and who has beneficially owned shares for at least two years, including the holding period of certain prior owners other than affiliates, is entitled to sell those shares without complying with the manner of sale, public information, volume limitation or notice provisions of Rule 144. Based upon the number of shares outstanding as of May 31, 2004, an aggregate of approximately shares of our common stock will be eligible to be sold pursuant to Rule 144(k) after the date of the prospectus. However, all but of such shares are subject to the lock-up agreements described above and will only become eligible for sale upon the expiration or termination of such agreements.

Rule 701. In general, under Rule 701 of the Securities Act as currently in effect, shares of our common stock acquired upon the exercise of currently outstanding options or pursuant to other rights granted under our stock plans may be resold, beginning 90 days after the date of this prospectus, to the extent not subject to lock-up agreements, by:

- persons other than affiliates, subject only to the manner-of-sale provisions of Rule 144; and
- our affiliates, subject to the manner-of-sale, current public information and filing requirements of Rule 144,

in each case, without compliance with the one-year holding requirements of Rule 144.

An aggregate of shares of our common stock that were outstanding as of May 31, 2004 and approximately shares of our common stock that may be acquired upon the exercise of options outstanding as of May 31, 2004, will be eligible to be sold pursuant to Rule 701 beginning 90 days after the date of the prospectus, subject to the vesting provisions that may be contained in individual option agreements. However, all but of the outstanding shares and shares

issuable upon exercise of outstanding options described above are subject to the lock-up agreements described above and will only become eligible for sale upon the expiration or termination of such agreements.

Registration Rights. Beginning 180 days after this offering, holders of approximately 75,077,006 shares of our common stock are entitled to have their shares registered by us under the Securities Act. See "Description of Capital Stock — Registration Rights." After any registration of these shares, such shares, except for shares purchased by affiliates, will be freely tradable without restriction under the Securities Act.

Stock Plans. We intend to file one or more registration statements on Form S-8 under the Securities Act following this offering to register the shares of our common stock that are issuable pursuant to our 1999 stock incentive plan. This registration statement is expected to become effective upon filing. Shares covered by this registration statement will then be eligible for sale in the public markets, subject to any applicable lock-up agreements and to Rule 144 limitations applicable to affiliates.

Underwriting

UNDERWRITING Subject to the terms and conditions of the underwriting agreement, the underwriters named below, through their representatives, Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc., have severally agreed to purchase from us the following respective number of shares of common stock at a public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus:

Underwriters	Number of Shares
Deutsche Bank Securities Inc.	
J.P. Morgan Securities Inc.	
Thomas Weisel Partners LLC	
Allen & Company LLC	
Pacific Crest Securities Inc.	
Total	

The underwriting agreement provides that the obligations of the several underwriters to purchase the shares of common stock offered hereby are subject to certain conditions precedent and that the underwriters will purchase all of the shares of common stock offered by this prospectus, other than those covered by the over-allotment option described below, if any of these shares are purchased.

We have been advised by the representatives of the underwriters that the underwriters propose to offer the shares of common stock to the public at the public offering price set forth on the cover of this prospectus and to dealers at a price that represents a concession not in excess of $ per share under the public offering price. The underwriters may allow, and these dealers may re-allow, a concession of not more than $ per share to other dealers. After the initial public offering, representatives of the underwriters may change the offering price and other selling terms.

The selling stockholders have granted to the underwriters an option, exercisable not later than 30 days after the date of this prospectus, to purchase up to additional shares of common stock at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus. The underwriters may exercise this option only to cover over-allotments made in connection with the sale of the common stock offered by this prospectus. To the extent that the underwriters exercise this option, each of the underwriters will become obligated, subject to conditions, to purchase approximately the same percentage of these additional shares of common stock as the number of shares of common stock to be purchased by it in the above table bears to the total number of shares of common stock offered by this prospectus. The selling stockholders will be obligated, pursuant to the option, to sell these additional shares of common stock to the underwriters to the extent the option is exercised. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting discounts and commissions per share are equal to the public offering price per share of common stock less the amount paid by the underwriters to us per share of common stock. The underwriting discounts and commissions are % of the initial public offering price. We have agreed to pay the underwriters the following discounts and commissions, assuming either no exercise or full exercise by the underwriters of the underwriters' over-allotment option:

		Total Fees (in thousands)	
	Fee per share	Without Exercise of Over-Allotment Option	With Full Exercise of Over-Allotment Option
Discounts and commissions paid by us		$	$
Discounts and commissions paid by the selling stockholders		$	$

In addition, we estimate that our share of the total expenses of this offering, excluding underwriting discounts and commissions, will be approximately $.

We and the selling stockholders have agreed to indemnify the underwriters against some specified types of liabilities, including liabilities under the Securities Act, and to contribute to payments the underwriters may be required to make in respect of any of these liabilities.

Each of our officers and directors, and substantially all of our stockholders and holders of options and warrants to purchase our stock, have agreed not to offer, sell, contract to sell or otherwise dispose of, or enter into any transaction that is designed to, or could be expected to, result in the disposition of any shares of our common stock or other securities convertible into or exchangeable or exercisable for shares of our common stock or derivatives of our common stock owned by these persons prior to this offering or common stock issuable upon exercise of options or warrants held by these persons for a period of 180 days after the effective date of the registration statement of which this prospectus is a part without the prior written consent of Deutsche Bank Securities Inc. and J.P. Morgan Securities Inc. This consent may be given at any time without public notice. We have entered into a similar agreement with the representatives of the underwriters. There are no agreements between the representatives and any of our stockholders or affiliates releasing them from these lock-up agreements prior to the expiration of the 180-day period.

The representatives of the underwriters have advised us that the underwriters do not intend to confirm sales to any account over which they exercise discretionary authority.

In connection with the offering, the underwriters may purchase and sell shares of our common stock in the open market. These transactions may include short sales, purchases to cover positions created by short sales and stabilizing transactions.

Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering. Covered short sales are sales made in an amount not greater than the underwriters' option to purchase additional shares of common stock from us in the offering. The underwriters may close out any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to close out the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option.

Naked short sales are any sales in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if underwriters are concerned that there may be downward pressure on the price of the shares in the open market prior to the completion of the offering.

Stabilizing transactions consist of various bids for or purchases of our common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may impose a penalty bid. This occurs when a particular underwriter repays to the other underwriters a portion of the underwriting discount received by it because the representatives of the underwriters have repurchased shares sold by or for the account of that underwriter in stabilizing or short covering transactions.

Purchases to cover a short position and stabilizing transactions may have the effect of preventing or slowing a decline in the market price of our common stock. Additionally, these purchases, along with the imposition of the penalty bid, may stabilize, maintain or otherwise affect the market price of our common stock. As a result, the price of our common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected on the Nasdaq National Market in the over-the-counter market or otherwise.

At our request, the underwriters have reserved for sale at the initial public offering price up to shares of our common stock being sold in this offering for our vendors, employees, family members of employees, customers and other third parties. The number of shares of our common stock available for the sale to the general public will be reduced to the extent these reserved shares are purchased. Any reserved shares not purchased by these persons will be offered by the underwriters to the general public on the same basis as the other shares in this offering.

A prospectus in electronic format is being made available on Internet web sites maintained by one or more of the lead underwriters of this offering and may be made available on web sites maintained by other underwriters. Other than the prospectus in electronic format, the information on any underwriter's web site and any information contained in any other web site maintained by an underwriter is not part of the prospectus or the registration statement of which the prospectus forms a part.

Pricing of this Offering

Prior to this offering, there has been no public market for our common stock. Consequently, the initial public offering price of our common stock will be determined by negotiation among us, the selling stockholders and the representatives of the underwriters. Among the primary factors that will be considered in determining the public offering price are:

- prevailing market conditions;
- our results of operations in recent periods;
- the present stage of our development;
- the market capitalizations and stages of development of other companies that we and the representatives of the underwriters believe to be comparable to our business; and
- estimates of our business potential.

Legal Matters

LEGAL MATTERS Gray Cary Ware & Freidenrich LLP, Washington, DC, will pass upon the validity of the shares of common stock on our behalf. Selected legal matters relating to this offering will be passed upon for the underwriters by Morgan, Lewis & Bockius LLP, Pittsburgh, PA.

Experts

EXPERTS

The consolidated financial statements and schedules of InPhonic, Inc. and subsidiaries as of December 31, 2002 and 2003, and for each of the years in the three-year period ended December 31, 2003, have been included herein and in the registration statement in reliance upon the reports of KPMG LLP, an independent registered public accounting firm, appearing elsewhere herein and upon their authority as experts in accounting and auditing. Our report includes contains an explanatory paragraph that states that the company adopted the provisions of Emerging Issues Task Force Issue No. 00-21 *Accounting for Revenue Arrangements with Multiple Deliverables* effective July 1, 2003, and Statement of Financial Accounting Standards No. 142, *Goodwill and other Intangible Assets* effective January 1, 2002.

The financial statements of Avesair, Inc. as of December 31, 2002 and for the two years ended December 31, 2001 and 2002, included in this registration statement have been so included in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

Change in Our Certifying Accountants

On March 7, 2002, our board of directors, upon recommendation of the audit committee of our board of directors, appointed KPMG LLP to serve as our independent public accountants for the fiscal years ended December 31, 1999, 2000 and 2001, replacing Arthur Andersen LLP which had previously served as our independent public accountant. Our engagement of Arthur Andersen LLP, which had served as our independent auditor for the year ended December 31, 2000, was terminated on March 7, 2002.

Arthur Andersen LLP's report on our financial statements for the year ended December 31, 2000 did not contain any adverse opinion or a disclaimer of opinion and was not qualified or modified as to uncertainty, audit scope or accounting principles. During the year ended December 31, 2000 through the date of termination, except for the item disclosed below, there were no disagreements with Arthur Andersen LLP on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Arthur Andersen LLP, would have caused Arthur Andersen LLP to make reference to the subject matter of the disagreements in connection with Arthur Andersen LLP's report.

Our board of directors was notified of a disagreement between Arthur Andersen LLP and us relating to the application of accounting principles with regards to our timing of revenue recognition on commissions earned. We ultimately adopted an accounting treatment consistent with Arthur Andersen LLP's position. We have authorized Arthur Andersen LLP to respond fully to the inquiries of our successor accountant concerning this matter.

We have provided Arthur Andersen with a copy of the foregoing statements and requested that they furnish us with a letter addressed to the SEC stating whether it agrees with the foregoing statements and, if not, stating the respects in which it does not agree. We have not received nor do we expect to receive a response from Arthur Andersen LLP.

Where You Can Find Additional Information

WHERE YOU CAN FIND ADDITIONAL INFORMATION We have filed with the SEC a registration statement, including exhibits, schedules and amendments. This prospectus is a part of the registration statement and includes all of the information that we believe is material to an investor considering whether to make an investment in our common stock. We refer you to the registration statement for additional information about us, our common stock and this offering, including the full texts of the exhibits, some of which have been summarized in this prospectus. The registration statement is available for inspection and copying at the SECs Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. You may obtain information about the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains an Internet site that contains the registration statement. The address of the SECs Internet site is *http://www.sec.gov.*

Inphonic, Inc. & Subsidiaries

Page

Inphonic, Inc. & Subsidiaries

Report of Independent Registered Public Accounting Firm	F-2
Consolidated Balance Sheets as of December 31, 2002 and 2003	F-3
Consolidated Statements of Operations for the years ended December 31, 2001, 2002 and 2003	F-4
Consolidated Statements of Changes in Stockholders' Deficit for the years ended December 31, 2001, 2002 and 2003	F-5
Consolidated Statements of Cash Flows for the years ended December 31, 2001, 2002 and 2003	F-6
Notes to Consolidated Financial Statements	F-7
Consolidated Unaudited Balance Sheet as of March 31, 2004	F-38
Consolidated Unaudited Statements of Operations for the three-month periods ended March 31, 2003 and 2004	F-39
Consolidated Unaudited Statements of Cash Flows for the three-month periods ended March 31, 2003 and 2004	F-40

Notes to Consolidated Unaudited Financial Statements	F-41
Pro Forma Consolidated Information	F-46
AVESAIR, INC.	
Report of Independent Auditors	F-52
Balance Sheets	F-53
Statements of Operations	F-54
Statements of Stockholders' Deficit	F-55
Statements of Cash Flows	F-56
Notes to Financial Statements	F-57

Report of Independent Registered Public Accounting Firm

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM The Board of Directors and Stockholders InPhonic, Inc. and subsidiaries:

We have audited the accompanying consolidated balance sheets of InPhonic, Inc. and subsidiaries as of December 31, 2003 and 2002, and the related consolidated statements of operations, stockholders' deficit, and cash flows for each of the years in the three-year period ended December 31, 2003. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of InPhonic, Inc. and subsidiaries as of December 31, 2003 and 2002, and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2003, in conformity with U.S. generally accepted accounting principles.

As discussed in note 2(d) to the consolidated financial statements, the Company adopted the provisions of Emerging Issues Task Force Issue No. 00-21, "Accounting for Revenue Arrangements with Multiple Deliverables", effective July 1, 2003. As discussed in note 3(e) to the consolidated financial statements, the Company adopted the provisions of Statement of Financial Accounting Standards "SFAS" No. 142, "Goodwill and Other Intangible Assets," effective January 1, 2002.

McLean, Virginia

June 2, 2004

Consolidated Balance Sheets as of December 31, 2002 and 2003

INPHONIC, INC. & SUBSIDIARIES

Consolidated Balance Sheets

December 31, 2002 and 2003

(in thousands, except per share and share amounts)

	2002	2003
Assets		
Current assets:		
Cash and cash equivalents	$12,626	$29,048
Accounts receivable, net of allowance for doubtful accounts of $200 and $246, respectively	9,297	11,260
Inventory, net	3,978	3,605
Prepaid expenses	514	413
Deferred costs and other current assets	3,376	2,271
Total current assets	29,791	46,597
Restricted cash and cash equivalent	1,053	600
Property and equipment, net	4,411	5,169
Goodwill	7,819	9,479

Intangible assets, net	3,486	987
Deposits and other assets	549	1,357
Total assets	$47,109	$64,189
Liabilities, Redeemable Preferred Stock and Stockholders' Deficit		
Current liabilities:		
Bank line of credit	$394	$4,075
Accounts payable	10,678	16,493
Accrued payroll and vacation	2,139	2,646
Accrued expenses	8,630	12,401
Deferred revenue	2,673	10,123
Total current liabilities	24,514	45,738
Subordinated notes payable	2,367	—
Term loan	—	2,804
Bank line of credit, net of current portion	3,909	—
Total liabilities	30,790	48,542
Redeemable preferred stock:		
Series E redeemable convertible preferred stock, $0.01 par value Authorized 11,920,370 shares at December 31, 2003; issued and outstanding 9,933,640 shares at December 31, 2003; liquidation preference of approximately $41,737 at December 31, 2003	—	27,100
Warrants to purchase Series E redeemable convertible preferred stock	—	1,852
Series D-4 redeemable convertible preferred stock, $0.01 par value Authorized 1,940,000 shares at December 31, 2002; issued and outstanding 730,023 shares at December 31, 2002; liquidation preference of approximately $3,958 at December 31, 2002	2,998	—
Series D and D-1 redeemable convertible preferred stock, $0.01 par value Authorized 20,000,000 shares at December 31, 2002 and 2003; issued and outstanding 9,962,208 and 10,590,654 shares December 31, 2002 and 2003, respectively; liquidation preference of approximately $16,827 and $23,438 at December 31, 2002 and 2003, respectively	13,921	19,155
Warrants to purchase Series D and D-1 redeemable convertible preferred stock	3,196	437
Series C redeemable convertible preferred stock, $0.01 par value Authorized 7,273,762 shares at December 31, 2002 and 2003; issued and outstanding 6,575,796 and 6,741,308 December 31, 2002 and 2003, respectively; liquidation preference of approximately $7,487 and $9,196 at December 31, 2002 and 2003, respectively	10,385	12,104
Warrants to purchase Series C redeemable convertible preferred stock	612	455
Series B redeemable convertible preferred stock, $0.01 par value Authorized, issued and outstanding 2,282,684 shares at December 31, 2002 and 2003, respectively; liquidation preference of approximately $3,319 and $3,623 at December 31, 2002 and 2003, respectively	5,185	6,691
Total redeemable preferred stock	36,297	67,794
Stockholders' equity (deficit):		
Series D-5 convertible preferred stock, $0.01 par value Authorized, issued and outstanding 672,389 shares at December 31, 2003; liquidation preference of approximately $1,886 at December 31, 2003	—	1,884
Series D-3 convertible preferred stock, $0.01 par value Authorized 792,775 and 2,000,000 shares at December 31, 2002 and 2003, respectively; issued and outstanding 792,775 shares at December 31, 2002 and 2003 liquidation preference of approximately $2,532 and $2,766 at December 31, 2002 and 2003, respectively	2,137	2,137
Series D-2 convertible preferred stock, $0.01 par value Authorized 416,667 and 550,000 shares at December 31, 2002 and 2003, respectively; issued and outstanding 416,667 shares at December 31, 2002 and 2003, respectively; liquidation preference of approximately $1,163 and $906 at December 31, 2002 and 2003, respectively	688	688
Series A convertible preferred stock, $0.01 par value Authorized, issued and outstanding 668,782 shares at December 31, 2002 and 2003; liquidation preference of $500 and $509 at December 31, 2002 and 2003, respectively	500	500
Common stock, $0.01 par value		
Authorized 99,440,000 and 100,000,000 shares at December 31, 2002 and 2003, respectively; issued and outstanding 31,896,636 and 34,642,533 shares at December 31, 2002 and 2003, respectively;	133	161
Additional paid-in capital	24,332	34,494
Note receivable from stockholder	(1,060)	(1,120)
Accumulated deficit	(46,708)	(90,891)
Total stockholders' deficit	(19,978)	(52,147)
Total liabilities, redeemable preferred stock and stockholders' deficit	$47,109	$64,189

See accompanying notes to consolidated financial statements.

Consolidated Statements of Operations for the years ended December 31, 2001, 2002 and 2003

INPHONIC, INC. & SUBSIDIARIES

Consolidated Statements of Operations

Years ended December 31, 2001, 2002 and 2003

	2001	2002	2003
	(in thousands, except per share and share amounts)		
Revenues:			
Wireless activation and services	$9,278	$69,194	$74,423
MVNO and data services	3,806	13,402	41,157
MVNO equipment	–	440	3,811
Total revenues	13,084	83,036	119,391
Cost of revenues, excluding depreciation and amortization:			
Wireless activation and services	6,895	30,129	45,359
MVNO and data services	3,189	8,501	21,270
MVNO equipment	–	763	9,884
Total cost of revenues	10,084	39,393	76,513
Gross profit	3,000	43,643	42,878
Operating expenses:			
General and administrative expenses, excluding depreciation and amortization and stock-based compensation	12,907	23,588	36,904
Sales and marketing expenses, excluding depreciation and amortization and stock-based compensation	5,023	17,578	30,344
Depreciation and amortization	487	2,600	5,434
Impairment of goodwill and intangibles	–	3,315	2,431
Stock-based compensation *	1,697	5,095	3,611
Total operating expenses	20,114	52,176	78,724
Loss from operations	(17,114)	(8,533)	(35,846)
Other income (expense):			
Interest income	155	289	287
Interest expense	(300)	(737)	(1,408)
Total other expense	(145)	(448)	(1,121)
Net loss	(17,259)	(8,981)	(36,967)
Preferred stock dividends and accretion to preferred redemption values	(2,049)	(8,048)	(7,309)
Net loss attributable to common stockholders	$(19,308)	$(17,029)	$(44,276)
Basic and diluted net loss per share:	$(0.81)	$(0.55)	$(1.32)
Basic and diluted weighted average shares outstanding:	23,907,209	31,219,752	33,614,372
* Stock-based compensation was related to the associated operating expense categories as follows:			
General and administrative	1,697	4,995	3,548
Sales and marketing	–	100	63
	1,697	5,095	3,611

See accompanying notes to consolidated financial statements.

Consolidated Statements of Changes in Stockholders' Deficit for the years ended December 31, 2001, 2002 and 2003

INPHONIC, INC. & SUBSIDIARIES

Consolidated Statements of Changes in Stockholders' Deficit

Years ended December 31, 2001, 2002, and 2003

	Series D-5 convertiblepreferred stock		Series D-3 convertiblepreferred stock		Series D-2 convertiblepreferred stock		Series A convertiblepreferred stock		Common stock			Note receivab
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Additional paid-incapital	from stockhol
	(in thousands, except per share and share amounts)											
Balance, January 1, 2001	—	$—	—	$—	—	$—	668,782	$500	23,188,124	$58	$1,203	$—
Issuance of Series D-2 preferred stock and common stock in connection with acquisition of GadgetSpace	—	—	—	—	416,667	688	—	—	2,996,031	30	4,164	—
Warrants issued in connection with long-term debt	—	—	—	—	—	—	—	—	—	—	852	—
Loan to stockholder	—	—	—	—	—	—	—	—	—	—	—	(1,000)
Issuance of common stock under anti-dilution provisions	—	—	—	—	—	—	—	—	168,143	2	136	—
Issuance of restricted stock to non-employee	—	—	—	—	—	—	—	—	590,892	—	—	—
Compensation expense on restricted stock and options granted to non-employees	—	—	—	—	—	—	—	—	—	—	1,697	—
Dividends and accretion on redeemable preferred stock	—	—	—	—	—	—	—	—	—	—	—	—
Net loss	—	—	—	—	—	—	—	—	—	—	—	—
Balance, December 31, 2001	—	$—	—	$—	416,667	$688	668,782	$500	26,943,190	$90	$8,052	$(1,000)
Issuance of common stock in connection with acquisition of Reason	—	—	281,344	639	—	—	—	—	1,825,909	18	3,506	—

Issuance of common stock in connection with acquisition of Simplexity	—	—	511,431	1,498	—	—	—	—	2,536,645	25	6,558	—
Warrants issued in connection with long-term debt and preferred stock	—	—	—	—	—	—	—	—	—	—	1,121	—
Exercise of common stock warrants and options										—	—	—
Issuance of restricted stock to non-employee	—	—	—	—	—	—	—	—	590,892	—	—	—
Loan to stockholder	—	—	—	—	—	—	—	—	—	—	—	(60)
Compensation expense on restricted stock and options granted to non-employees	—	—	—	—	—	—	—	—	—	—	5,095	—
Dividends and accretion on redeemable preferred stock	—	—	—	—	—	—	—	—	—	—	—	—
Net loss	—	—	—	—	—	—	—	—	—	—	—	—
Balance, December 31, 2002	—	$—	792,775	$2,137	416,667	$688	668,782	$500	31,896,636	$133	$24,332	$(1,060)
Issuance of common stock in connection with acquisition of Avesair, net of costs	672,389	1,884	—	—	—	—	—	—	672,389	7	1,557	—
Issuance of common stock	—	—	—	—	—	—	—	—	1,129,032	11	2,614	—
Exchange of Series D-4 to Series E	—	—	—	—	—	—	—	—	(74,921)	(1)	205	—
Warrants issued in connection with long-term debt and preferred stock	—	—	—	—	—	—	—	—	—	—	2,358	—
Exercise of common stock warrants and options	—	—	—	—	—	—	—	—	146,870	2	25	—
Cashless options exercise	—	—	—	—	—	—	—	—	872,527	9	2,011	—
Loan to stockholder	—	—	—	—	—	—	—	—	—	—	—	(60)

Compensation expense on restricted stock and options granted to non-employees	–	–	–	–	–	–	–	–	–	–	1,484	–
Dividends and accretion on redeemable preferred stock	–	–	–	–	–	–	–	–	–	–	–	–
Dividends declared	–	–	–	–	–	–	–	–	–	–	(92)	–
Net loss	–	–	–	–	–	–	–	–	–	–	–	–
Balance, December 31, 2003	672,389	$1,884	792,775	$2,137	416,667	$688	668,782	$500	34,642,533	$161	$34,494	$(1,120)

See accompanying notes to consolidated financial statements.

Consolidated Statements of Cash Flows for the years ended December 31, 2001, 2002 and 2003

INPHONIC, INC. & SUBSIDIARIES

Consolidated Statements of Cash Flows

Years ended December 31, 2001, 2002 and 2003

	2001	2002	2003
	(in thousands)		
Cash flows from operating activities:			
Net loss	$(17,259)	$(8,981)	$(36,967)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	487	2,600	5,434
Non-cash interest expense, net	68	243	628
Bad debt expense	14	756	530
Stock-based compensation	1,697	5,095	3,611
Impairment of goodwill and intangibles	–	3,315	2,431
Write off of initial public offering expenses	–	1,307	–
Changes in operating assets and liabilities, net of assets and liabilities received from business acquisition:			
Accounts receivable	(5,962)	(3,571)	(2,310)
Inventory	(862)	(3,016)	373
Prepaid expenses	(238)	(191)	101
Deferred costs	(1,936)	(1,327)	1,105
Accounts payable	3,307	6,364	5,827
Accrued payroll and vacation	787	956	507
Accrued expenses	2,654	1,902	4,669
Deferred revenue	11,760	(9,664)	7,450
Net cash used in operating activities	(5,483)	(4,212)	(6,611)
Cash flows from investing activities:			
Cash received from business acquisition, net of costs	1,127	2,541	1,961
Note receivable from stockholder	(1,000)	–	–
Deposits and other assets	(152)	(1,424)	(808)
Other liabilities	–	10	–

Capitalized expenditures, including internal capitalized labor	(1,102)	(3,602)	(4,856)
Purchase of (reduction in) restricted cash and cash equivalent	(203)	(850)	453
Net cash used in investing activities	(1,330)	(3,325)	(3,250)
Cash flows from financing activities:			
Net borrowings under lines of credit	485	2,443	(454)
Proceeds from the issuance of subordinated notes payable, net of costs	2,965	—	—
Proceeds from borrowing on debt	—	—	3,000
Principal repayments on debt	—	—	(3,000)
Proceeds from exercise of warrants and options	—	—	117
Proceeds from issuance of Series E stock, net of costs	—	—	26,620
Proceeds from issuance of Series D-4 and D-4 common warrants, net of costs	—	3,785	—
Proceeds from issuance of Series D and D-1 stock, net of costs	13,989	—	—
Proceeds from exercise of Series D and D-1 warrants	10	—	—
Proceeds from issuance of Series C stock	775	—	—
Net cash provided by financing activities	18,224	6,228	26,283
Net increase (decrease) in cash and cash equivalents	11,411	(1,309)	16,422
Cash and cash equivalents, beginning of year	2,524	13,935	12,626
Cash and cash equivalents, end of year	$13,935	$12,626	$29,048
Supplemental disclosure of cash flows information:			
Cash paid during the year for:			
Interest	$232	$737	$543
Supplemental disclosure of noncash activities:			
Issuance of common stock in business acquisitions	$4,194	$10,108	$1,563
Issuance of Series D-2 stock in business acquisitions	688	—	—
Issuance of Series D-3 stock in business acquisitions	—	2,137	—
Issuance of Series D-5 stock in business acquisitions	—	—	1,924
Preferred stock dividends and accretion to redemption value	2,049	8,048	7,309

See accompanying notes to consolidated financial statements.

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements

Notes to Consolidated Financial Statements

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

(1) The Company

(a) Business Description

InPhonic, Inc. and subsidiaries (the “Company”) is an online seller of wireless services devices and through private-labeled websites that the Company creates and manages for online businesses, affinity organizations and national retailers, whom the Company refers to as marketers. The Company also sells through its own branded websites including Wirefly.com. The Company has developed a proprietary e-commerce platform that integrates the merchandising, provisioning, procurement, customer care and billing operations into a single system related to the online sale of wireless services and devices. The Company operates as a mobile virtual network operator, or MVNO, under its Liberty Wireless brand, marketing and selling to consumers wireless airtime services it purchases wholesale from a national wireless carrier. Additionally, the Company sells a variety of wireless services.

The Company is headquartered in Washington D.C. and maintains its technology and operations center in Largo, Maryland.

(b) Risk and Uncertainties

The Company's operations are subject to certain risks and uncertainties including, among others, actual and potential competition by entities with greater financial resources, rapid technological changes, the need to retain key personnel and protect intellectual property and the availability of additional capital financing on terms acceptable to the Company.

The Company has incurred net losses since inception of approximately $90,891 and operating cash flow deficits for all years from 1999 (inception) to 2003. To date, management has relied on debt and equity financings to fund its operating deficit. The Company may require additional financing to fund future operations.

(2) Summary of Significant Accounting Principles

(a) Principles of Consolidation and Basis of Presentation

The consolidated financial statements include the accounts of InPhonic, Inc. and its subsidiaries. All significant intercompany accounts and transactions are eliminated upon consolidation.

(b) Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of certain assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. The most significant of such estimates include reserve for future deactivations, allowance for uncollectible accounts, allowance for rebates, valuation of inventory, estimated useful life of assets, impairment of long-lived assets and goodwill, valuation of deferred tax assets, reserves for contingent tax liabilities and valuation of equity instruments. Actual results could differ from those estimates.

(c) Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents. As of December 31, 2002 and 2003, cash and cash equivalents consisted primarily of investments in money market demand deposits. The Company maintains bank accounts with federally insured financial institutions. At times, balances at each bank may exceed insured limits.

(d) Concentrations of Credit Risk

Financial instruments that potentially subject the Company to a concentration of credit risk consist principally of accounts receivable. The Company extends credit to wireless network carriers ("carriers") on an unsecured basis in the normal course of business. As of December 31, 2002 and 2003, two carriers accounted for 60% and 64% of accounts receivable, respectively. Subsequent to year-end, substantially all of these accounts receivable amounts were collected.

For the year ended December 31, 2003, revenues from a single carrier, in the Wireless Activation and Services segment, exceeded 24% of the Company's total revenues. For the year ended December 31, 2002, revenues from two carriers exceeded 10% of the Company's total revenues.

Revenues from each customer, which exceeded 10% of the Company's total revenues for the years ended December 31, 2001, 2002 and 2003, are as follows:

	2001	2002	2003
Customer A (Wireless activation and services)	16%	13%	*
Customer B (Wireless activation and services)	16%	42%	24%
Customer C (Data services)	26%	*	*

* Less than 10%

(e) Allowance for Doubtful Accounts

The Company maintains allowances for doubtful accounts for estimated losses resulting from the inability of customers to pay. If the financial condition of a material portion of the Company's customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required.

(f) Inventory

Inventory consists primarily of wireless devices. The carrying value of inventory is stated at the lower of cost or market value. Cost is determined using a method which approximates the first-in-first-out method. The Company writes down inventory for estimated obsolescence or unmarketable inventory equal to the difference between the cost of inventory and the estimated market value or replacement cost based upon assumptions about future demand and

market conditions. If actual market conditions are less favorable than those projected, additional inventory write-downs may be required. At December 31, 2003, the Company wrote down inventory approximately $880. No write-down was required as of December 31, 2002.

(g) Impairment or Disposal of Long-Lived Assets

Effective January 1, 2002, the Company adopted the provisions of Statement of Financial Accounting Standards ("SFAS") No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*. SFAS No. 144 addresses financial accounting and reporting for the impairment or disposal of long-lived assets. This Statement requires that long-lived assets be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. The adoption of SFAS No. 144 did not have an impact on the Company's consolidated financial statements (see note 3(a)).

Prior to the adoption of SFAS No. 144, the Company accounted for long-lived assets in accordance with the provisions of SFAS No. 121, *Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of.* This Statement required that long-lived assets and certain identifiable intangibles be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used was measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. If such assets were considered to be impaired, the impairment to be recognized would be measured by the amount by which the carrying amount of the assets exceeded the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

(h) Revenue Recognition

Wireless activation and services: The Company generates revenues from wireless carriers who pay commissions, as well as volume and performance-based bonuses, for activating wireless services. The Company recognizes these commissions upon shipment of activated devices to the customer less an allowance for deactivations. The Company also charges for devices, shipping and handling. The Company does not sell wireless devices separate from service plans.

The Company negotiates commissions and bonuses with the wireless carriers on an annual basis. The Company bills wireless carriers for annual volume bonuses on a monthly basis and records these bonuses as deferred revenue at the time of billing. The Company recognizes these deferred revenues over the course of the year based upon management's assessment of its ability to achieve the annual volume target. Wireless carriers periodically offer bonuses for achieving monthly volume and performance targets. The Company recognizes these monthly bonuses as earned.

From October 1999 through March 2002, the provisions of Securities and Exchange Commission Staff Accounting Bulletin ("SAB") No. 101, *Revenue Recognition in Financial Statements* required us to defer 100% of our revenues from carriers until the expiration of any applicable commission chargeback period, which typically ranges from 90 to 180 days depending on the wireless carrier. SAB No. 101 required us to recognize these deferred revenues once we had experienced two years of operating history with the wireless carriers. Beginning in March 2002, we had sufficient historical evidence to accurately estimate and reserve for future deactivations. As a result, in the three months ended March 31, 2002, we recorded the cumulative revenues previously deferred and provided a reserve for future deactivations based on historical experience. SAB No. 101 also required that we defer, during our first two years of operations, the revenues for purchases of wireless devices, including accessories and shipping, until the expiration of the return period, which was generally 30

days. These amounts totaled $11,800. Concurrently, the Company recognized $2,000 in cost of services related to this revenue.

Mobile Virtual Network Operator (MVNO) and data services:

MVNO services: The Company sells wireless communications services under the Liberty Wireless brand. The Company generates revenues from customers for monthly recurring usage of wireless airtime minutes and optional features, including voicemail and text messaging. In addition, the Company bills for airtime usage in excess of monthly minutes included in monthly service plans. MVNO services revenues also include non-recurring activation service charges to customers to the extent not allocated to wireless device revenue. MVNO services are provided on a month-to-month basis and are generally paid in advance.

In November 2002, the Emerging Issues Task Force ("EITF") of the Financial Accounting Standards Board, issued a final consensus on EITF Issue No. 00-21, *Accounting for Revenue Arrangements with Multiple Deliverables.* EITF Issue No. 00-21 provides guidance on when and how arrangements involving multiple deliverables should be divided into separate units of accounting. EITF No. Issue 00-21 is effective for arrangements entered into in fiscal periods beginning after June 15, 2003.

Prior to the adoption of EITF Issue No. 00-21, the Company accounted for the sale of devices and the subsequent service as a single unit of accounting, whereby the deferred activation fee revenue and related costs were recognized over the average life of the customers in accordance with SAB No. 101. The Company elected not to apply the provisions of EITF Issue No. 00-21 to existing arrangements prior to July 1, 2003 and as such, continues to amortize deferred revenue and costs related to these arrangements over the remaining average life of the customer.

Beginning July 1, 2003, we adopted the provisions of EITF Issue No. 00-21 for sales arrangements with multiple deliverables with respect to our MVNO services. As a result, we are required to account for the sale of a device separately from the provision of services to the customer. Accordingly, we recognize the portion of the fee attributable to the device revenue and related costs, including activation, when the device is delivered to the customer to the extent cash is received in advance. We defer the portion of the fee attributable to the provision of services, and recognize these deferred fees and costs on a straight-line basis over the term of the services. We use the residual value method in allocating revenues between service revenues and device sales.

In certain indirect distribution arrangements, the fee attributable to the service unit exceeds the total consideration received. In these circumstances, the entire fee is deferred and recognized when the end-customer activates the service.

Data services: The Company sells data services, including a service that allows customers to access email, voicemail, facsimiles, contacts and personal calendar information through a website or a telephone; wireless email; and mobile marketing services. Revenues are recognized when the services are performed.

MVNO equipment: The Company sells wireless devices and accessories in connection with the Company's MVNO services. This equipment is also sold to indirect retailers to facilitate distribution to MVNO services customers. Revenues from the sale of devices and accessories in connection with our MVNO services are recognized at the time of sale. The revenues from wireless devices sold to indirect retailers are recognized when they are sold to the indirect retailers. Customers have the right

to return devices within a specific period of time or usage, whichever occurs first. We provide an allowance for estimated returns on devices based on historical experience. Return rights of indirect retailers for wireless devices are limited to warranty claims, which are generally covered by the device manufacturers' original warranty.

(i) Cost of Revenues

Wireless activation and services: Cost of wireless activation and services revenues includes the costs of the wireless devices and accessories that are bundled with each service plan activation, as well as the cost of shipping.

MVNO and data services: Cost of MVNO and data services revenues includes the amounts paid to a wireless carrier for airtime and amounts paid to data service providers of telecommunications and data center services.

MVNO equipment: The Company purchases wireless devices and accessories from wireless carriers, device manufacturers and third-party vendors to sell to customers and indirect retailers in connection with the MVNO services. The Company subsidizes the sale of wireless devices to encourage the sale and use of services. The Company does not manufacture any of this equipment.

(j) General and Administrative Expenses

General and administrative expenses include salaries and benefits and related costs for support functions, including information technology, customer care, credit processing and activations, fulfillment, operations, billing, finance and accounting, human resources, management, professional services and bad debt expense. General and administrative expenses exclude stock-based compensation and depreciation and amortization.

(k) Advertising Costs

Advertising costs are expensed as incurred.

(l) Website and Internal Software Development Costs

The Company accounts for the costs relating to the development of its e-commerce platform for internal use in accordance with AICPA Statement of Position ("SOP") No. 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use,* and EITF Issue No. 00-2, *Accounting for Web Site Development* Costs.

The Company began developing its e-commerce platform in 1999. Web development costs consist of internal and external costs incurred to purchase and implement the web software and enhancements to the functionality of the web software, used in the Company's business. The Company capitalized a total of approximately $175, $330 and $477 during 2001, 2002 and 2003, respectively, relating to the development of the e-commerce platform. In addition, the

Company capitalized costs incurred to develop certain internal use software of approximately $131, $1,077, and $1,501 in 2001, 2002 and 2003, respectively. The Company is amortizing the development costs over a period of 18 months and internal use software costs over a period of 24 months. These costs are included in depreciation and amortization in the accompanying consolidated statements of operations. Accumulated amortization on the e-commerce platform and other internal use software development costs were approximately $123, $658, and $2,015 at December 31, 2001, 2002 and 2003, respectively.

(m) Sales and Marketing Expenses

Sales and marketing expenses include advertising and promotional costs associated with acquiring customers and compensation and benefits for sales personnel. These costs principally include marketing expenses paid for advertising and fees paid to marketers for sales through the private-labeled websites that the Company creates and manages. Sales and marketing expenses exclude stock-based compensation and depreciation and amortization.

(n) Property and Equipment

Property and equipment is recorded at cost or fair value at the date of acquisition, net of accumulated depreciation and amortization. Replacements and improvements that extend the useful life of property and equipment are capitalized. Property and equipment is depreciated over the estimated useful life of the asset on a straight-line basis over periods of three to seven years. Leasehold improvements are amortized using the straight-line method over the shorter of the estimated useful lives or the terms of the lease.

	Years
Computer and equipment	3
Software	3
Furniture and fixtures	7
Leasehold improvements	3

(o) Income Taxes

Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

(p) Stock-based Compensation

The Company applies the intrinsic value method of accounting prescribed by Accounting Principles Board ("APB") Opinion No. 25, *Accounting for Stock Issued to Employees*, and related interpretations including FASB Interpretation No. 44, *Accounting for Certain Transactions involving Stock Compensation an interpretation of APB Opinion No. 25*, issued in March 2000, to account for its equity grants to employees. Under this method, compensation expense is recorded on the date of grant only if the current market price of the underlying stock exceeded the exercise price. SFAS No. 123, *Accounting for Stock-Based Compensation*, established accounting and disclosure requirements using a fair value-based method of accounting for stock-based employee compensation plans. As allowed by SFAS No. 123, the Company has elected to continue to apply the intrinsic value-based method of accounting described above, and has adopted the disclosure requirements of SFAS No. 123. All equity-based awards granted to non-employees are accounted for at fair value in accordance with SFAS No. 123.

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted average assumptions:

	2001	2002	2003
Expected volatility	0.00%	0.00%	0.00%
Risk free interest rate	4.84%	3.63%	2.81%

Expected dividend rate	0.00%	0.00%	0.00%
Expected life (range in years)	4	4	4

The Company's pro forma net loss applicable to common shares, and pro forma net loss per common share, basic and diluted, is as follows:

	2001	2002	2003
	(in thousands, except per share amounts)		
Net loss attributable to common shares, as reported	$(19,308)	$(17,029)	$(44,276)
Add: Stock-based employee compensation expense included in net loss applicable to common shares, as reported	—	284	314
Less: Total stock-based employee compensation expense determined under fair value based methods for all stock awards, net of related tax effects	(121)	(720)	(949)
Pro forma net loss	$(19,429)	$(17,465)	$(44,911)
Net loss per common share, basic and diluted, as reported	$(0.81)	$(0.55)	$(1.32)
Net loss per common share, basic and diluted, pro forma	$(0.80)	$(0.56)	$(1.34)

(q) Net Loss Per Common Share

The Company computes net loss per common share in accordance with SFAS No. 128, *Earnings Per Share*. Basic net loss per common share includes no dilution and is computed by dividing net loss attributable to common stockholders by the weighted average number of common shares outstanding for the period. Diluted net loss per common share includes the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted to common stock. As of December 31, 2002 and 2003, options to purchase 11,757,102 and 11,269,379 shares of common stock, respectively, were outstanding. Due to the anti-dilutive nature of the options, redeemable convertible preferred stock and convertible preferred stock, there is no effect on the calculation of weighted average shares for diluted net loss per common share. As a result, the basic and diluted net losses per common share amounts are identical.

The following table reconciles net loss attributable to common stockholders and basic and diluted weighted average common shares outstanding to the pro forma net loss attributable to common stockholders and the pro forma basic and diluted weighted average common shares outstanding for the years ended December 31,:

	2001	2002	2003
Basic and diluted weighted average common shares outstanding	58,452,807	63,973,965	75,581,872
Less: Securities not included in diluted weighted average common shares outstanding as their effect could be anti-dilutive	(34,545,598)	(32,754,213)	(41,967,500)
	23,907,209	31,219,752	33,614,372

	2001	2002	2003
	(in thousands, except share amounts)		
Net loss attributable to common stockholders	$(19,308)	$(17,029)	$(44,276)
Less: Dividends on preferred stock	2,049	8,048	7,309
Pro forma net loss attributable to common stockholders	$(17,259)	$(8,981)	$(36,967)
Basic and diluted weighted average common shares outstanding	23,907,209	31,219,752	33,614,372
Conversion of preferred stock	25,977,910	27,642,518	33,094,841
Pro forma basic and diluted weighted average common shares outstanding	49,885,119	58,862,270	66,709,213

(r) Fair Value of Financial Instruments

The carrying amounts of cash and cash equivalents, accounts receivable, accounts payable and amounts included in other current assets and liabilities that meet the definition of a financial instrument approximate fair value because of the short-term nature of these amounts. The fair values of the lines of credit and the subordinated notes payable approximate the carrying values, and are estimated by discounting the future cash flows of the debt at rates currently offered to the Company for similar debt instruments of comparable terms and maturities.

(s) Segment Reporting

The Company provides segment information in accordance with SFAS No. 131, *Disclosures about Segments of an Enterprise and Related Information*. The Company classifies its business into three segments: Wireless Activation and Services, MVNO Services and Data Services. Through the Wireless Activation and Services segment, the Company sells and activates wireless services and devices through private-labeled websites that the Company creates and manages for marketers as well through the Company's own branded websites. The wireless carriers pay commissions and bonuses for activating wireless services. In connection with these activations, the Company provides consumers with wireless devices at significant discounts. In the MVNO Services segment, the Company operates as an MVNO, and markets and sells to consumers the Company's own branded wireless services based on airtime minutes that are purchased wholesale from Sprint, which owns and

operates the underlying wireless network. The Company sells devices to consumers in connection with the sale of these wireless services. To further leverage the relationships the Company has established with customers that have been acquired through Wireless Activation and Services and MVNO Services, in the Data Services segment, the Company sells a variety of communication and data services.

The Company's management evaluates revenues and gross profit for these three segments. A significant portion of the Company's operating expenses is shared between these segments, and, therefore, management analyzes operating results for these three segments on a combined basis. SFAS No. 131 designates the internal information used by management for allocating resources and assessing performance as the source of the Company's reportable segments and requires disclosure about products and services, geographical areas and major customers. The segments do not carry transactions between segments.

(t) Recent Accounting Pronouncements

In November 2002, the FASB issued FASB Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, ("FIN No. 45"). FIN No. 45 requires that upon issuance of a guarantee, the guarantor must disclose and recognize a liability for the fair value of the obligation it assumes under that guarantee. The initial recognition and measurement requirements of FIN No. 45 are effective for guarantees issued or modified after December 31, 2002. The disclosure requirements of FIN No. 45 are effective for interim and annual periods ending after December 15, 2002, and are applicable to certain guarantees issued by the Company before December 31, 2002. The Company adopted FIN No. 45 disclosure requirements as of December 31, 2002. The adoption of the provisions for recognition and initial measurement did not have a material impact on the Company's financial position, results of operations or cash flows.

In December 2002, the FASB issued SFAS No. 148, *Accounting for Stock-Based Compensation*, *Transition and Disclosure* ("SFAS No. 148"). SFAS No. 148 provides alternative methods of transition for a voluntary change to the fair value based method of accounting for stock-based employee compensation. SFAS No. 148 also requires that disclosures of the pro forma effect of using the fair value method of accounting for stock-based employee compensation be displayed more prominently and in a tabular format. Additionally, SFAS No. 148 requires disclosure of the pro forma effect in interim financial statements. The Company has adopted the transition and annual disclosure requirements of SFAS No. 148, which are effective for fiscal years ending after December 15, 2002 and has elected to continue to account for employee stock options under APB Opinion No. 25. The interim disclosure requirements are effective for interim periods commencing after December 15, 2002. The adoption of this standard did not have a material effect on the Company's financial position, results of operations or cash flows.

In January 2003, the FASB issued Interpretation No. 46, *Consolidation of Variable Interest Entities* ("FIN No. 46"), which clarifies the application of Accounting Research Bulletin No. 51 *Consolidated Financial Statements*, to certain entities in which equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties. Certain disclosure requirements of FIN No. 46 are effective for financial statements of interim or annual periods issued after January 31, 2003. FIN No. 46 applies immediately to variable interest entities created, or in

which an enterprise obtains a variable interest, after January 31, 2003. For variable interest entities in which an enterprise holds a variable interest that it acquired before February 1, 2003, FIN No. 46 applies to the first interim reporting period ending after March 15, 2004. The Company does not believe that it has invested in any variable interest entities for which it is the primary beneficiary.

In May 2003, the FASB issued SFAS No. 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity* ("SFAS No. 150"). This statement establishes standards for classifying and measuring as liabilities certain financial instruments that have characteristics of both liabilities and equity. It requires the issuer to classify a financial instrument that is within scope of the standard as a liability if such financial instrument embodies an obligation of the issuer. This statement is effective immediately for instruments entered into or modified after May 31, 2003 and for all other instruments

that exist as of the beginning of the first interim financial reporting period beginning after June 15, 2003. However, the provisions of SFAS No. 150 will be applied to mandatorily redeemable instruments of nonpublic companies in fiscal periods beginning after December 15, 2003. Early adoption of SFAS No. 150 is not permitted. Application of this standard to pre-existing instruments will be recognized as a cumulative effect of a change in accounting principle. The provisions of this statement require that any financial instruments that are mandatorily redeemable on a fixed or determinable date or upon an event certain to occur be classified as liabilities. All classes of the Company's redeemable convertible preferred stock may be converted into common stock at the option of the stockholder, and therefore adoption of SFAS No. 150 had no effect on the Company's financial position, results of operations or cash flows.

In December 2003, the SEC issued SAB No. 104, *Revenue Recognition* ("SAB No. 104"), which codifies, revises and rescinds certain sections of SAB No. 101, in order to make this interpretive guidance consistent with current authoritative accounting and auditing guidance and SEC rules and regulations. The changes noted in SAB No. 104 did not have a material effect on the Company's results of operations, financial position or cash flows.

(u) Reclassifications

Certain reclassifications have been made to the consolidated financial statements as of and for the years ended December 31, 2001 and 2002 for conformity with the presentation as of and for the year ended December 31, 2003.

(3) Business Acquisitions, Intangible Assets and Goodwill

The Company continues to evaluate potential acquisition candidates and intends to pursue new opportunities, whenever it considers them appropriate. A summary of significant business acquisitions executed over the past three years follows:

(a) Acquisition of GadgetSpace, Inc.

On December 3, 2001, the Company acquired certain assets and assumed certain obligations of GadgetSpace, Inc. ("GadgetSpace") in a transaction accounted for using the purchase method of accounting in accordance with SFAS No. 141, Business Combinations. The results of GadgetSpace's operations have been included in the Company's consolidated financial statements since that date. GadgetSpace is a wireless company that adds two-way messaging software and wireless data capabilities to the Company's service offering. The merger consideration for GadgetSpace consisted of 416,667 shares of Series D-2 Convertible Preferred Stock, valued at $688, and 2,996,031 shares of common stock valued at $4,194.

The acquired software consists of a two-way data messaging technology. The values of the software, trademark and customer contract were being amortized over periods of five, four and five years, respectively.

The results of operations of this entity have been included, in the Data Services segment, in the Company's results since the date of acquisition.

The estimated fair value of the net assets acquired approximated the following:

	Actual
Cash and other current assets	$1,178
Property and equipment	213
Software	3,204
Trademark	252
Customer contract	35
Total assets acquired	4,882
Less: Liabilities assumed	—
Aggregate purchase price	$4,882

In December 2003, the Company determined that the software, customer list and trademark acquired from GadgetSpace Inc. would require significant additional development in order to improve its marketability, which would be required to increase sales volume and obtain positive cash flows from the investment. As a result, the Company recorded a $2,045 impairment charge on the acquired intangibles, which represented the entire remaining unamortized balance.

(b) Acquisition of Reason, Inc.

On January 3, 2002, the Company entered into an asset purchase agreement with Reason, Inc. ("Reason"). The Company issued 1,825,909 shares of common stock, valued at $3,524, and 281,344 shares of Series D-3 Convertible Preferred Stock, valued at $639, for substantially all of the assets and liabilities of Reason. The results of Reason's operations have been included, in the Wireless Activation and Services segment, in the Company's results of operations since the date of the acquisition.

Reason was a device management company, whose software application was expected to enhance the Company's offerings to corporations for the management of wireless devices such as cellular phones, pagers and personal digital assistants.

The estimated fair value of the assets acquired at the time of the acquisition approximated the following amounts:

	Actual
Accounts receivable and other current assets	$134
Property and equipment	500
Goodwill	3,315
Intangibles	291
Total assets acquired	4,240
Less: Liabilities assumed	(78)
Aggregate purchase price	$4,162

In June 2002, the Company determined that the technology and goodwill acquired from Reason, Inc. would require significant additional development in order to improve its marketability, increase sales volume and obtain positive cash flows from the investment. As a result, the Company recorded a $3,315 impairment charge on the goodwill. The fair value of identifiable intangible assets, specifically the acquired technology, was determined based upon quotes obtained from third party developers and the Company's internal information technology personnel. In September 2003, the Company recorded a $55 write-off of the net acquired intangibles.

(c) Acquisition of Simplexity, Inc.

On February 13, 2002, the Company entered into an asset purchase agreement with Simplexity, Inc. ("Simplexity") and certain of the subsidiaries of Simplexity. The Company issued 2,536,645 shares of common stock valued at $6,584, and 511,431 shares of Series D-3 Convertible Preferred Stock, valued at $1,498, for substantially all of the assets and liabilities of Simplexity and certain of its subsidiaries.

In addition, on September 26, 2003, the Company issued additional consideration of 1,129,032 shares of common stock valued at $2,625 related to the Company's purchase of Simplexity. No other consideration is required nor anticipated to be issued related to the Simplexity asset purchase agreement.

Simplexity was an online seller of wireless services and devices to their customers.

The results of operations of this entity have been included in the Company's results of operations, in the Wireless Activation and Services segment, since the date of acquisition.

The estimated fair value of the assets acquired approximated the following:

	Actual
Cash and other current assets	$2,541
Accounts receivable	297
Property and equipment	352
Goodwill	7,735
Customer contracts	835
Total assets acquired	11,760
Less: Liabilities assumed	(3,678)
Aggregate purchase price	$8,082

The value of customer contracts is being amortized over three years.

(d) Acquisition of Avesair, Inc.

On May 13, 2003, the Company acquired certain assets and assumed certain obligations of Avesair, Inc. ("Avesair") in a transaction accounted for using the purchase method of accounting in accordance with SFAS No. 141, Business Combinations. The results of Avesair's operations have

been included in the Company's consolidated financial statements effective April 1, 2003 and have been reported in the Data Services segment. Avesair is a technology company that adds the ability to provide mobile device targeted marketing and promotions to the Company's service offering.

The merger consideration for Avesair consisted of 672,389 shares of Series D-5 Convertible Preferred Stock, valued at $1,884, net of costs, and 672,389 shares of common stock valued at $1,564.

The sellers are also entitled to receive additional consideration if the Company achieved greater than $2,000 in gross revenues up to a maximum of $3,333 during the 12 month period beginning on April 1, 2003 and ending on March 31, 2004 as a result of the sale of products or services derived from the acquired assets. If this occurs, the Company must issue common stock to the seller in an amount equal to $3.00 for each $1.00 of any such gross revenue recognized by the Company. The Company has determined that the gross revenues achieved related to the Avesair products or service did not exceed this threshold for the above noted measuring period, and as such, no action is required by the Company.

The acquired business includes a customer list and technology that enables mobile carrier and marketers to target, schedule, deliver, track and report on targeted marketing messages and promotions of any media type to mobile devices.

The estimated fair value of the assets acquired approximated the following:

	(in thousands)
Cash and other current assets	$2,000
Accounts receivable	183
Goodwill	221
Customer contract	50
Software	1,033
Total assets acquired	3,487
Less: Liabilities assumed	—
Aggregate purchase price	$3,487

The pro forma statements of operations to give effect of the acquisition of Avesair as of December 31, 2001, 2002 and 2003 are as follows:

	2001	2002	2003
	(in thousands)		
Total revenues	$13,156	$83,908	$119,759
Total cost of revenues	10,117	39,563	76,564
Gross profit	3,039	44,345	43,195
Total operating expenses	28,084	62,965	80,718
Loss from operations	(25,045)	(18,620)	(37,523)
Total other income (expense)	142	(461)	(1,171)
Net loss	(24,903)	(19,081)	(38,694)
Preferred stock dividends and accretion to preferred	(2,049)	(8,047)	(7,309)
Net loss attributable to common stockholders	$(26,952)	$(27,128)	$(46,003)

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

The values of the software and customer contracts are being amortized over a period of 18 months. The allocation presented above is preliminary as of December 31, 2003.

(e) Adoption of SFAS No. 141 and SFAS No. 142

In June 2001, the FASB issued SFAS No. 141, *Business Combinations*, ("SFAS No. 141") and SFAS No. 142, *Goodwill and Other Intangible Assets* ("SFAS No. 142"). SFAS No. 141 requires that the purchase method of accounting be used for all business combinations. SFAS No. 141 specifies criteria that intangible assets acquired in a business combination must meet to be recognized and reported separately from goodwill. SFAS No. 142 requires that goodwill and intangible assets with indefinite useful lives no longer be amortized, but instead tested for impairment at least annually in accordance with the provisions of SFAS No. 142. SFAS No. 142 also requires that intangible assets with estimable useful lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment in accordance with SFAS No. 121 and subsequently, SFAS No. 144 after its adoption. The Company adopted the provisions of SFAS No. 141 as of July 1, 2001 and adopted SFAS No. 142 as of January 1, 2002. The Company did not have any goodwill amortization during the years ended December 31, 2001, 2002 and 2003. During the fourth quarter 2003, the Company completed the required annual impairment tests for each acquisition and identified $2,045 of impairment on the Gadgetspace acquisition (see note 3(a)).

(f) Acquired Intangible Assets

Intangible assets consisted of the following:

	2002		
	Gross CarryingAmount	**Accumulated Amortization**	**Net CarryingAmount**
	(in thousands)		
Amortized intangible assets			
Trademark	$252	$68	$184
Software	3,496	824	2,672
Customer contracts	870	240	630
Total	$4,618	$1,132	$3,486

	2003		
	Gross CarryingAmount	**Accumulated Amortization**	**Net CarryingAmount**
	(in thousands)		
Amortized intangible assets			
Software	$1,033	$402	$631
Customer contracts	885	529	356
Total	$1,918	$931	$987

The Company amortizes the intangible assets on a straight-line basis over periods ranging from one to five years.

Amortization expense was approximately $1,420 in 2003, $764 in 2002 and $55 in 2001. The Company expects to record annual amortization expense over the next five years as follows:

	(in thousands)
2004	$940
2005	47
2006	—
2007	—
2008	—

The following table reflects the changes to goodwill by segment for the years ended December 31, 2002 and 2003:

	Wireless ActivationsSegment	**Data Services Segment**	**Total**
	(in thousands)		
Balance as of January 1, 2002	$—	$—	$—
Goodwill arising from Simplexity and Reason acquisitions	7,819	3,315	11,134
Write-off of Reason goodwill	—	(3,315)	(3,315)
Balance as of December 31, 2002	$7,819	$—	$7,819

Goodwill arising from Avesair acquisition	—	221	221
Reduction in estimated liabilities from Simplexity acquisition	(1,186)	—	(1,186)
Additional consideration for Simplexity acquisition	2,625	—	2,625
Balance as of December 31, 2003	$9,258	$221	$9,479

(4) Property and Equipment

Property and equipment are stated at cost, net of accumulated depreciation and amortization. Property and equipment consists of the following as of December 31, 2002 and 2003:

	2002	2003
	(in thousands)	
Furniture and fixtures	$437	$523
Leasehold improvements	217	471
Software	770	2,645
Capitalized labor	1,803	3,732
Computer and equipment	3,199	3,826
	6,426	11,197
Less: Accumulated depreciation and amortization	(2,015)	(6,028)
	$4,411	$5,169

(5) Short-term and Long-term Debt

(a) Bank Facilities

As of December 31, 2003, the Company maintained a term loan, a revolving operating line of credit, and an equipment line of credit with a bank, which allowed for aggregate borrowing of $3,000, $4,000 and $75, respectively. These facilities were fully outstanding at the end of the year. This was increased during 2003 from a combined $4,394 facility, of which $4,113 was outstanding as of December 31, 2002.

The operating and equipment lines of credit bear interest at prime rate plus 0.6% and prime rate plus 1.50%, respectively. The term loan bears interest at prime rate plus 0.95%. The bank's prime rate was 3.85% and 4% at December 31, 2002 and 2003, respectively. The Company paid commitment and amendment fees of $15 and $44 in December 31, 2002 and 2003, respectively.

The Company is required by the bank credit facility to maintain a current ratio, as defined, of no less than 2 to 1. The Company is also required to meet certain minimum tangible net worth levels. These facilities are secured by substantially all of the assets of the Company.

The revolving operating line of credit was due in full on March 18, 2004, with interest being paid monthly. Principal and accrued interest for each advance under the equipment line of credit were payable monthly over two years and matured on various dates between May 2, 2003 and February 28, 2005. On June 2, 2004, the Company increased its term loan and revolving operating line of credit with the bank to $5,000 and $25,000, respectively. The revolving operating line of credit matures 18 months from the date of loan documents and the term loan on August 7, 2008. The remaining equipment line of credit will be paid in full as of February 28, 2005.

The Company issued common stock warrants to the bank of 87,296 and 38,095 in each of 2002 and 2003, respectively, as partial compensation for the credit facilities. The estimated fair value of warrants issued during 2002 and 2003 was approximately $110 and $2,672, respectively, using the Black-Scholes Model. On June 2, 2004, the Company issued 202,423 common stock warrants.

(b) Standby Letters of Credit

The Company had outstanding at December 31, 2002 and 2003 approximately $1,053 and $600, respectively, of standby letters of credit in connection with certain vendor obligations. The Company holds a certificate of deposit with a bank as collateral for these letters of credit, which have been classified as restricted cash equivalent in the accompanying consolidated balance sheets.

(c) Subordinated debt

In September 2001, the Company issued $3,000 of notes payable. The notes bore interest at 12% and were due in September 2006. On August 8, 2003, the subordinated debt was paid in full with borrowings under a $3,000 term loan by the Company's bank.

In connection with the issuance of the subordinated notes, the Company issued warrants to purchase a total of 771,259 shares of common stock at $0.01 per share. Each warrant is immediately exercisable and has a term of ten years. The Company allocated $799 to the fair value of the warrants, which was being amortized using the effective interest method over the term of the subordinated notes. The remaining $540 of fair value was expensed as interest expense at the time the notes were paid. The fair value of the warrants was estimated using the Black-Scholes Model.

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

At December 31, 2002, the carrying value of the subordinated notes payable was approximately $2,367, net of the unamortized discount of approximately $633.

(d) ***Maturities of Long-Term Debt***

The aggregate maturities of long-term debt at December 31, 2003, before unamortized discounts approximate the following:

December 31,	**(in thousands)**
2004	$4,000
2005	75
2006	—
2007	—
2008	3,000
Thereafter	—
Total	$7,075

(6) **Preferred Stock**

(a) ***Convertible Preferred Stock***

Series A Convertible Preferred Stock

In November 1999, a new investor contributed $500 to the Company. On January 7, 2000, the Company issued 668,782 shares of Series A Convertible Preferred Stock (Series A) to this investor as consideration for the contribution.

Series D-2 Convertible Preferred Stock

On December 3, 2001, the Company issued to GadgetSpace 416,667 shares of Series D-2 Convertible Preferred Stock (Series D-2), valued at $688, and 2,996,031 shares of common stock valued at $4,194, in connection with the acquisition of certain assets of GadgetSpace (see note 3(a)).

Series D-3 Convertible Preferred Stock

On January 3, 2002, the Company issued to Reason 281,344 shares of Series D-3 Convertible Preferred Stock (Series D-3), valued at $639, and 1,825,909 shares of common stock, valued at $3,524, for substantially all of the assets and liabilities of Reason (see note 3(b)).

On February 13, 2002, the Company issued to Simplexity 511,431 shares of Series D-3 stock, valued at $1,498 and 2,536,645 shares of common stock, valued at $6,584, for substantially all of the assets and liabilities of Simplexity and certain of its subsidiaries (see note 3(c)).

Series D-5 Convertible Preferred Stock

On May 15, 2003, the Company issued to Avesair, 672,389 shares of Series D-5 Convertible Preferred Stock (Series D-5 Stock), valued at $1,884, net of costs, and 672,389 shares of common stock valued at $1,564, in connection with the acquisition of certain assets of Avesair (see note 3(d)). The Series D-5 Stock accrues dividends the rate of $0.52 per share on an annual basis.

The Series D-5 liquidation preference is calculated based on an amount equal to 57% of the sum of the original purchase price of D-5, plus dividends including the Series D-5 cumulative dividends through the date of payment, plus an additional preference. Concurrent with the Series E Stock issuance on June 12, 2003, the holders of the Series D-5 Stock are now entitled to receive an additional preference of an amount per share equal to 43% of the Series D-5 Original Purchase Price plus dividends.

(b) Redeemable Convertible Preferred Stock

Series B Redeemable Convertible Preferred Stock

On February 7, 2000, the Company issued 2,282,684 shares of Series B Redeemable Convertible Preferred Stock (Series B) to new investors for total proceeds of approximately $2,550. Issuance costs of approximately $90 were paid in connection with the issuance of the Series B Stock and were offset against the Series B proceeds. In connection with the sale of Series B Stock, the Company issued 1,347,232 shares of common stock to an investment firm as consideration for investment services provided. The Company recorded costs of approximately $269 based on the estimated fair value of the common stock.

With the issuance of the Series E Redeemable Convertible Preferred Stock on June 12, 2008, holders of at least two-thirds of the shares of Series B Stock may require the Company to purchase all or part of the shares of the Series B Stock at a price per share equal to the greater of (i) 110% of the stated values plus all accrued and unpaid dividends through the date of the payment; (ii) the Company's book value per share, as defined; and (iii) the fair market value of the Series B Stock, as established by a third-party appraiser. The Company records periodic accretion under the effective interest method on the Series B Stock to recognize the excess of the redemption value over the carrying value through June 12, 2008. The accretion to the redemption value has been based on the estimated fair market value of the Series B Stock on the as if converted basis as of December 31, 2003.

Series C Redeemable Convertible Preferred Stock

On July 21, 2000, the Company received a $2,125 convertible bridge loan (the Bridge Loan) from new and existing investors. The loan accrued interest at 8%. Upon the closing of the next round of financing, the outstanding balance plus accrued interest was convertible into shares of preferred stock, at a conversion rate based on the per share price of that round.

On October 13, 2000, the Company issued 5,830,174 shares of Series C Redeemable Convertible Preferred Stock (Series C Stock) for total proceeds of $6,060, which included the conversion of the $2,125 Bridge Loan and $40 of accrued interest, into 2,082,608 shares of Series C Stock. Issuance costs of approximately $75 were paid in connection with the Series C Stock and were offset against the Series C Stock proceeds.

On February 6, 2001, the Company issued 746,072 additional shares of Series C Stock for proceeds of approximately $775.

In connection with the October 13, 2000 and February 6, 2001 sales of the Series C Stock, the Company issued warrants to investors to purchase 511,111 and 186,405 shares, respectively, of shares of Series C Stock at an exercise price of $1.04 per share. The warrants are immediately exercisable and expire on February 8, 2006. The Company allocated $448 of the total proceeds to the warrants issued in 2000 and $164 to the warrants issued in 2001, based on the estimated fair value of the warrants using the Black-Scholes Model.

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

With the issuance of the Series E Redeemable Convertible Preferred Stock on June 12, 2003, the redemption timing for the Series C Stock were amended, effectively changing the mandatory redemption date from October 13, 2005 to the fifth anniversary of the Series E Original Issue Date, June 13, 2008. Now commencing on June 12, 2008, holders of at least two-thirds of the shares of Series C Stock may require the company to purchase all or part of the shares of the Series C Stock at a price per share equal to the greater of (i) 110% of the stated values plus all accrued and unpaid dividends through the date of the payment; (ii) the Company's books per share, as defined; and (iii) the fair market value of the Series C Stock, as established by a third party appraiser. The Company records periodic accretion under the effective interest method on the Series C Stock to recognize the excess of the redemption price over the carrying value through June 12, 2008. The redemption price is calculated based on 110% of the stated values plus all accrued and unpaid dividends through the date of payment.

Series D and D-1 Redeemable Convertible Preferred Stock

On August 7, 2001, September 10, 2001 and October 11, 2001, the Company issued a total of 9,962,208 shares of Series D Redeemable Convertible Preferred Stock (Series D Stock) and Series D-1 Redeemable Convertible Preferred Stock (Series D-1 Stock) to new and existing investors, for total proceeds of approximately $14,611. Issuance costs of approximately $622 were paid in connection with the Series D and Series D-1 Stock and were offset against the

Series D and Series D-1 Stock proceeds. At December 31, 2001 and 2002, there were outstanding, 3,878,720 and 6,083,488 shares of Series D and Series D-1 Stock, respectively.

In connection with the closing of the sale of the Series D and D-1 Stock, the Company issued warrants to investors to purchase 1,260,629 and 683,639 shares, respectively, of shares of Series D and D-1 Stock at an exercise price of $.01 per share. The warrants are immediately exercisable and have a term of seven years. In addition, the Company issued 168,143 shares of common stock to an investment firm as consideration for investment services provided. The Company allocated $2,072 and $1,124 of the total proceeds to the Series D and Series D-1 warrants, respectively, based on the estimated fair value of the warrants using the Black-Scholes Model, and allocated $138 of the proceeds to the estimated fair value of the common stock.

With the issuance of the Series E Redeemable Convertible Preferred Stock on June 12, 2003, the redemption timing for the Series D and D-1 Stock were amended, effectively changing the mandatory redemption date from August 7, 2006 to the fifth anniversary of the Series E Original Issue Date, June 12, 2008. Now commencing on June 12, 2008, holders of at least two-thirds of the shares of Series D and D-1 Stock may require the company to purchase all or part of the shares of the Series D and D-1 Stock at a price per share equal to the fair market value of the Series D and D-1 Stock, as established by a third party appraiser. The Company records periodic accretion under the effective interest method on the Series D and D-1 Stock to recognize the excess of the redemption price over the carrying value through June 12, 2008. The redemption price is calculated based on the as if converted basis as of December 31, 2003.

This liquidation preference is calculated based on the stated value plus all accrued and unpaid dividends through the date of payment, plus an additional preference. Concurrent with the Series E Stock issuance, the holders of the Series D-1 Stock are now entitled to receive an additional preference of an amount per share equal to 20% of the Series D-1 Original Purchase Price.

Series D-4 Redeemable Convertible Preferred Stock

In July 2002, the Company issued 730,023 shares of Series D-4 Redeemable Convertible Preferred Stock (Series D-4 Stock) for total proceeds of $3,785. Issuance costs of approximately $15 were paid in connection with the Series D-4 Stock and were offset against the total proceeds. Additionally, the Company increased the number of authorized shares of common stock to 99,440,000.

In connection with the sale of the Series D-4 Stock, the Company issued warrants to purchase 243,142 shares of the Company's common stock at an exercise price of $0.01 per share. The warrants are immediately exercisable and expire in five years. If the Company does not complete an initial public offering of its common stock on or before June 30, 2003 or December 31, 2004, the Company is required to issue additional warrants to purchase 194,873 and 292,008, respectively, shares of common stock. The Company allocated $945 of the total proceeds to the Series D-4 warrants, based on the estimated fair value of the warrants using the Black-Scholes Model.

Commencing in August 2006, to the extent not previously redeemed or converted into common stock, holders of at least one-thirds of the shares of Series D-4 Stock may require the Company to purchase all or part of the shares of the Series D-4 Stock at a price per share equal to 100% of the original issue price plus all accrued and unpaid dividends. Additionally, to the extent not previously redeemed or converted into common stock, any holder of Series D-4 Stock may require the Company to purchase all or part of the shares of the Series D-4 Stock immediately prior to the Company's consummation of an initial public offering. The redemption shall be made at a price per share equal to (a) 125% of the original issue price if the initial public offering is consummated on or before December 31, 2003, and (b) 135% of the original issue price if the initial public offering is consummated after December 31, 2003. The redemption price is calculated based on 100% of the stated values plus all accrued and unpaid dividends.

On June 12, 2003, in conjunction with the issuance of the Series E Stock (see note below), the Company exchanged 730,023 shares of D-4 Convertible Preferred Stock (Series D-4 Stock) representing all outstanding Series D-4 Stock and 177,789 of Common Stock Shares and/or Warrants and the right to receive additional warrants described above for 1,223,964 shares of Series E Stock, preferred warrants to purchase 244,792 shares of the Series E Stock for $3.72 and warrants to purchase 130,856 shares of Common Stock for $0.01. The Company also has agreed to pay accrued dividends of $0.466339 per share on the Series D-4 Stock of approximately $92.

Concurrently, the Company granted 52,375 warrants to purchase Common Stock (June 30, 2003 Warrants) shares for $0.01 and 78,481 warrants to purchase Common Stock (December 31, 2004 Warrants) shares for $0.01 to the Series D-4 holders. The June 30, 2003 warrants become exercisable on June 30, 2003 and expire in 5 years, provided, that the warrants automatically terminate and become void at the time of the consummation of the Company's initial underwritten public offering. The December 31, 2004 warrants become exercisable on December 31, 2004 and expire in five years, provided, that the warrants automatically terminate and become void at the time of the consummation of the Company's initial underwritten public offering. The Company also issued 65,353 replacement warrants and certificates to purchase Common Stock shares for $0.01 to the former D-4 series holders.

After this transaction, there was no Series D-4 Stock outstanding.

Series E Redeemable Convertible Preferred Stock

On June 12, 2003, the Company issued 8,709,678 shares of Series E Redeemable Convertible Preferred Stock (Series E Stock) for total proceeds of $27,000. Issuance costs of approximately $380 were paid in connection with the Series E Stock and were offset against the total proceeds. Additionally, concurrent with the above transaction, the Company exchanged 730,023 shares of its D-4 Convertible Preferred Stock for 1,223,962 shares of the Series E Stock.

In connection with the sale of and exchange to the Series E Stock, the Company issued preferred warrants to purchase 1,986,730 shares of the Company's Series E Stock at an exercise price of $3.72 per share. The preferred Series E warrants are immediately exercisable and expire in five years. The Company allocated $1,853 of the total proceeds to the Series E preferred warrants, based on the estimated fair value of the warrants using the Black-Scholes Model.

In connection with the sale and exchange of the Series E Stock, the Company also issued contingent warrants to purchase 1,092,693 shares of the Company's Common Stock at an exercise price of $0.01 per share. The contingent warrants become exercisable on June 12, 2004 if the company has not completed its IPO as of that date, and expire in five years from that date. If the Company does not complete an initial public offering of its common stock on or before June 12, 2004, then for each full month after June 2004, the Company is required to issue additional warrants to purchase 120,197 shares of common stock on a monthly basis through June 30, 2006. The Company allocated $2,541 of the total proceeds to the Common Stock Contingent warrants, based on the estimated fair value of the warrants using the Black-Scholes Model.

Commencing in June 12, 2008, to the extent not previously redeemed or converted into common stock, holders of at least one-third of the shares of Series E Stock may require the Company to purchase all or part of the shares of the Series E Stock at a price per share equal to the greater of 110% of the Series E Initial Preference on such shares or the fair market value of the Series E Preferred Stock as established by a third party appraiser selected jointly by the Company and the holders of at least 51% of the then outstanding Series E Preferred Stock. The Series E Stock shall be redeemed, prior and in preference to, any redemption of the Series A, B, C, D, D-1 and D-5 Stock to the extent that the Company has funds legally available for redemption. As of December 31, 2003, the redemption price is calculated based on 110% of the Series E Initial Preference (as defined), plus all accrued and unpaid dividends.

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

Activity of the redeemable convertible preferred stock during the years ended December 31, 2001, 2002 and 2003 was as follows:

	Series E Stock		Series D-4 Stock		Series D, D-1 Stock		Series C Stock		Series B Stock		Preferred StockWarrants
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	
	(in thousands, except per share and share amounts)										
Balance, January 1, 2001	—	$—	—	$—	—	$—	5,830,174	$5,695	2,282,684	$2,669	$448
Issuance of Series D, D-1	—	—	—	—	8,912,391	10,655	—	—	—	—	—
Issuance of Series C	—	—	—	—	—	—	746,072	611	—	—	—
Warrants to purchase Series D, D-1 stock	—	—	—	—	—	—	—	—	—	—	3,196
Exercise of warrants to purchase Series D, D-1	—	—	—	—	1,049,817	10	—	—	—	—	—
Warrants to purchase Series C	—	—	—	—	—	—		—	—	—	164
Accretion to preferred redemption value	—	—	—	—	—	635	—	771	—	643	—
Balance, December 31, 2001	—	$—	—	$—	9,962,208	$11,300	6,576,246	$7,077	2,282,684	$3,312	$3,808
Issuance of Series D-4	—	—	730,023	2,840	—	—	—	—	—	—	—

Exercise of warrants to purchase common stock	—	—	—	—	—	—	—	—	—	—	—
Accretion to preferred redemption value	—	—	—	158	—	2,621	—	3,308	—	1,873	—
Balance, December 31, 2002	—	$—	730,023	$2,998	9,962,208	$13,921	6,576,246	$10,385	2,282,684	$5,185	$3,808
Exercise of warrants to purchase Series C	—	—	—	—	—	—	165,062	254	—	—	(157)
Exercise of warrants to purchase Series D, D-1	—	—	—	—	628,446	2,765	—	—	—	—	(2,760)
Exchange for Series E units	1,223,962	3,256	(730,023)	(2,263)	—	—	—	—	—	—	—
Issuance of D-5 in connection with acquisition of Avesair, net of costs	—	—	—	—	—	—	—	—	—	—	—
Issuance of Series E stock and warrants, net of costs	8,709,678	22,768	—	—	—	—	—	—	—	—	1,853
Exercise of warrants to purchase common stock	—	—	—	—	—	—	—	—	—	—	—
Accretion to preferred redemption value	—	1,076	—	(735)	—	2,469	—	1,465	—	1,506	—
Balance, December 31, 2003	9,933,640	$27,100	—	$—	10,590,654	$19,155	6,741,308	$12,104	2,282,684	$6,691	$2,744

Activity of the warrants to purchase redeemable convertible preferred stock during the years ended December 31, 2001, 2002 and 2003 was as follows:

	Series C Stock		Series D, D-1 Stock		Series E Stock	
	Warrants	Exercise Price	Warrants	Exercise Price	Warrants	Exercise Price
	(in thousands, except per share and share amounts)					
Balance, January 1, 2001	511,111	$1.04	—	$—	—	$—
Granted	186,405	1.04	1,944,268	0.01	—	—
Exercised	—	—	(1,049,817)	—	—	—
Balance, December 31, 2001	697,516	$1.04	894,451	$0.01	—	$—
Granted	—	—	—	—	—	—
Exercised	—	—	—	—	—	—
Balance, December 31, 2002	697,516	$1.04	894,451	$0.01	—	$—
Granted		—		—	1,986,727	3.72
Exercised	(178,470)	1.04	(628,741)	0.01	—	—
Balance, December 31, 2003	519,046	$1.04	265,710	$0.01	1,986,727	$3.72

(c) Convertible Preferred Stock and Redeemable Convertible Preferred Stock, Rights and Privileges

Dividends

The holders of the Series A shares are entitled to receive noncumulative dividends, if and when declared by the board of directors. The holders of the shares of Series B Stock, Series C Stock and Series D, D-1, D-2, D-3, D-4, D-5 and Series E Stock are entitled to cumulative dividends at the annual rate of approximately $0.12, $0.10, $0.17, $0.17, $0.25, $0.29, $0.52, $0.52 and $0.31 per share, respectively, payable when declared by the board of directors. No dividends have been declared or paid through December 31, 2003.

Conversion

Each share of preferred stock is convertible, at any time, at the option of the holder into shares of the Company's common stock at a specified conversion rate that is subject to adjustment. As of December 31, 2001, 2002 and 2003, each share of the Series A and Series B Stock was convertible into 2.5 shares of common stock, each share of Series C, D and D-1 were convertible into 1.25 shares of common stock, and each share of D-2, D-3, D-4, D-5 and Series E Stock was convertible into one share of common stock. All shares of Series A, Series B, Series C and Series D, D-1, D-2, D-3, D-4, D-5 and Series E Stock will automatically convert into shares of common stock (i) immediately prior to an initial public offering which generates net proceeds of at least $20 million, as defined, (ii) upon a written consent of at least two-thirds of the stockholders, or (iii) upon the sale of the Company for at least $20 million in cash or readily marketable securities.

Liquidation Preference

In the event of liquidation, dissolution or winding up of the Company, the holders of Series A, Series B, Series C, Series D, D-1, D-2, D-3, D-4, D-5 and Series E Stock are entitled to a liquidation preference over the holders of the Company's common stock. The order of liquidation of the preferred and common stock is as follows: Series E, all Series D-5, Series D-4, Series D-3, Series D-2, Series D-1, Series D rank *pari passu* followed by Series C, Series B and Series A. Series E, Series D-1

and Series D-5 have additional rights. After the holders of the Series A Stock are paid in full, the holders of all series of preferred stock, on an as converted basis, and common stock share equally in any remaining distribution.

Stockholder Agreements

In connection with the preferred stock purchase agreements, stockholders of the Company entered into a Stockholder Agreement and Investor Rights Agreement (the "Agreements"). The Agreements govern all transactions of the Company's common stock and preferred stock including but not limited to limitations on the sale, assignment, transfer, mortgage or other encumbrances of assets. Among other provisions, the Agreements specify stockholders' rights of first refusal on offers to purchase common stock or future issuance of equity or debt securities, as well as registration rights for the shares of stock. The Agreements also specify voting procedures for the election of individuals to the Company's board of directors. The preferred shareholders are entitled to vote on all matters based on the number of common shares into which their preferred shares are convertible.

The Agreements required that certain restrictions be placed on 17,000,000 of the 21,250,000 shares of common stock originally issued to the founder. The Company has the right to repurchase the restricted shares upon termination of employment of the founder at the original issuance price. Those restrictions lapse ratably over 48 months beginning in February 2000.

(7) Common Stock

On October 13, 2000, the Company effected a two-for-one split of common stock. On October 23, 2001, the Company effected a five-for-four split of common stock. All share and per-share amounts for common stock in the accompanying consolidated financial statements and in the notes to the consolidated financial statements, including stock option information, have been adjusted to reflect the stock splits.

Dividends may be declared and paid on common stock shares at the discretion of the Company's board of directors and are subject to any preferential dividend rights of any current outstanding preferred stockholders. No common stock dividends have been declared or paid through December 31, 2003.

The holder of each share of common stock is entitled to one vote on all matters voted on by the stockholders of the Company.

(a) Stock Option Plan

The Company's 1999 Stock Incentive Plan (the "Plan") was adopted by the board of directors in December 1999. Options to purchase a total of 6,328,755 shares of common stock were originally authorized for issuance under the Plan. On December 19, 2001, the total number of options authorized for issuance under the Plan was increased to 9,741,995. On July 19, 2002, the total number of options authorized for issuance under the Plan was increased to 11,992,426 shares. On November 13, 2002, the total number of options authorized for issuance under the Plan was increased to 18,492,425 shares. The Plan provides for grants of stock-based awards from time to time to employees, officers, directors and consultants of the Company at exercise prices determined by the board of directors.

For incentive stock options, the exercise price must be at least equal to fair market value at the date of grant. For nonqualified stock options, the option may be granted with an exercise price less than fair market value. Options granted under the Plan generally vest over a four-year period and expire

ten years from the grant date. Approximately 2,296,625, 235,323 and 7,223,046 options were available for future grant as of December 31, 2001, 2002 and 2003, respectively.

The following table summarizes the activity for stock options granted to employees and non-employees for the years ending December 31, 2001, 2002 and 2003:

	Number of Options	Weighted average exercise price	Range of exercise price
Balance, January 1, 2001	3,386,875	$0.24	$0.004–0.60
Granted	3,816,288	0.98	0.60–2.52
Exercised	–	–	–
Forfeited	(585,500)	0.47	0.20–2.52
Balance, December 31, 2001	6,617,663	0.64	0.004–2.52
Granted	5,641,602	2.95	1.30–5.20
Exercised	–	–	–
Forfeited	(502,163)	0.82	0.20–2.52
Balance, December 31, 2002	11,757,102	1.70	0.004–5.20
Granted	2,433,650	3.84	1.96–4.68
Exercised	(1,242,275)	1.26	0.20–1.16
Forfeited	(1,679,098)	2.86	0.20–5.20
Balance, December 31, 2003	11,269,379	$2.04	$0.004–5.20

Weighted average grant date fair value is $.85, $2.98 and $3.94 as of December 31, 2001, 2002 and 2003, respectively.

Information regarding options outstanding at December 31, 2003 is as follows:

	Options Outstanding		Options Exercisable	
Exercise Prices	Number of Options	Weighted average remainingcontractual life	Number of options	Weighted average exercise price
$0.004	325,000	0.24	305,534	$0.004
$0.20	1,663,994	0.23	1,566,923	0.20
$0.60	1,858,927	1.01	1,305,908	0.60
$1.04	638,098	1.53	394,617	1.04
$1.96	648,000	3.26	119,846	1.96
$2.52	522,500	1.97	265,605	2.52
$2.60	3,878,110	2.15	1,793,530	2.60
$4.68	1,492,250	2.85	427,310	4.68
$5.20	242,500	2.73	77,097	5.20
	11,269,379	1.75	6,256,370	$1.51

As of December 31, 2001, 2002 and 2003, the weighted average remaining contractual life of the options outstanding was approximately 3.7, 2.7 and 1.7 years, respectively. Options to purchase

1,279,723, 4,031,493 and 6,266,733 shares of common stock with a weighted average exercise price of $0.22, $1.06, $1.51 were exercisable at December 31, 2001, 2002 and 2003, respectively.

(b) Other Stock Compensation

The Company accounts for equity grants issued to non-employees at fair values, in accordance with the provisions of SFAS No. 123 and EITF No. 96-16, *Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods or Services*.

Compensation expense relating to such equity issuances is recognized over the applicable vesting period of the options, warrants, or stock, in accordance with the method prescribed by FASB Interpretation No. 28, *Accounting for Stock Appreciation Rights and Other Variable Stock Option of Award Plans*.

Restricted Common Stock

On December 30, 1999, and January 2, 2000, the Company granted 1,689,955 and 82,718 shares, respectively, of restricted common stock to an advisor of the Company. The Company has the right to repurchase the shares upon termination of advisory board services. The restrictions lapse and the stock vests over a three-year period. Accordingly, compensation expense of approximately $814 and $1,467 has been recorded for the years ended December 31, 2001 and 2002, respectively, based on the estimated fair value of the previously unvested stock at the end of each period. At December 31, 2001 and 2002, a total of 1,181,784 and 1,772,673 shares, respectively, have vested and are considered issued.

Options to Non-Employees

During 2001, 2002 and 2003, the Company granted to non-employees 432,500, 299,925 and 993,800, respectively, options to purchase common stock of the Company, pursuant to the Plan. The estimated fair value of the options was determined using the Black-Scholes option-pricing model (see note 2p.).

The Company recorded compensation expense relating to the options of approximately $858, $3,616 and $593, respectively, for the years ended December 31, 2001, 2002 and 2003.

Stock Purchase Warrants

During 2002, warrants to purchase 107,296 shares of common stock were granted to certain service providers with exercise prices ranging between $0.01 and $5.20, and terms ranging between 5 and 9 years. The estimated fair value of the warrants has been determined using the Black-Scholes option-pricing model.

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

The following table summarizes the activity for warrants to purchase common stock, including warrants granted in connection with the long-term debt (see note 5) for the years ending December 31, 2002 and 2003:

	Number of Shares	Weighted average exercise price	Range of exercise price
Balance, January 1, 2001	86,283	$0.32	$0.20-0.45
Granted	956,919	0.27	0.01-1.65
Balance, December 31, 2001	1,043,202	0.28	0.01-1.65
Granted	350,438	0.46	0.01-5.20
Balance, December 31, 2002	1,393,640	0.31	0.01-5.20
Granted	1,499,773	0.51	0.01-4.68
Exercised	(250,786)	0.01	0.01-5.20
Balance, December 31, 2003	2,642,627	$0.43	$0.01-5.20

(8) Write-Off of Deferred Initial Public Offering Costs

The Company has been following a policy of deferring those incremental costs associated with its efforts to execute an initial public offering of its common stock. Due to a number of factors, the offering has been delayed. In accordance with SEC SAB Topic 5, the Company has written off $1,307 of deferred costs to expense in 2002 related to its planned initial public offering. This expense is reported in the general and administration expense line in the

accompanying consolidated statements of operations.

(9) Income Taxes

The Company did not have any income tax expense or benefit for the years ended December 31, 2001, 2002 and 2003. The difference between the expected income tax benefit for the years ended December 31, 2002 and 2003, computed by applying the U.S. federal income tax rate of 35%, and actual income tax benefit, is as follows:

	2001	2002	2003
	(in thousands)		
Expected Federal income tax benefit	$(3,143)	$(6,041)	$(12,938)
Permanent differences	1,123	28	153
State tax, net of Federal benefit	(270)	(859)	(1,826)
Increase in valuation allowance	2,290	6,872	14,611
Income tax expense	$—	$—	$—

At December 31, 2002 and 2003, the components of the net deferred tax asset approximated the following:

	2002	2003
	(in thousands)	
Deferred tax assets:		
Accrued compensation	$2,021	$2,104
Accrued expenses	870	5,540
Capitalized costs	547	724
Deferred revenue	—	—
Depreciation	326	21
Net operating loss	15,652	27,651
Other	—	75
Total deferred tax assets	19,416	36,115
Valuation allowance	(18,594)	(32,313)
Net deferred tax assets	$822	3,802
Deferred tax liabilities:		
Depreciation	$—	—
Acquired intangibles	(783)	(855)
Other	(39)	(2,947)
Total deferred tax liabilities	(822)	(3,802)
Net deferred tax assets	$—	$—

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. Based upon such factors as the lack of a significant history of material profits, possible increases in expense levels to support the Company's growth, the fact that the market in which the Company competes is intensely competitive and characterized by rapidly changing technology, the lack of carryback capacity to realize the deferred tax assets, and the uncertainty regarding the market acceptance of new product offerings, management does not believe it is more likely than not that the Company will realize the benefits of these deductible differences. Therefore, a full valuation allowance against the deferred tax assets has been provided at December 31, 2002 and 2003.

The net changes in the total valuation allowance, for the years ended December 31, 2002 and 2003 were an increase of $8,676 and $13,719, respectively. Approximately $1,389 and $4,326 of the valuation allowance relates to deferred tax assets acquired as a result of the Reason and Simplexity purchases, respectively. Any subsequent recognition of these Reason and Simplexity deferred tax assets will be applied to reduce goodwill and other intangibles.

As of December 31, 2003, the Company had approximately $69,000 of federal net operating losses (NOL's). Due to ownership changes, certain of these NOL carryforwards are subject to limitations under Section 382 of the Internal Revenue Code. Generally, these limitations restrict the availability of NOL carryforwards on an annual basis. The net operating loss carryforwards will begin to expire in 2019.

(10) Segment Information

The Company's reportable segments are strategic business units that offer different products and services. The Company classifies its business into three segments: Wireless Activation and Services, MVNO Services and Data Services. The Company's management evaluates revenues and gross profit for these three segments. A significant portion of the Company's operating expenses are shared between these segments and therefore, management analyzes operating results for these segments on a combined basis. Management does not review any report presenting segment balance sheet information. The accounting policies for the segments are the same as those described in the summary of significant accounting policies (see note 2). No transactions between segments exist.

Revenue and gross profit for the Company's three business units is presented below:

	2001	2002	2003
	(in thousands)		
Revenue:			
Wireless activation and services	$9,278	$69,194	$74,423
MVNO services	—	5,621	36,060
Data services	3,806	8,221	8,908
Total revenues	$13,084	$83,036	$119,391
Gross profit:			
Wireless activation and services	$2,383	$39,065	$29,064
MVNO services	—	2,194	8,839
Data services	617	2,384	4,976
Total gross profit	$3,000	$43,643	$42,879

(11) Commitments and Contingencies

Operating Leases

The Company leases office and warehouse space under various operating leases through 2009. Rent expense was approximately $384, $851 and $949 for the years ended December 31, 2001, 2002 and 2003, respectively. Minimum future lease payments under these operating leases as of December 31, 2003, are:

December 31,	(in thousands)
2004	$936
2005	882
2006	853
2007	882
2008	751
Thereafter	339

Total	$4,643

Inphonic, Inc. & Subsidiaries

Notes to Consolidated Financial Statements—(Continued)

December 31, 2001, 2002 and 2003

(dollars in thousands, except per share and share amounts)

Contractual Commitments

The Company has entered into contracts in which the Company has agreed to pay to online distribution channel partners marketing fees based on revenues generated, as defined, from the delivery of customers to the Company's wireless device and activation services. These agreements expire in periods ranging from one to two years. As of December 31, 2001, 2002 and 2003, the Company paid marketing fees of $3,583, $12,259 and $24,514, respectively.

Legal Matters

The company is subject to litigation, claims and assessments in the normal course of business including those arising from business combinations. The company does not believe that any existing or anticipated litigation, claims or assessments will have a material affect on the consolidated financials statements.

In a letter dated May 26, 2004, Avesair, Inc., the assets of which were acquired by the Company in May 2003, demanded that the Company issue them shares of the Company's common stock valued at approximately $4,000 as additional consideration for the acquisition. This amount represents the maximum number of shares of common stock that Avesair could earn for achieving certain performance-based targets under the agreement pursuant to which the Avesair assets were purchased. As described in note 3(d), the Company believes Avesair failed to achieve the performance based targets and intends to vigorously contest this matter. However, any adverse resolution of this matter could have a material adverse impact on the Company's financial results.

(12) Related-Party Transactions

Receivable from Stockholder

During 2001, the Company loaned $1,000 to the founder and CEO of the Company. The loan bears interest at a rate of 6% and is due on November 30, 2004. As of December 31, 2003, the loan earned $120 of interest income. The loan is secured by the stockholder's shares of common stock of the Company and has been recorded as a deduction from stockholders' deficit in the accompanying consolidated balance sheet.

(13) InPhonic, Inc., 401(k) Plan

On January 1, 2001, the Company adopted a 401(k) Plan to provide retirement and incidental benefits for its employees. As allowed under Section 401(k) of the Internal Revenue Code, the 401(k) plan provides tax-deferred salary deductions of up to 15% of compensation for eligible employees. Employees are eligible to participate once they have completed one hour of service. The Company may make discretionary matching contributions to the 401(k) plan. The Company did not make any discretionary matching contributions during 2002 and 2003.

Consolidated Unaudited Balance Sheet as of March 31, 2004

INPHONIC, INC. & SUBSIDIARIES

Consolidated Balance Sheet

March 31, 2004

(unaudited)

(in thousands, except per share and share amounts)

	March 31, 2004
Assets	
Current assets:	
Cash and cash equivalents	$25,290
Accounts receivable, net of allowance for doubtful accounts of $347	9,477
Inventory, net	5,191
Prepaid expenses	241
Deferred costs and other current assets	1,654
Total current assets	41,853

Restricted cash and cash equivalent	600
Property and equipment, net	5,212
Goodwill	9,480
Intangible assets, net	736
Deposits and other assets	1,615
Total assets	$59,496
Liabilities, Redeemable Preferred Stock and Stockholders' Deficit	
Current liabilities:	
Bank line of credit	$4,017
Accounts payable	18,774
Accrued payroll and vacation	3,110
Accrued expenses	10,410
Deferred revenue	11,444
Total current liabilities	47,755
Term loan	2,708
Total liabilities	50,463
Redeemable preferred stock:	
Series E redeemable convertible preferred stock, $0.01 par value Authorized 11,920,370 shares at March 31, 2004; issued and outstanding 9,933,640 shares at March 31, 2004; liquidation preference of approximately $42,507 at March 31, 2004	27,658
Warrants to purchase Series E redeemable convertible preferred stock	1,852
Series D and D-1 redeemable convertible preferred stock, $0.01 par value Authorized 20,000,000 shares at March 31, 2004; issued and outstanding 10,590,654 shares March 31, 2004; liquidation preference of approximately $23,875 at March 31, 2004	19,913
Warrants to purchase Series D and D-1 redeemable convertible preferred stock	437
Series C redeemable convertible preferred stock, $0.01 par value Authorized 7,273,762 shares at March 31, 2004; issued and outstanding 6,741,308 at March 31, 2004; liquidation preference of approximately $9,371 at March 31, 2004	12,588
Warrants to purchase Series C redeemable convertible preferred stock	455
Series B redeemable convertible preferred stock, $0.01 par value Authorized, issued and outstanding 2,282,684 shares at March 31, 2004; liquidation preference of approximately $3,690 at March 31, 2004	7,038
Total redeemable preferred stock	69,941
Stockholders' equity (deficit):	
Series D-5 convertible preferred stock, $0.01 par value Authorized, issued and outstanding 672,389 shares at March 31, 2004; liquidation preference of approximately $1,973 at March 31, 2004	1,884
Series D-3 convertible preferred stock, $0.01 par value Authorized 2,000,000 shares at March 31, 2004; issued and outstanding 792,775 shares at March 31, 2004; liquidation preference of approximately $2,824 at March 31, 2004	2,137
Series D-2 convertible preferred stock, $0.01 par value Authorized 550,000 shares at March 31, 2004; issued and outstanding 416,667 shares at March 31, 2004; liquidation preference of approximately $932 March 31, 2004	688
Series A convertible preferred stock, $0.01 par value Authorized, issued and outstanding 668,782 shares at March 31, 2004; liquidation preference of $509 at March 31, 2004	500
Common stock, $0.01 par value Authorized 100,000,000 March 31, 2004; issued and outstanding 34,642,533 shares at March 31, 2004	161
Additional paid-in capital	34,750
Note receivable from stockholder	(1,135)
Accumulated equity (deficit)	(99,893)
Total stockholders' deficit	(60,908)
Total liabilities, redeemable preferred stock and stockholders' deficit	$59,496

See accompanying notes to consolidated financial statements.

Consolidated Unaudited Statements of Operations for the three-month periods ended March 31, 2003 and 2004

INPHONIC, INC. & SUBSIDIARIES

Consolidated Statements of Operations

Three-month periods ended March 31, 2003 and 2004

	March 31, 2003	March 31, 2004
	(unaudited)	
	(in thousands, except per shareand share amounts)	
Revenues:		
Wireless activation and services	$14,055	$23,502
MVNO and data services	7,548	12,718
MVNO equipment	375	1,785
Total revenues	21,978	38,005
Cost of revenues, excluding depreciation and amortization:		
Wireless activation and services	8,381	14,611
MVNO and data services	3,803	6,034
MVNO equipment	788	2,330
Total cost of revenues	12,972	22,975
Gross profit	9,006	15,030
Operating expenses:		
General and administrative expenses, excluding depreciation and amortization and stock-based compensation	7,703	9,936
Sales and marketing expenses, excluding depreciation and amortization and stock-based compensation	5,730	10,002
Depreciation and amortization	988	1,609
Impairment of goodwill and intangibles	1	—
Stock-based compensation *	846	224
Total operating expenses	15,268	21,771
Loss from operations	(6,262)	(6,741)
Other income (expense):		
Interest income	65	64
Interest expense	(233)	(176)
Total other expense	(168)	(112)
Net loss	(6,430)	(6,853)
Preferred stock dividends and accretion to preferred redemption values	(2,858)	(2,115)
Net loss attributable to common stockholders	$(9,288)	$(8,968)
Basic and diluted net loss per share:	$(0.29)	$(0.26)
Basic and diluted weighted average shares outstanding:	31,952,818	34,645,014
* Stock-based compensation was related to the associated operating expense categories as follows:		
General and administrative	$830	$206
Sales and marketing	16	18
	$846	$224

See accompanying notes to consolidated financial statements.

Inphonic, Inc. & Subsidiaries

Consolidated Statements of Cash Flows

Three-months ended March 31, 2003 and 2004

	March 31. 2003	March 31. 2004

	(unaudited)	
	(in thousands)	
Cash flows from operating activities:		
Net loss	$(6,430)	$(6,853)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	988	1,609
Non-cash interest expense	32	32
Bad debt expense	13	—
Stock-based compensation	846	224
Changes in operating assets and liabilities, net of assets and liabilities received from business acquisition:		
Accounts receivable	1,749	1,783
Inventory	1,378	(1,586)
Prepaid expenses	(8)	172
Deferred costs	(95)	616
Accounts payable	(2,656)	2,281
Accrued payroll and vacation	78	464
Accrued expenses	81	(1,992)
Deferred revenue	2,188	1,321
Net cash used in operating activities	(1,836)	(1,929)
Cash flows from investing activities:		
Note receivable from stockholder	(15)	(15)
Deposits and other assets	(144)	(258)
Other liabilities	(3,572)	(96)
Capitalized expenditures, including internal capitalized labor	(1,194)	(1,402)
Purchase of restricted cash and cash equivalent	125	—
Net cash used in investing activities	(4,800)	(1,771)
Cash flows from financing activities:		
Net borrowings under lines of credit	3,469	(58)
Net cash provided by (used in) financing activities	3,469	(58)
Net decrease in cash and cash equivalents	(3,167)	(3,758)
Cash and cash equivalents, beginning of year	12,626	29,048
Cash and cash equivalents, end of year	$9,459	$25,290
Supplemental disclosure of cash flows information:		
Cash paid during the year for:		
Interest	$185	$83
Supplemental disclosure of noncash activities:		
Preferred stock dividends and accretion to redemption value	(2,858)	(2,115)

See accompanying notes to consolidated financial statements.

Notes to Consolidated Unaudited Financial Statements

INPHONIC, INC. & SUBSIDIARIES

Notes to Unaudited Consolidated Financial Statements

March 31, 2003 and 2004

(dollars in thousands, except per share and share amounts)

(1) Basis of Presentation

The financial information presented in the accompanying financial statements as of March 31, 2004, and for the three-month periods ended March 31, 2003 and 2004 has been prepared from the books and records of InPhonic, Inc. and subsidiaries (the Company) without audit. In the opinion of management, the accompanying unaudited interim statements contain all adjustments, consisting of only normal recurring adjustments, necessary to present fairly the Company's financial position as of March 31, 2004, and the results of its operations and cash flows for the three-month periods ended March 31, 2003 and 2004. The results of operations for the interim period ended March 31, 2004 are not necessarily indicative of the results that may be expected for the year ended December 31, 2004. These unaudited financial statements should be read in conjunction with the financial statements and the notes thereto included herein.

(2) Summary of Significant Accounting Principles

(a) Revenue Recognition

Wireless activation and services: The Company generates revenues from wireless carriers who pay commissions, which also include volume and performance-based bonuses, for activating wireless services. The Company recognizes these commissions upon shipment of activated devices to the customer less an allowance for deactivations. The Company does not sell wireless devices separate from service plans.

The Company negotiates commissions and bonuses with the wireless carriers on an annual basis. The Company bills wireless carriers for annual volume bonuses on a monthly basis and records these bonuses as deferred revenue at the time of billing. The Company recognizes these deferred revenues over the course of the year based upon management's assessment of its ability to achieve the annual volume target. Wireless carriers periodically offer bonuses for achieving monthly volume and performance targets. The Company recognizes these monthly bonuses as earned.

Mobile Virtual Network Operator (MVNO) and data services:

MVNO services: The Company sells wireless communications services under the Liberty Wireless brand. The Company generates revenues from customers for monthly recurring usage of wireless airtime minutes and optional features, including voicemail and text messaging. In addition, the Company bills for airtime usage in excess of monthly minutes included in monthly service plans. MVNO services revenues also include non-recurring activation service charges to customers to the extent not allocated to wireless device revenue. MVNO services are provided on a month-to-month basis and are generally paid in advance.

In November 2002, the Emerging Issues Task Force ("EITF") of the Financial Accounting Standards Board, issued a final consensus on EITF Issue No. 00-21, *Accounting for Revenue Arrangements with Multiple Deliverables.* EITF Issue No. 00-21 provides guidance on when and how arrangements involving multiple deliverables should be divided into separate units of accounting. EITF Issue No. 00-21 is effective for arrangements entered into in fiscal periods beginning after June 15, 2003.

Prior to the adoption of EITF Issue No. 00-21, the Company accounted for the sale of devices and the subsequent service as a single unit of accounting, whereby the deferred activation fee revenue and related costs were recognized over the average life of the customers in accordance with SEC Staff Accounting Bulletin ("SAB") No. 101, *Revenue Recognition in Financial Statements.* The Company

Notes to Unaudited Consolidated Financial Statements—(Continued)

March 31, 2003 and 2004

(dollars in thousands, except per share and share amounts)

elected not to apply the provisions of EITF Issue No. 00-21 to existing arrangements prior to July 1, 2003 and as such, continues to amortize deferred revenue and costs related to these arrangements over the remaining average life of the customer.

Beginning July 1, 2003, the Company adopted the provisions of EITF Issue No. 00-21 for sales arrangements with multiple deliverables with respect to the Company's MVNO Services business. As a result, the Company is required to account for the sale of a device as a separate unit of accounting from the subsequent service to the customer, which is a separate unit of accounting. Accordingly, the Company recognizes the portion of the arrangement fee attributable to the device revenue and related costs, including activation, when the device is delivered to the customer to the extent cash is received in advance. The Company defers the portion of the arrangement fee attributable to the service unit of accounting, and related costs, and recognizes these deferred fees and costs straight-line over the term of the arrangement.

In certain indirect distribution arrangements, the fee attributable to the service unit exceeds the total consideration received. In these circumstances, the entire fee and related costs are deferred and recognized when the end-customer activates the service.

Data services: The Company sells data services, including a service that allows customers to access email, voicemail, facsimiles, contacts and personal calendar information through a website or a telephone; wireless email; and mobile marketing services.

MVNO equipment: The Company sells wireless devices and accessories in connection with the Company's MVNO services. This equipment is also sold to indirect retailers to facilitate distribution to MVNO services customers.

(b) Net Loss Per Common Share

The Company computes loss per common share in accordance with SFAS No. 128, *Earnings Per Share*. Basic net loss per common share includes no dilution and is computed by dividing net loss attributable to common stockholders by the weighted average number of common shares outstanding for the period. Diluted net loss per common share includes the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted to common stock. As of March 31, 2003 and 2004, options to purchase 9,860,769 and 12,089,919 shares of common stock, respectively, were outstanding. Due to the anti-dilutive nature of the options, redeemable convertible preferred stock and convertible preferred stock, there is no effect on the calculation of weighted average shares for diluted net loss per common share. As a result, the basic and diluted net losses per common share amounts are identical.

The following table reconciles net loss attributable to common stockholders and basic and diluted weighted average common shares outstanding to the pro forma net loss attributable to common stockholders and the pro forma basic and diluted weighted average common shares outstanding for the three month periods ended March 31, 2003 and 2004:

	Three-months ended March 31,	
	2003	**2004**
Basic and diluted weighted average common shares outstanding	69,525,158	79,651,543
Less: Securities not included in diluted weighted average common shares outstanding as their effect could be anti-dilutive	(37,572,340)	(45,006,529)
	31,952,818	34,645,014

	Three-months ended March 31,	
	2003	**2004**
	(in thousands, except per share amounts)	
Net loss attributable to common stockholders	$(9,288)	$(8,968)
Less: Dividends on preferred stock	2,858	2,115
Pro forma net loss attributable to common stockholders	$(6,430)	$(6,853)
Basic and diluted weighted average common shares outstanding	31,952,818	34,645,014
Conversion of preferred stock	27,649,195	33,094,841
Pro forma basic and diluted weighted average common shares outstanding	59,602,013	67,739,855

(c) New Accounting Pronouncements

Effective January 1, 2003, the Company adopted the provisions of FIN No. 46. The Company does not believe that it has invested in any variable interest entities for which it is the primary beneficiary. The adoption of FIN No. 46 did not have an impact on the Company's financial statements.

Effective May 1, 2003, the Company adopted the provisions of the SFAS No. 150. All classes of the Company's redeemable convertible preferred stock may be converted into common stock at the option of the stockholder. The adoption of SFAS No. 150 did not have an impact on the Company's financial statements.

Effective December 1, 2003, the Company adopted the provisions of the SAB No. 104. The adoption of SAB No. 104 did not have a material impact on the Company's financial statements.

(d) Acquisition of Avesair, Inc.

On May 13, 2003, the Company acquired certain assets and assumed certain obligations of Avesair, Inc. ("Avesair") in a transaction accounted for using the purchase method of accounting in accordance with SFAS No. 141, Business Combinations. The results of Avesair's operations have been included in the Company's consolidated financial statements since the date of acquisition as

included in the Data Services segment. Avesair is a technology company that adds the ability to provide mobile device targeted marketing and promotions to the Company's service offering.

The merger consideration for Avesair consisted of 672,389 shares of Series D-5 Convertible Preferred Stock, valued at $1,884 net of costs, and 672,389 shares of common stock valued at $1,564.

The sellers are also entitled to receive additional consideration if the Company achieved greater than $2,000 in gross revenues up to a maximum of $3,333 during the 12 month period beginning on April 1, 2003 and ending on March 31, 2004 as a result of the sale of products or services derived from the acquired assets. If this occurs, the Company must issue Common Stock to the seller in an amount equal to $3.00 for each $1.00 of any such gross revenue recognized by the Company. The Company has determined that the gross revenues achieved related to the Avesair products or service did not exceed this threshold for the above noted measuring period, and as such, no action is required by the Company.

The acquired business includes a customer list and technology built around a core decision engine that enables mobile operators to target, schedule, deliver, track and report on highly targeted marketing messages and promotions of any media type to mobile devices.

The estimated fair value of the assets acquired approximated the following:

	(in thousands)
Cash and other current assets	$2,000
Accounts receivable	183
Goodwill	221
Customer contract	50
Software	1,033
Total assets acquired	3,487
Less: Liabilities assumed	—
Aggregate purchase price	$3,487

The pro forma statements of operations as of March 31, 2003 and 2004 are as follows:

	Three-months ended March 31,	
	2003	2004
Total revenues	$22,307	38,005
Total cost of revenues	13,017	22,975
Gross profit	9,290	15,030
Total operating expenses	16,490	21,771
Loss from operations	(7,200)	(6,741)
Total other expense	(174)	(112)
Net loss	(7,374)	(6,853)
Preferred stock dividends and accretion to preferred	(2,858)	(2,115)
Net loss attributable to common stockholders	$(10,232)	(8,968)

Inphonic, Inc. & Subsidiaries

Notes to Unaudited Consolidated Financial Statements—(Continued)

March 31, 2003 and 2004

(dollars in thousands, except per share and share amounts)

The values of the software and customer contracts are being amortized over a period of 18 months. The allocation presented above is preliminary as of March 31, 2004.

(3)	Segment Reporting

The following is a summary of results of operations for reportable segments for the three months ended March 31, 2003 and 2004:

	Three Months Ended, March 31,	
	2003	2004
	(unaudited)	
	(in thousands)	
Revenues:		
Wireless activation and services	$14,055	$23,502
MVNO services	5,791	12,521
Data services	2,132	1,982
Total revenues	21,978	38,005
Gross profit:		
Wireless activation and services	5,674	8,891
MVNO services	2,707	4,828
Data services	625	1,311
Total gross profit	$9,006	$15,030

Description of Pro Forma Consolidated Financial Information

The accompanying pro forma consolidated financial information gives effect to (i) the acquisition of Avesair; and (ii) the offering and related transactions, including (a) issuance of shares in this offering (the Offering) net of underwriters' discounts and commissions, and related fees and expenses; and (b) the mandatory conversion of all Series of Preferred Stock as if such transactions had been consummated on March 31, 2004 in the case of the Unaudited Pro Forma Condensed Consolidated Balance Sheet of InPhonic, Inc. and on January 1, 2003 in the case of the Unaudited Pro Forma Condensed Consolidated Statements of Operations of InPhonic, Inc.

The pro forma consolidated financial information is presented for illustrative purposes only and is not necessarily indicative of what the Company's actual financial position would have been had the above referenced transactions been consummated as of the above referenced dates or of the financial position or results of operations that may be reported by the Company in the future.

The following data should be read in conjunction with InPhonic, Inc. and Subsidiaries Consolidated Financial Statements and related note included elsewhere herein.

Inphonic, Inc. & Subsidiaries

Unaudited Pro Forma Condensed Consolidated Balance Sheet

As of March 31, 2004

	Actual	Offering adjustments		Pro forma
	(in thousands)			
Assets				
Current assets:				
Cash and cash equivalents	$25,290		$(1)	$18,565
		(6,725)	(2)	
Accounts receivable, net of allowance for doubtful accounts	9,477			9,477
Inventory, net	5,191			5,191
Prepaid expenses	241			241
Deferred costs and other current assets	1,654			1,654
Total current assets	41,853			35,128
Restricted cash and cash equivalents	600			600
Property and equipment, net	5,212			5,212
Goodwill	9,480			9,480

Intangible assets, net	736			736
Deposits and other assets	1,615			1,615
Total assets	$59,496			$52,771
Liabilities, redeemable preferred stock and stockholders' deficit				
Current liabilities:				
Bank line of credit	4,017	(4,017)	(2)	—
Accounts payable	18,774			18,774
Accrued payroll and vacation	3,110			3,110
Accrued expenses	10,410			10,410
Deferred revenue	11,444			11,444
Total current liabilities	47,755			43,738
Term loan	2,708	(2,708)	(2)	—
Total liabilities	50,463			43,738
Redeemable preferred stock:				
Series E redeemable convertible preferred stock	27,658	(27,658)	(3)	—
Warrants to purchase Series E redeemable convertible preferred stock	1,852	(1,852)	(3)	—
Series D and D-1 redeemable convertible preferred stock	19,913	(19,913)	(3)	—
Warrants to purchase Series D and D-1 redeemable convertible preferred stock	437	(437)	(3)	—
Series C redeemable convertible preferred stock	12,588	(12,588)	(3)	—
Warrants to purchase Series C redeemable convertible preferred stock	455	(455)	(3)	—
Series B redeemable preferred stock	7,038	(7,038)	(3)	—
Total redeemable preferred stock	69,941			—
Stockholders' deficit:				
Series D-5 convertible preferred stock	1,884	(1,884)	(3)	—
Series D-3 convertible preferred stock	2,137	(2,137)	(3)	—
Series D-2 convertible preferred stock	688	(688)	(3)	—
Series A convertible preferred stock	500	(500)	(3)	—
Common stock	161			161
Additional paid-in capital	34,750	75,150	(1)(3)	109,900
Note receivable from stockholder	(1,135)			(1,135)
Accumulated deficit	(99,893)		(2)	(99,893)
Total stockholders' deficit	(60,908)			9,033
Total liabilities, redeemable preferred stock and stockholders' deficit	$59,496			$52,771

See accompanying notes to pro forma consolidated financial information.

Inphonic, Inc. & Subsidiaries

Unaudited Pro Forma Condensed Consolidated Statement of Operations

Three Months Ended March 31, 2004

	Actual	Offering adjustments		Pro forma
	(in thousands, except per share and share amounts)			
Revenues:				

Wireless activation and services	$23,502			$ 23,502
MVNO and data services	12,718			12,718
MVNO equipment	1,785			1,785
Total revenues	38,005			38,005
Cost of revenues, excluding depreciation and amortization:				
Wireless activation and services	14,611			14,611
MVNO and data services	6,034			6,034
MVNO equipment	2,330			2,330
Total cost of revenues	22,975			22,975
Gross profit	15,030			15,030
Operating expenses:				
General and administrative expenses, excluding depreciation and amortization and stock-based compensation	9,936			9,936
Sales and marketing expenses, excluding depreciation and amortization and stock-based compensation	10,002			10,002
Depreciation and amortization	1,609			1,609
Stock-based compensation	224			224
Total operating expenses	21,771			21,771
Loss from operations	(6,741)			(6,741)
Other income (expense):				
Interest income	64			64
Interest expense	(176)	$49	(4)	(127)
Total other expense	(112)			(63)
Net loss	$(6,853)			$(6,804)
Preferred stock dividends and accretion to preferred redemption values	(2,115)	$2,115	(5)	—
Net loss attributable to common stockholders	$(8,968)			$(6,804)
Basic and diluted net loss per share:	$(0.27)			$
Basic and diluted weighted average shares outstanding:	34,645,014			

See accompanying notes to consolidated financial statements.

Inphonic, Inc. & Subsidiaries

Unaudited Pro Forma Condensed Consolidated Statement of Operations

Year Ended Ended December 31, 2003

	InPhonic historical(8)	Avesair historical(3 Months EndedMarch 31,2003)	Acquisition andfinancingadjustments	Pro forma	Offering adjustments	Pro forma, as adjusted
	(in thousands, except per share and share amounts)					
Revenues:						
Wireless activation and services	$74,423	$—		$74,423		$74,423
MVNO and data services	41,157	329		41,486		41,486
MVNO equipment	3,811	—		3,811		3,811
Total revenues	119,391	329		119,720		119,720
Cost of revenues, excluding depreciation and amortization:						

Wireless activation and services	45,359	—			45,359			45,359
MVNO and data services	21,270	45			21,315			21,315
MVNO equipment	9,884	—			9,884			9,884
Total cost of revenues	76,513	45			76,558			76,558
Gross profit	42,878	284			43,162			43,162
Operating expenses:								
General and administrative expenses, excluding depreciation and amortization and stock-based compensation	36,904	364			37,268			37,268
Sales and marketing expenses, excluding depreciation and amortization and stock-based compensation	30,344	182			30,526			30,526
Research and development	—	343			343			343
Depreciation and amortization	5,434	335	$271	(6)	6,040			6,040
Impairment of goodwill and intangibles	2,431	—			2,431			2,431
Stock-based compensation	3,611	—			3,611			3,611
Total operating expenses	78,724	1,224			80,219			80,219
Loss from operations	(35,846)	(940)			(37,057)			(37,057)
Other income (expense):								
Interest income	287	—			287			287
Interest expense	(1,408)	(4)			(1,412)	$709	(4)	(703)
Total other expense	(1,121)	(4)			(1,125)			(416)
Net loss	$(36,967)	$(944)			$(38,182)			$(38,182)
Preferred stock dividends and accretion to preferred redemption values	(7,309)	—	$(146	) (7)	(7,455)	$7,455	(5)	—
Net loss attributable to common stockholders	$(44,276)	$(944)			$(45,637)			$(45,637)
Basic and diluted net loss per share:	$(1.32)				$(1.36)			$
Basic and diluted weighted average shares outstanding:	33,614,372				33,614,372			

See accompanying notes to consolidated financial statements.

Notes to Pro Forma Consolidated Financial Information

(dollars in thousands)

(1) Reflects the proceeds from the Offering.

(2) Reflects the repayment of the outstanding balances under our senior secured credit facility, term loan and the payment of $4,600 of accrued dividends on certain shares of preferred stock with the proceeds of the Offering as described in the Use of Proceeds.

(3) Reflects the conversion of the various series of the convertible preferred stock into common stock and the conversion of warrants to acquire preferred stock into warrants to acquire common stock upon the completion of the Offering.

(4) Reflects the elimination of the interest expense related to the senior secured credit facility and term loan which will be repaid with the proceeds from the Offering as described in the Use of Proceeds.

(5) Reflects the elimination of preferred stock dividends and accretion for the preferred stock, which have mandatory conversion features upon the initial public offering.

(6) Reflects the amortization of $1,083 intangibles acquired from Avesair over their estimated useful lives of 18 months.

(7) Reflects the preferred stock dividends for Series D-5 issued for the acquisition of Avesair.

(8) Includes Avesair Inc.'s statement of operations for the period April 1, 2003 to May 13, 2003 (closing date of acquisition).

Report of Independent Auditors

REPORT OF INDEPENDENT AUDITORS To the Board of Directors and Stockholders of Avesair, Inc.

In our opinion, the accompanying balance sheets and the related statements of operations, of stockholders' deficit and of cash flows present fairly, in all material respects, the financial position of Avesair, Inc. at December 31, 2002 and 2001, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the financial statements, Management's plans in regard to these matters are also described in Note 1. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ PricewaterhouseCoopers LLP April 18, 2003 Raleigh, North Carolina

Balance Sheets

AVESAIR, INC.

Balance Sheets

December 31, 2001, 2002 and March 31, 2003 (unaudited)

	December 31,		March 31,
	2001	2002	2003
			(Unaudited)
Assets			
Current assets:			
Cash and cash equivalents	$5,281,957	$1,008,327	$457,451
Accounts receivable, net of allowance for doubtful accounts of $0, $7,000 and $7,061 (unaudited) as of December 31, 2001, December 31, 2002, and March 31, 2003 (unaudited), respectively	2,200	311,250	183,500
Prepaid and other current assets	94,984	115,966	117,533
Total current assets	5,379,141	1,435,543	758,484
Property and equipment, net	398,021	256,318	179,671
Technology license, net	2,974,889	1,151,634	816,951
Investment	130,750	93,243	93,243
Total assets	$8,882,801	$2,936,738	$1,848,349
Liabilities, Mandatorily Redeemable Convertible Preferred Stock and Stockholders' Deficit			
Current liabilities:			
Accounts payable	$146,738	$92,302	$57,745
Accrued publisher share	—	74,421	44,321
Accrued compensation	89,972	76,926	61,748
Deferred revenue	—	52,500	35,440
Other accrued expenses	49,763	33,186	26,817
Current portion of notes payable	114,967	127,976	131,127
Total current liabilities	401,440	457,311	357,198
Notes payable, net of current portion	248,380	108,699	74,424
Mandatorily redeemable convertible preferred stock, $0.001 par value; 9,800,000 shares and 13,565,000 shares authorized at December 31, 2001 and 2002, respectively; 9,701,934 shares and 13,428,920 shares issued and outstanding at December 31, 2001 and 2002, respectively. Liquidation preference $16,013,042 at December 31, 2001, and $20,012,097 at December 31, 2002 and March, 31 2003 (unaudited)	16,017,586	20,016,639	20,016,639
Stockholders' equity (deficit):			

Common stock, $0.001 par value; 30,000,000 shares authorized; 5,235,791 shares, 6,500,000 shares, 5,652,500 shares (unaudited) and 4,198,933 shares (unaudited) issued and outstanding at December 31, 2001 and 2002 and March 31, 2003, respectively	6,500	5,236	4,199
Additional paid-in capital	426,500	666,349	657,017
Deferred stock-based expenses	(16,100)	(16,100)	(16,100)
Accumulated deficit	(8,201,505)	(18,301,396)	(19,245,028)
Total stockholders' equity (deficit)	(7,784,605)	(17,645,911)	(18,599,912)
Total liabilities and stockholders' equity (deficit)	$8,882,801	$2,936,738	$1,848,349

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

Statements of Operations

AVESAIR, INC.

Statements of Operations

Years Ended December 31, 2001, 2002 and (unaudited) March 2002 and 2003

	Years Ended December 31,		**Quarters Ended March 31,**	
	2001	**2002**	**2002**	**2003**
			(Unaudited)	**(Unaudited)**
Revenue	$71,925	$872,074	$92,898	$328,614
Cost of revenue	32,316	170,186	$115	$45,071
Gross profit	39,609	701,888	92,783	283,543
Operating expenses:				
Amortization of technology licenses	1,622,667	2,604,308	934,573	334,683
Research and development	2,648,924	2,399,061	844,376	343,011
General and administrative	1,795,648	1,974,330	611,951	363,974
Sales and marketing	1,901,894	1,598,568	605,411	181,717
Impairment of technology	—	2,180,291	—	—
Loss on sale of equipment	—	32,060	—	—
Total operating expenses	7,969,133	10,788,618	2,996,311	1,223,385
Operating loss	(7,929,524)	(10,086,730)	(2,903,528)	(939,842)
Other income (expense):				
Interest income	320,832	44,711	20,496	22
Equity in loss on investment	(19,250)	(37,507)	—	—
Interest expense	(14,538)	(20,365)	(5,836)	(3,812)
Other income (expense), net	287,044	(13,161)	14,660	(3,790)
Net loss	$(7,642,480)	$(10,099,891)	$(2,888,868)	$(943,632)

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

Statements of Stockholders' Deficit

AVESAIR, INC.

Statements of Stockholders' Deficit

Years Ended December 31, 2001, 2002 and (unaudited) March 31, 2003

	Common Stock		**Additional**	**Deferred**	**Accumulated**	
	Shares	**Amount**	**Paid-inCapital**	**Stock-BasedExpenses**	**Deficit**	**Total**
Balance at December 31, 2000	6,500,000	$6,500	$426,500	$—	$(559,025)	$(126,025)
Deferred stock-based expenses	—	—	—	(39,900)	—	(39,900)
Amortization of deferred stock-based expenses	—	—	—	23,800	—	23,800

Net loss	—	—	—	—	(7,642,480)	(7,642,480)
Balance at December 31, 2001	6,500,000	6,500	426,500	(16,100)	(8,201,505)	(7,784,605)
Warrants issued in acquisition of WindWire, Inc.	—	—	249,901	—	—	249,901
Issuance of common stock related to options	8,291	8	1,401	—	—	1,409
Repurchase of common stock	(1,272,500)	(1,272)	(11,453)	—	—	(12,725)
Net loss	—	—	—	—	(10,099,891)	(10,099,891)
Balance at December 31, 2002	5,235,791	5,236	666,349	(16,100)	(18,301,396)	(17,645,911)
Repurchase of common stock (unaudited)	(1,036,858)	(1,037)	(9,332)	—	—	(10,369)
Net loss (unaudited)	—	—	—	—	(943,632)	(943,632)
Balance at March 31, 2003 (unaudited)	4,198,933	$4,199	$657,017	$(16,100)	$(19,245,028)	$(18,599,912)

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

Statements of Cash Flows

AVESAIR, INC.

Statements of Cash Flows

Years Ended December 31, 2001, 2002 and (unaudited) March 31, 2003 and 2002

	Years Ended December 31,		Quarters Ended March 31,	
	2001	2002	2002	2003
			(Unaudited)	(Unaudited)
Cash flows from operating activities				
Net loss	$(7,642,480)	$(10,099,891)	$(2,888,868)	$(943,632)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization	1,777,453	2,831,678	988,415	411,330
Stock-based expense related to warrants	23,800	—	—	—
Equity in loss of investment	19,250	37,507	—	—
Reserve for bad debts	—	7,000	4,464	61
Impairment of technology	—	2,180,291	—	—
Loss on sale of equipment	—	32,060	—	—
Changes in operating assets and liabilities:				
Accounts receivable	(2,200)	(283,503)	(104,565)	127,689
Prepaid expenses and other current assets	561,266	19,129	(8,970)	(1,567)
Accounts payable	120,092	(107,275)	(4,568)	(34,557)
Deferred revenue		52,500	51,182	(17,060)
Accrued expenses	95,611	(72,239)	(18,619)	(51,647)
Net cash used in operating activities	(5,047,208)	(5,402,743)	(1,981,529)	(509,383)
Cash flows from investing activities				
Purchase of property and equipment	(481,581)	(26,414)	(17,315)	—
Investment in private company	(150,000)	—	—	—
Cash received in purchase of WindWire, Inc.	—	9,328	9,328	—
Proceeds from sale of property and equipment	—	34,187	—	—
Net cash provided by (used in) investing activities	(631,581)	17,101	(7,987)	—
Cash flows from financing activities				
Proceeds from issuance of preferred stock	12,900	1,250,000	1,250,000	—
Proceeds from exercise of stock options	—	1,409	—	—

Proceeds from notes payable	401,477	—	—	—
Repurchase of common stock	—	(12,725)	(8,475)	(10,369)
Payment on notes payable	(38,130)	(126,672)	(54,179)	(31,124)
Net cash provided by financing activities	376,247	1,112,012	1,187,346	(41,493)
Net decrease in cash and cash equivalents	(5,302,542)	(4,273,630)	(802,170)	(550,876)
Cash and cash equivalents, beginning of period	10,584,499	5,281,957	5,281,957	1,008,327
Cash and cash equivalents, end of period	$5,281,957	$1,008,327	$4,479,787	$457,451
Supplemental disclosure of cash flow information:				
Cash paid for interest	$14,538	$20,365	$5,836	$3,812
Supplemental disclosure of non-cash investing and financing activities:				
Preferred stock and warrants issued in the acquisition of WindWire, Inc.	$—	$2,998,954	$2,998,954	$—

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

Notes to Financial Statements

AVESAIR, INC.

Notes to Financial Statements

December 31, 2002 and 2001

1. Organization

Avesair, Inc. (the “Company”) was incorporated in the State of Delaware on October 19, 2000. The Company develops and markets technology built around a core decision engine that enables mobile operators to target, schedule, deliver, track, and report on highly targeted marketing messages and promotions of any media type to mobile devices.

The accompanying financial statements have been prepared on a basis which assumes that the Company will continue as a going concern and which contemplates the realization of assets and the satisfaction of liabilities and commitments in the normal course of business. The Company has a limited operating history, has incurred losses from operations since its inception and has a net stockholders’ deficit. These circumstances raise substantial doubt about the Company’s ability to continue as a going concern. Management’s plans with regard to these matters include continued development, marketing and licensing of its products as well as seeking additional financing arrangements. Although, management continues to pursue these plans, there is no assurance that the Company will be successful in obtaining sufficient license fees from its products or financing on terms acceptable to the Company. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

The consolidated financial statements as of and for the three months ended March 31, 2003 and 2002 are unaudited, but include all adjustments, which are of a normal recurring nature, that management considers necessary to fairly present the results for the interim periods. Results for interim periods are not necessarily indicative of results for the full fiscal year.

2. Summary of Significant Accounting Policies

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles 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. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less at the date of purchase to be cash equivalents. Cash equivalents consist primarily of money market instruments.

Fair Value of Financial Instruments

The carrying amounts of the Company’s financial instruments, which include cash equivalents, accounts receivable, accounts payable and other accrued expenses approximate their fair values due to their short maturities. Based on borrowing rates currently available to the Company for loans with similar terms, the carrying value of capital lease obligations approximate their fair values.

Property and Equipment

Property and equipment are recorded at cost and depreciated over their estimated useful lives using the straight-line method. Leasehold improvements are amortized over the shorter of the lease term or the estimated useful life of the related asset. Upon retirement or sale, the cost of assets disposed of and the related accumulated depreciation are removed from the accounts and any resulting gain or loss is credited or charged to operations. Repairs and maintenance costs are expensed as incurred.

Investments

Equity investments in private companies that have no readily determinable market value in which the Company exerts significant influence over operating procedures via a 20% to 50% voting interest or contractual rights granting such influence, in the absence of that level of voting interests, are accounted for under the equity method of accounting. Equity investments are recorded at cost when the Company cannot exert significant influence over the operations and its percentage ownership is less than 20% of all outstanding voting shares. The Company recognizes an impairment when recurring operating losses or other factors indicate that an "other than temporary" decline in the market value of a cost basis investment has occurred.

Impairment of Long-Lived Assets

The Company evaluates the recoverability of its property and equipment, technology license and other long-lived assets in accordance with Statement of Financial Accounting Standards No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets" ("SFAS 144"). SFAS 144 requires recognition of impairment of long-lived assets in the event the net book value of such assets exceeds the estimated future undiscounted cash flows attributable to the assets or the business to which such assets relate. In June 2002, the Company determined it would no longer market software products developed from the use of one of its purchased technology licenses and wrote off the remaining carrying value of the license of $2,180,291. No such impairments were recognized during the year ended December 31, 2001.

Research and Development and Software Development Costs

Costs incurred in the research and development of the Company's products are expensed as incurred. Costs associated with the development of computer software are expensed prior to establishment of technological feasibility and capitalized thereafter until the product is available for general release to customers. No software development costs were capitalized during the years ended December 31, 2002 or 2001 because software products are released for general use immediately upon establishing technological feasibility.

Revenue Recognition

The Company has received revenues from its primary business of selling and maintaining mobile targeted marketing software applications. All revenue recognized through 2002 has been associated with services associated with providing mobile marketing technology and services for wireless content providers. Revenue is recognized as the Company provides services to outside parties. Revenue is recognized only after (1) there is sufficient evidence of an arrangement, (2) the related software is delivered or services have been performed, (3) the contract price is fixed or determinable and (4) collectibility is probable.

AVESAIR, INC.

Notes to Financial Statements—(Continued)

December 31, 2002 and 2001

Accounting for Stock-Based Compensation

Employee stock awards under the Company's compensation plans are accounted for in accordance with Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB 25"), and related interpretations. The Company provides the disclosure requirements of Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation" ("SFAS 123") as amended by Statement of Financial Accounting Standards No. 148, "Accounting for Stock-Based Compensation-Transition and Disclosure" ("SFAS 148") and related interpretations. Stock-based awards to nonemployees are accounted for under the provisions of SFAS 123 as amended by SFAS 148. Had compensation expense related to the Company's plans been accounted for based on the fair value of awards at the grant dates consistent with the provisions of SFAS 123, the Company's net loss for the years ended December 31, 2002 and 2001 would have increased as indicated below:

	Years Ended December 31,		Quarters Ended March 31,	
	2001	2002	2002	2003
			(unaudited)	(unaudited)
Net loss as reported	$(7,642,480)	$(10,099,891)	$(2,888,868)	$(943,632)
Deduct: stock-based employee compensation using fair value methodology	(10,651)	(75,656)	(18,914)	(18,914)
Pro forma net loss	$(7,653,131)	$(10,175,547)	$(2,907,782)	$(962,546)

Income Taxes

Deferred income taxes are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect in the years in which the differences are expected to reverse. Valuation allowances are provided if, based upon the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized.

Technology License

Technology licenses obtained by acquisition are recorded at fair value less accumulated amortization recorded since the date of acquisition. The Company's technology license is being amortized on a straight-line basis over its estimated useful life of eighteen months.

Credit Risk

Financial instruments, which potentially expose the Company to concentrations of credit risk, consist primarily of cash and cash equivalents and accounts receivable. To minimize credit risk, ongoing credit evaluations of customers' financial condition are performed, although collateral generally is not required. At December 31, 2002, seven customers accounted for 100% of gross accounts receivable, with the two largest customers accounting for approximately 79% of total accounts receivable. For the years ended December 31, 2002 and 2001, ten customers and one customer, respectively, accounted for 100% of total revenues.

3. Property and Equipment

Property and equipment consist of the following at December 31:

	Useful Life (Years)	2002	2001
Computer equipment	3	$395,955	$330,739
Office furniture and equipment	5	101,071	96,977
Software	2	51,730	35,373
Leasehold improvements	3	93,844	93,844
		642,600	556,933
Less accumulated depreciation and amortization		(386,282)	(158,912)
Property and equipment, net		$256,318	$398,021

Depreciation and amortization expense for the years ended December 31, 2002 and 2001 was $227,370 and $154,786, respectively.

4. Notes payable

In May 2001, the Company entered into an agreement to borrow $23,820. The borrowings bear an interest rate of 10% and are to be repaid in 36 equal monthly installments commencing on the date of borrowing.

In August 2001, the Company entered into a loan agreement with a bank which provides for the Company to borrow up to $750,000 for the acquisition of property and equipment and an additional $250,000 revolving line of credit for working capital purposes. The bank's commitment to provide borrowings under this line of credit expired on December 31, 2001 and borrowings are to be repaid in 36 equal monthly installments commencing on the date of borrowing.

Borrowings used for acquisition of property and equipment are collateralized by substantially all of the assets of the Company and bear interest at a rate of 11%. Through December 31, 2002, the Company has borrowed $377,657 for property and equipment.

In connection with the May 2001 loan agreement, warrants to purchase 28,500 shares of Series A preferred stock were issued. These warrants are exercisable at $1.65 per share and expire in May 2008 (see Note 8).

Maturity of notes payable at December 31, 2002 are as follows:

2003	$139,743
2004	123,375
	263,118
Less amount representing interest	(26,443)
	236,675
Current portion of notes payable	(127,976)
Notes payable, net of current portion	$108,699

5. Investment

In October 2001, the Company purchased 810,811 shares of Series A preferred stock of enpocket, Inc. ("enpocket") for $150,000, representing a 6% voting interest in enpocket. From the date of this investment

through June 7, 2002, a Company officer maintained a position on the Board of Directors of enpocket and certain key operating decisions of enpocket could not be made without this officer's consent. These rights gave the Company significant influence over the operations of enpocket and required the use of the equity method of accounting. Accordingly, from October 2001 through June 7, 2002, the Company's investment and results of operations were adjusted by

its share of enpocket's losses. In June 2002, enpocket received additional financing, decreasing the Company's voting interest in enpocket and also the Company agreed to resign its officer's position on the Board of Directors. Therefore, the Company began accounting for its investment in enpocket using the cost method of accounting effective June 2002.

6. Acquisition of WindWire, Inc.

On February 5, 2002, the Company purchased all of the outstanding voting equity of WindWire, Inc. ("WindWire") in exchange for the issuance of 2,562,027 shares of Series A-1 Preferred valued at $2,749,053 and warrants to purchase 232,900 shares of the Company's common stock valued at $249,901. The Company made the acquisition in an effort to complement its existing technology with WindWire's developed technology. Of the total purchase price, $2,961,344 was allocated to WindWire's developed technology and the remaining $37,610 to the existing net assets of WindWire, based on their fair values. The results of WindWire's operations have been included in the Company's results of operations since the date of acquisition. The purchased technology is being amortized based on the technology's estimated remaining economic useful life of eighteen months (see Note 10).

7. Stockholders' Equity (Deficit)

At December 31, 2002, the Company was authorized to issue 30,000,000 shares of common stock and 13,565,000 shares of preferred stock. Of the 13,565,000 shares of preferred stock, 9,800,000 shares have been designated as Series A preferred ("Series A Preferred"), 2,600,000 as Series A-1 preferred ("Series A-1 Preferred") and 1,165,000 as Series B preferred ("Series B Preferred").

Common Stock

In October 2000, the Company sold 4,200,000 shares of common stock to the Company's founders for $42,000 or $0.01 per share.

In October 2000, the Company sold 2,300,000 shares of common stock to an investor that provided the Company's technology license for $23,000 or $0.01 per share (see Note 10).

During 2002, the Company elected to exercise its purchase option (as defined in Section 2 of the Common Stock Agreement) and purchased 1,272,500 shares of common stock from three individual employees for an aggregate amount of $12,725 (or $0.01 per share).

Dividends

The holders of common stock are entitled to receive dividends from time to time as may be declared by the Board of Directors. No cash dividend may be declared or paid to common stockholders until paid on the outstanding preferred stock in accordance with the preferred stock terms.

Voting

The holders of shares of common stock are entitled to one vote for each share held with respect to all matters voted on by the stockholders of the Company.

Liquidation

After payment to the preferred stockholders, holders of common stock are entitled, together with holders of preferred stock, to share ratably in all remaining assets of the Company.

8. Redeemable Preferred Stock

In 2000, the Company sold 9,694,118 shares of Series A Preferred for $16,000,000 and issued another 7,816 shares for a note receivable of $12,900.

During February 2002, the Company issued 2,562,027 shares of Series A-1 Preferred valued at $2,749,053 ($1.073 per share) and warrants to purchase 232,900 shares of common stock for the purchase of all outstanding voting equity of WindWire, Inc. The Series A-1 Preferred is pari passu with the Series A Preferred with respect to price protection, rights and preferences.

During February 2002, the Company sold 1,164,959 shares of Series B Preferred for $1,250,000 or $1.073 per share to an existing investor of WindWire, Inc., based on the post merger valuation of the combined company, as a condition for the purchase of WindWire, Inc. The Series B Preferred of Avesair, was issued pari passu with the Series A Preferred with respect to price protection, rights and preferences.

Voting

The holders of the preferred stock are entitled to vote, together with the holders of common stock, on all matters submitted to stockholders for a vote. Each preferred stockholder is entitled to the number of votes equal to the number of shares of common stock into which each preferred share is convertible at the time of such vote.

Dividends

The holders of Series A Preferred, Series A-1 Preferred and Series B are entitled to receive, when and as declared by the Board of Directors and out of funds legally available, noncumulative dividends at the rate of $0.13, $0.086 and $0.086, respectively, per share per annum, payable in preference and priority to any payment of any dividend on common stock. No dividends or other distributions shall be made with respect to the common stock, until all declared dividends on the preferred stock has been paid. Through December 31, 2002, no dividends have been declared or paid by the Company.

Liquidation

In the event of any liquidation, dissolution or winding up of the affairs of the Company, the holders of the then outstanding Series A, Series A-1 and Series B Preferred Stock will receive an amount equal to the sum of $1.6505, $1.073 and $1.073 per share of Series A, Series A-1 and Series B Preferred Stock, respectively, plus all declared but unpaid dividends, payable in preference and priority to any payments made to the holders of the then outstanding common stock.

Conversion

Each share of preferred stock, at the option of the holder, is convertible into a number of fully paid shares of common stock as determined by dividing the respective preferred stock issue price by the conversion price in effect at the time. The initial conversion price of Series A, Series A-1 and Series B Preferred Stock is $1.6505, $1.073 and $1.073, respectively, and is subject to adjustment in accordance with antidilution provisions contained in the Company's Articles of Incorporation. Conversion is automatic immediately upon the closing of a firm commitment underwritten public offering in which the public offering price equals or exceeds $4.95, $3.219 and $3.219 per share, respectively, (adjusted to reflect subsequent stock **AVESAIR, INC.**

Notes to Financial Statements—(Continued)

December 31, 2002 and 2001

dividends, stock splits or recapitalization) and the aggregate proceeds raised exceed $25,000,000. At December 31, 2002, 13,428,920 shares of the Company's common stock have been reserved for conversion.

Redemption

In the event of a change in control of the Company, as defined in the Amended Articles of Incorporation, preferred stockholders are entitled to a payment equal to the liquidation preference amounts. As a result, the Company has classified the Series A, Series A-1 and Series B Preferred outside of permanent equity in its Balance Sheets.

Warrants

In connection with the issuance of the notes to the bank by the Company in May 2001, the Company granted warrants to purchase 28,500 shares of Series A Preferred at an exercise price of $1.65 per share. The warrants vested immediately except for 11,500 which vest upon the closing of equity financing of not less than $10,000,000. The warrants expire on May 18, 2008. At the date of issuance, the value of these warrants determined using the Black-Scholes valuation model was $39,900. The value of the warrants which vest immediately was $23,800. This amount was recorded as debt financing costs over the term the bank made the credit available to the Company. The value of the unvested warrants of $16,100 was deferred and will be recognized as an additional cost of financing if the Company closes equity financing of not less than $10,000,000.

In connection with the acquisition of WindWire, Inc., the Company granted warrants to purchase 232,900 shares of common stock at an exercise price of $0.01 per warrant. The warrants were vested and immediately exercisable. At the date of issuance, the value of these warrants determined using the Black-Scholes valuation model was $249,700.

The table below represents a rollforward of preferred stock:

	Shares	Amount
Balance at December 31, 2000	9,701,934	$15,977,686
Issuance of warrants	—	39,900
Balance at December 31, 2001	9,701,934	16,017,586
Issuance of Series A-1 in acquisition of WindWire	2,562,027	2,749,053
Sale of Series B	1,164,959	1,250,000
Balance at December 31, 2002	13,428,920	$20,016,639

9. Stock Options

In October 2000, the Company adopted the Avesair, Inc. Stock Option Plan (the "Plan") under which 4,660,625 shares of the Company's common stock were reserved for issuance to employees, directors and consultants at December 31, 2002. Options granted under the Plan may be incentive stock options or non-statutory stock options. The Board of Directors determines the period over which options become exercisable. The exercise price of incentive stock options and nonstatutory stock options may not be less than the estimated fair value per share of the Company's common stock on the grant date. The estimated fair value of the stock is determined by the Board of Directors based on an estimated discount from the sales price of the most recent round of preferred stock. During 2002 and 2001, all options were granted with exercise prices equal to the deemed fair value of the common stock at the date of grant. If an **AVESAIR, INC.**

Notes to Financial Statements—(Continued)

December 31, 2002 and 2001

individual owns stock representing more than 10% of the outstanding shares, the price of each share shall be at least 110% of fair market value, as determined by the Board of Directors. The term of all outstanding options is ten years.

The Company applies APB 25 and related interpretations in accounting for employee and director options granted under the Plan. No compensation cost has been recognized for employee stock-based compensation in 2002 and 2001. Had compensation cost been determined based on the fair value at the grant dates for awards in 2002 and 2001, consistent with the provisions of SFAS 123, the Company's net loss would have been $(10,175,547) and

$(7,653,131) for the years ended December 31, 2002 and 2001, respectively. Because options vest over several years and additional option grants are expected to be made in future years, the above pro forma results are not representative of the pro forma results for future years.

For purposes of pro forma disclosure, the fair value of each option grant was estimated on the date of grant using the minimum value method with the following assumptions for grants in 2002 and 2001: no dividend yield; risk-free interest rates of 4% for 2002 and 5% for 2001; and expected life of five years for 2002 and 2001.

The following table summarizes the activity, including weighted average exercise prices ("WAEP") of the Company's stock option plan for the years ended December 31, 2002 and 2001:

	2002		2001	
	Shares	WAEP	Shares	WAEP
Outstanding—beginning of period	2,313,250	$0.17	140,000	$0.17
Granted at fair value	2,440,500	$0.17	2,308,250	$0.17
Exercised	(8,291)	$0.17	—	$—
Cancelled	(2,489,459)	$0.17	(135,000)	$0.17
Outstanding—end of period	2,256,000	$0.17	2,313,250	$0.17
Exercisable at end of period	1,017,432	$0.17	35,000	$0.17

The following table summarizes information about stock options outstanding at December 31, 2002:

	Options outstanding			Options exercisable	
Exercise price	Shares	Life	WAEP	Shares	WAEP
$0.17	2,256,000	9.26	$0.17	1,017,432	$0.17

10. Technology Licenses

In 2000, the Company entered into a licensing agreement with a related party for a perpetual license, whereby the Company received the exclusive right to produce and market technology protected by certain patents and patent applications. The Company paid a license fee of $4,500,000 and issued the related party 2,300,000 shares of common stock valued at $368,000. The total cost of the license of $4,868,000 was capitalized and being amortized over a period of three years. In June 2002, the Company determined that it would no longer market the software products that it had developed using this purchased technology and wrote off the remaining carrying amount of $2,180,291. Amortization expense on the license was $794,598 and $1,622,667 for the years ended December 31, 2002 and 2001, respectively.

In connection with its acquisition, the Company obtained exclusive rights to market and distribute products using the technology previously developed by WindWire (see Note 6). The technology was valued at $2,961,344. Amortization expense related to the technology was $1,809,710 during the year ended December 31, 2002.

11. Income Taxes

No provision for federal or state income taxes has been recorded as the Company has incurred net operating losses since inception.

Significant components of the Company's deferred tax assets and liabilities at December 31, 2002 and 2001 consist of the following:

	2002	2001
Deferred tax assets:		
Domestic net operating loss carryforwards	$8,462,538	$3,070,029
Research and development credit	172,919	55,352
Warrants	6,136	8,317
Deferred rent	—	8,008
Fixed assets	473,752	21,364
Amortization of organization costs	3,792	5,024
Bad debt	30,008	—
Compensation accruals	2,699	34,688
Total deferred tax assets	9,151,844	3,202,782
Valuation allowance for deferred assets	(9,151,844)	(3,202,782)

Deferred tax assets	–	–
Deferred tax liabilities	–	–
Net deferred tax asset (liability)	$–	$–

At December 31, 2002, the Company has provided a full valuation allowance against its net deferred tax assets since realization of these benefits could not be reasonably assured. The increase in valuation allowance resulted primarily from the net operating loss carryforward generated.

At December 31, 2002, the Company had federal and state net operating loss tax carryforwards of approximately $21,949,831. These net operating loss carryforwards begin to expire in 2020 and 2015 for federal and state purposes, respectively. The utilization of the federal net operating loss carryforward may be subject to limitation under the rules regarding a change in stock ownership as determined by the Internal Revenue Code.

At December 31, 2002, the Company had federal research and development credit carryforwards of $172,919. The research and development credit carryforwards begin to expire in 2020.

AVESAIR, INC.

Notes to Financial Statements—(Continued)

December 31, 2002 and 2001

Taxes computed at the statutory federal income tax rate of 34% are reconciled to the provision for income taxes as follows:

	2002 % of PretaxEarnings	2001 % of PretaxEarnings
United States federal tax at statutory rate	34.0%	34.0%
State taxes (net of federal benefit)	4.4%	4.6%
Change in valuation reserve	(58.9%)	(39.1%)
Acquired deferred tax assets	27.5%	0.0%
Research and development credit	0.0%	0.7%
Other nondeductible expenses	(7.0%)	(0.2%)
Provision for income taxes	0.0%	0.0%

12. Operating Leases

The Company leases its office space under a non-cancelable operating lease. Total rent expense under the operating lease was $366,973 and $243,231 for the years ended December 31, 2002 and 2001, respectively.

Future minimum lease payments under the non-cancelable operating leases at December 31, 2002 are as follows:

2003	$356,828
2004	150,100
	$506,928

13. Subsequent Event (unaudited)

On May 13, 2003, the Company sold substantially all of its assets and liabilities (the “Sale”) to InPhonic, Inc. (“InPhonic”). Pursuant to the Sale agreement, InPhonic received the net benefit of revenues, cost of sales and payroll expense for the acquired employees for the period April 1, 2003 through May 13, 2003. Subsequent to the Sale, the Company terminated substantially all operations.

Inphonic, Inc. and Subsidiaries

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders InPhonic, Inc.:

Under date of June 2, 2004, we reported on the consolidated balance sheets of InPhonic, Inc. and subsidiaries as of December 31, 2002 and 2003, and the related consolidated statements of operations, stockholders’ deficit, and cash flows for each of the years in the three-year period ended December 31, 2003, which are included in this prospectus. Our report includes an explanatory paragraph that states that the company adopted the provisions of Emerging Issues Task Forces Issue No. 00-21 “Accounting for Revenue Arrangements with Multiple Deliverables” effective July 1, 2003, and Statement of Financial Accounting Standards No. 142, “Goodwill and other Intangible Assets” effective January 1, 2003. In connection with our audits of the aforementioned

consolidated financial statements, we also audited the related consolidated financial statement schedule. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion on this consolidated financial statement schedule based on our audits.

In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

McLean, Virginia

June 2, 2004

Inphonic, Inc. and Subsidiaries

Schedule Ii—valuation and Qualifying Accounts

	Additions					
Description	Balance at beginningof period	Charged to costsandexpenses	Charged to otheraccount		Deductions	Balance at end ofperiod
	(in thousands)					
Year ended December 31, 2001						
Deferred tax asset valuation allowance	3,303	6,171	444	(a)	—	9,918
Reserve for doubtful accounts	—	1,510	—		—	1,510
Year ended December 31, 2002						
Deferred tax asset valuation allowance	9,918	2,845	5,830	(a)	—	18,593
Reserve for doubtful accounts	1,510	200	—		—	1,710
Year ended December 31, 2003						
Deferred tax asset valuation allowance	18,593	13,433	287	(a)	—	32,313
Reserve for doubtful accounts	1,710	246	—		—	1,956

(a) Represents deferred tax asset valuation allowance arising from business combinations

Prospectus

Shares

Common Stock

Deutsche Bank Securities	**JPMorgan**

Joint Book-Running Managers

Thomas Weisel Partners LLC

Allen & Company LLC

Pacific Crest Securities

, 2004

Through and including , 2004 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as an underwriter and with respect to their unsold allotments or subscriptions.

Part Ii

Information Not Required in Prospectus

13. Other Expenses of Issuance and Distribution

The following table sets forth the various expenses payable by us in connection with the sale and distribution of the securities offered hereby, other than underwriting discounts and commissions. All of the amounts shown are estimated except the Securities and Exchange Commission registration fee, the National Association Securities Dealers, Inc. filing fee and the Nasdaq National Market listing fee.

Securities and Exchange Commission registration fee	$12,670
National Association of Securities Dealers, Inc. filing fee	10,500
Nasdaq National Market listing fee	*
Transfer agents and registrars fees	*
Printing expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue Sky filing fees and expenses	*
Miscellaneous expenses	*
Total	*

* *To be filed by amendment.*

14. Indemnification of Officers and Directors

Pursuant to Section 145 of the Delaware General Corporation Law (the "DGCL"), a corporation generally has the power to indemnify its present and former directors, officers, employees and agents against expenses incurred by them in connection with any suit to which they are, or are threatened to be made, a party by reason of their serving in such positions so long as they acted in good faith and in a manner they reasonably believed to be in or not opposed to, the best interests of the corporation and with respect to any criminal action, they had no reasonable cause to believe their conduct was unlawful. Section 145 of the DGCL also provides that the rights conferred thereby are not exclusive any other right that a person may be entitled to under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, and permits a corporation to advance expenses to or on behalf of a person to be indemnified upon receipt of an undertaking to repay the amounts advanced if it is determined that the person is not entitled to indemnification. Section 145 of the DGCL also empowers us to purchase and maintain insurance that protects our officers, directors, employees and agents against any liabilities incurred in connection with their service in such positions.

Our amended and restated certificate of incorporation and amended and restated bylaws include provisions that require us to indemnify our directors and officers to the fullest extent permitted by the DGCL, including circumstances in which indemnification is otherwise discretionary. We believe that these provisions are necessary to attract and retain qualified persons as directors and officers.

We have entered or intend to enter into agreements to indemnify our directors, in addition to indemnification provided for in our bylaws. These agreements, among other things, will provide for indemnification of our directors for expenses, judgments, fines and settlement amounts incurred by any such person in any action or proceeding arising out of the persons services as a director or at our request. We have an insurance policy covering our officers and directors with respect to certain liabilities, including liabilities arising out of the Securities Act or otherwise.

The purchase agreement to be included as Exhibit 1.1 hereto provides for indemnification by the underwriters of the registrant and its officers and directors for certain liabilities arising under the Securities Act of 1933, as amended, or otherwise.

15. Recent Sales of Unregistered Securities

During the last three years, we have issued unregistered securities in the transactions described below. These securities were offered and sold by us in reliance upon the exemptions provided for in Section 4(2) of the Securities Act, relating to sales not involving any public offering, Rule 506 of the Securities Act relating to sales to accredited investors and Rule 701 of the Securities Act relating to a compensatory benefit plan. The sales were made without the use of an underwriter and the certificates representing the securities sold contain a restrictive legend that prohibits transfer without registration or an applicable exemption.

(1)	In July 2001, we issued our convertible promissory notes in the aggregate principal amount of $5,100,000 to accredited investors.
(2)	In August 2001 and September 2001, we issued 6,458,251 shares of our series D stock to accredited investors at a purchase price of $1.65 per share for aggregate consideration of $10,657,966.
(3)	In August 2001, we issued warrants for the purchase of up to 1,260,629 shares of our series D stock to accredited investors at an exercise price of $0.01 per share.

(4) In August 2001, we issued 168,143 shares of our common stock to an accredited investor as payment for services provided to us.

(5) In September 2001, we issued warrants for the purchase of up to 771,259 shares of our common stock to our lenders at an exercise price of $0.008 per share.

(6) In September 2001, we issued our convertible promissory notes in the aggregate principal amount of $3,000,000 to two of our accredited investors.

(7) In September 2001, we issued a warrant for the purchase of up to 31,250 shares of our common stock to an accredited investor at an exercise price of $0.99 per share.

(8) In September 2001, we issued warrants for the purchase of up to 50,000 shares of our common stock to two of our accredited investors at an exercise price of $1.04 per share.

(9) In October 2001, we issued 2,454,120 shares of our series D-1 stock to accredited investors at a purchase price of $1.65 per share for aggregate consideration of $4,050,002. In addition, as part of this transaction, we exchanged 3,306,697 shares of series D stock for the same amount of series D-1 stock.

(10) In October 2001, we issued warrants for the purchase of up to 683,639 shares of our series D-1 stock to accredited investors at an exercise price of $0.01 per share.

(11) In October 2001, we issued 322,671 shares of our Series D-1 stock for an aggregate purchase price of $3,277 upon exercise of warrants.

(12) In October 2001, we issued a warrant for the purchase of up to 22,898 shares of our common stock to an accredited investor at an exercise price of $1.30 per share.

(13) In December 2001, we issued 416,667 shares of our series D-2 stock and 2,996,031 shares of our common stock to an accredited investor pursuant to an acquisition.

(14) In December 2001, we issued 727,146 shares of Series D stock for an aggregate purchase price of $7,271 upon exercise of warrants.

(15) In January 2002, we issued a warrant for the purchase of 20,000 shares of our common stock to an entity controlled by one of our directors at an exercise price of $0.01 per share.

(16) In January 2002, we issued 281,344 shares of our series D-3 stock and 1,825,920 shares of our common stock to an accredited investor pursuant to an acquisition.

(17) In February 2002, we issued 511,431 shares of our series D-3 stock and 2,532,130 shares of our common stock to an accredited investor pursuant to an acquisition.

(18) In March 2002, we issued a warrant for the purchase of 75,758 shares of our common stock to our lenders at an exercise price of $1.32 per share.

(19) In April 2002, we issued 6,598 shares of our common stock for an aggregate purchase price of $60.58 upon exercise of warrants.

(20) In April 2002, we issued 6,588 shares of our common stock for an aggregate purchase price of $66 upon the exercise of stock options.

(21) In July 2002, we issued 730,023 shares of our series D-4 stock to accredited investors at a purchase price of $5.21 per share for aggregate consideration of $3,800,000.

(22) In July 2002, we issued a warrant for the purchase of 243,142 shares of our common stock to our lenders at an exercise price of $0.01 per share, such amounts shall be increased if we do not consummate an initial public offering prior to June 30, 2003.

(23) In August 2002, we issued 102,460 shares of our common stock for an aggregate purchase price of $1,025 upon exercise of warrants.

(24) In September 2002, we issued a warrant to purchase 11,538 shares of our common stock to one of our lenders at an exercise price of $5.20 per share.

(25) In November 2002, we issued 70,437 shares of our series C stock for an aggregate purchase price of $73,212 upon exercise of warrants.

(26) In November 2002, we issued 60,503 shares of our series D stock for an aggregate purchase price of $605 upon exercise of warrants.

(27) In January 2003, we issued a warrant to purchase 25,000 shares of our common stock to a consulting firm at an exercise price of $4.68 per share.

(28) In April 2003, we issued a warrant to purchase 100,000 shares of our common stock to a consulting firm at an exercise price of $4.68 per share.

(29) In May 2003, we issued we issued 672,389 shares of our series D-5 stock to an accredited investor pursuant to an acquisition.

(30) In June 2003, we issued 8,708,678 shares of our series E stock, warrants to purchase 1,741,935 shares of our series E stock and warrants to purchase 958,063 shares of common stock to accredited investors at a purchase price of $3.10 per unit for aggregate consideration of $27,000,001.80.

(31) In June 2003, we issued warrants to purchase 244,792 shares of our series E stock to accredited investors at an exercise price of $3.72 per share.

(32) In June 2003, we issued warrants to purchase 52,375 shares of our common stock to accredited investors at an exercise price of $0.01 per share.

(33) In June 2003, we issued warrants to purchase 78,481 shares of our common stock to accredited investors at an exercise price of $0.01 per share.

(34) In June 2003, we issued warrants to purchase 134,630 shares of our common stock to accredited investors at an exercise price of $0.01 per share.

(35) In June 2003, we issued warrants to purchase 37,814 shares of our common stock to accredited investors at an exercise price of $0.01 per share.

(36)	In July 2003, we issued 793,485 shares of our common stock for an aggregate purchase price of $342,841 upon the exercise of stock options.
(37)	In August 2003, we issued a warrant to purchase 25,000 shares of our common stock to a charitable organization at an exercise price of $1.96 per share.
(38)	In August 2003, we issued 30,000 shares of our common stock for an aggregate purchase price of $18,000 upon the exercise of stock options.
(39)	In September 2003, we issued a warrant to purchase 65,000 shares of our common stock to one of our marketers at an exercise price of $0.01 per share.
(40)	In September 2003, we issued 86,030 shares of our common stock for an aggregate purchase price of $860 upon the exercise of stock options.
(41)	In September 2003, we issued 1,129,032 shares of common stock to an accredited investor pursuant to one of our acquisitions.
(42)	In April 2004, we issued a warrant to purchase 65,000 shares of our common stock to one of our marketers at an exercise price of $0.01 per share.
(43)	In August 2003, we issued a warrant to purchase 38,095 shares of our common stock to one of our lenders at an exercise price of $3.15 per share. Subsequently, under the terms of the warrant, it automatically adjusted to become exercisable for 61,224 shares of our common stock at an exercise price of $1.96 per share.
(44)	Between December 30, 1999 and July 17, 2002, we granted options exercisable for an aggregate of 4,606,602 shares of our common stock at an exercise price of $2.60 per share.
(45)	Between August 3, 2000 and March 7, 2002, we granted options exercisable for an aggregate of 43,000 shares of our common stock at an exercise price of $2.52 per share.
(46)	Between December 19, 2001 and January 31, 2002, we granted options exercisable for an aggregate of 455,000 shares of our common stock at an exercise price of $1.30 per share.
(47)	Between December 30, 1999 and June 6, 2002, we granted options exercisable for an aggregate of 852,000 shares of our common stock at an exercise price of $1.04 per share.
(48)	Between December 30, 1999 and June 6, 2002, we granted options exercisable for an aggregate of 2,109,375 shares of our common stock at an exercise price of $0.60 per share.
(49)	Between December 30, 1999 and May 2, 2002, we granted options exercisable for an aggregate of 2,202,500 shares of our common stock at an exercise price of $0.20 per share.
(50)	In April 2000, we granted an option exercisable for 325,000 shares of our common stock at an exercise price of $0.004 per share.
(51)	Between September 17, 2002 and October 2, 2002, we granted options exercisable for 448,000 shares of our common stock at an exercise price of $5.20 per share.
(52)	Between November 13, 2002 and May 20, 2003, we granted options exercisable for 1,492,250 shares of our common stock at an exercise price of $4.68 per share.
(53)	Between August 1, 2003 and May 13, 2004, we granted options exercisable for 6,147,740 shares of our common stock at an exercise price of $1.96 per share.

16. Exhibits and financial statement schedules

(a) Exhibits

Exhibit Number	Description
1.1(a)	Form of Underwriting Agreement
3.1	Tenth Amended and Restated Certificate of Incorporation of InPhonic dated June 12, 2003
3.1.1(a)	Form of Eleventh Amended and Restated Certificate of Incorporation of InPhonic (to be effective upon the completion of this offering)
3.1.2	Second Amended and Restated Bylaws of InPhonic dated August 7, 2001, as amended by Amendment No. 1 dated June 10, 2003
3.1.3(a)	Form of Third Amended and Restated Bylaws of InPhonic (to be effective upon the completion of this offering)
4.1(a)	Specimen stock certificate for shares of common stock of InPhonic
5.1(a)	Form of opinion of Gray Cary Ware & Freidenrich LLP, regarding legality of securities being registered
10.1	Seventh Amended and Restated Investor Rights Agreement dated as of June 12, 2003 by and among InPhonic and the Investors listed therein
10.2	Series D-4 Convertible Preferred Stock Purchase Agreement dated as of July 19, 2002 by and among InPhonic and the Purchasers listed therein
10.3	Asset Purchase Agreement dated as of May 13, 2003 by and among InPhonic, Inc. and Avesair, Inc.
10.4	Series E Convertible Preferred Stock and Warrant Purchase Agreement dated as of June 12, 2003 by and among InPhonic and the Purchasers listed therein
10.5(a)	Third Amended and Restated Loan and Security Agreement dated as of August 7, 2003 by and between Comerica Bank-California, InPhonic and SimIpc Acquisition Corp., as amended by Joinder Agreement and First Amendment dated as of June 2, 2004
10.6(a)	Common Stock Purchase Warrant dated August 8, 2003 by and between InPhonic and Comerica Bank-California
10.7	Form of Assignment of Invention, Nondisclosure and Noncompetition Agreement

10.8	Employment Agreement dated as of February 4, 2000, by and between InPhonic and David A. Steinberg, as amended by Amendment No. 1 dated March 1, 2004 and Amendment No. 2 dated May 14, 2004
10.9(a)	Employment Agreement dated as of April 2, 2002, by and between InPhonic and Frank C. Bennett III
10.10	Employment Agreement dated as of June 3, 2002 by and between InPhonic and Donald Charlton, as amended by Amendment No. 1 dated May 25, 2004
10.11	Offer Letter dated as of January 16, 2004 by and between InPhonic and Lawrence S. Winkler
10.12	Offer Letter dated as of March 19, 2004 by and between InPhonic and Richard D. Calder, Jr.
10.13	Employment Agreement dated as of February 26, 2002 by and between InPhonic and Michael Ferzacca, as amended by Amendment No. 1 dated January 23, 2003
10.14	1999 Amended and Restated Stock Incentive Plan
10.15	Lease dated as of February 26, 2001 by and between Rouse Commercial Properties, LLC, Rouse Office Management, LLC and InPhonic, as amended by First Amendment to Lease, dated May 29, 2002

Exhibit Number	Description
10.16	Lease Agreement dated April 29, 2003 by and between Waterfront Center Limited Partnership and InPhonic, as amended by Addendum No. 1, dated September 9, 2003 and Addendum No. 2, dated May 14, 2004
10.17(a)(b)	Premier I-Dealer Agreement dated March 1, 2001 by and between T-Mobile USA, Inc., and its subsidiaries and affiliates and InPhonic and its affiliates and related entities, as amended
10.18(a)(b)	Private Label PCS Services Agreement dated as of August 2, 2002 by and between Sprint Spectrum L.P. and Star Number, Inc.
21.1	Subsidiaries of InPhonic
23.1	Consent of KPMG LLP
23.2	Consent of PricewaterhouseCoopers LLP
23.3	Consent of Gray Cary Ware & Freidenrich LLP (included as part of Exhibit 5.1 hereto)
24.1	Power of Attorney (included in signature pages)

(a) To be filed by amendment.

(b) Confidential treatment requested as to certain portions, which portions are omitted and filed separately with the Commission.

(b) Financial Statement Schedules:

Schedules have been omitted because the information required to be shown in the schedules is not applicable or is included elsewhere in our financial statements or the notes thereto.

17. Undertakings

The undersigned registrant hereby undertakes to provide to the underwriter at the closing specified in the Underwriting Agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the provisions of its Charter or Bylaws or the Delaware general corporation law or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

Signatures

Pursuant to the requirements of the Securities Act, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the District of Columbia, on the 14th day of June, 2004.

INPHONIC, INC.	
By:	/s/ David A. Steinberg
	David A. Steinberg
	Chairman of the Board and **Chief Executive Officer**

Power of attorney

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints David A. Steinberg and Walter Leach and each of them acting individually, as his true and lawful attorneys-in-fact and agents, each with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Registration Statement, including post-effective amendments or any abbreviated registration statement and any amendments thereto filed pursuant to Rule 462(b) increasing the number of securities for which registration is sought, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, with full power of each to act alone, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully for all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated:

Name	Title	Date
/s/ David A. Steinberg **David A. Steinberg**	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	June 14, 2004
/s/ Lawrence S. Winkler **Lawrence S. Winkler**	Chief Financial Officer, Executive Vice President and Treasurer (Principal Accounting and Financial Officer)	June 14, 2004
/s/ Ira Brind **Ira Brind**	Director	June 14, 2004
/s/ Robert Fox **Robert Fox**	Director	June 14, 2004
/s/ Jay Hoag **Jay Hoag**	Director	June 14, 2004
/s/ Jack Kemp **Jack Kemp**	Director	June 14, 2004

Name	Title	Date
/s/ Mark J. Levine **Mark J. Levine**	Director	June 14, 2004
/s/ John Sculley **John Sculley**	Director	June 14, 2004
/s/ Thomas Wheeler **Thomas Wheeler**	Director	June 14, 2004

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23.2	Consent of PricewaterhouseCoopers LLP
23.3	Consent of Gray Cary Ware & Freidenrich LLP (included as part of Exhibit 5.1 hereto)
24.1	Power of Attorney (included in signature pages)

(a) To be filed by amendment.

(b) Confidential treatment requested as to certain portions, which portions are omitted and filed separately with the Commission.