

ACTIVISION INC /NY
Form 425
February 08, 2008

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 8-K/A
AMENDMENT NO. 1

CURRENT REPORT

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

Date of report (Date of earliest event reported): **February 7, 2008**

ACTIVISION, INC.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction of Incorporation)

001-15839
(Commission File Number)

95-4803544
(IRS Employer
Identification No.)

3100 Ocean Park Boulevard,
Santa Monica, CA
(Address of Principal Executive
Offices)

90405
(Zip Code)

Registrant's telephone number, including area code: **(310) 255-2000**

Edgar Filing: ACTIVISION INC /NY - Form 425

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

This Amendment No. 1 on Form 8-K/A to the Current Report on Form 8-K filed by Activision, Inc. (the Company) on February 7, 2008 (the Original 8-K) is being filed for the following reasons: (i) to add as an exhibit a transcript of the conference call and Webcast held by the Company on February 7, 2008 in connection with the issuance of the earnings release furnished as an exhibit to the Original 8-K, and (ii) to check the cover page box relating to written communications pursuant to Rule 425 under the Securities Act in order to clarify that, insofar as the earnings release attached as Exhibit 99.1 to the Original 8-K and the transcript and Webcast attached as Exhibit 99.2 to this Amendment may be deemed to constitute material subject to Rule 425 and/or Rule 14a-12, the Original 8-K was (and this Amendment is) intended to simultaneously satisfy the Company's filing obligations under those other provisions.

Item 2.02. Results of Operation and Financial Condition.

As previously reported, on February 7, 2008, Company issued a press release announcing financial results for the Company for the fiscal quarter ended December 31, 2007. A copy of the press release was attached to the Original 8-K as Exhibit 99.1. Also on February 7, 2008, the Company hosted a conference call and Webcast to discuss the Company's financial results for the fiscal quarter ended December 31, 2007. A copy of the transcript of the conference call and Webcast is attached hereto as Exhibit 99.2.

Certain Information Not Filed. The information in this Form 8-K/A and the exhibits attached hereto or referred to herein shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, nor shall this Form 8-K/A or such exhibits or any of the information contained therein be deemed incorporated by reference in any filing under the Securities Exchange Act of 1934 or the Securities Act of 1933, except as shall be expressly set forth by specific reference in such filing.

Item 8.01 Other Events

The disclosure set forth in Item 2.02 above is incorporated in this Item 8.01 by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

99.1 Press Release dated February 7, 2008 (filed solely for purposes of Rule 425 under the Securities Act and Rule 14a-12 under the Exchange Act, and furnished not filed for purposes of Section 18 of the Exchange Act) (so filed and furnished with the Current Report on Form 8-K dated and filed on February 7, 2007).

99.2 Transcript of Conference Call and Webcast held on February 7, 2008 (filed solely for purposes of Rule 425 under the Securities Act and Rule 14a-12 under the Exchange Act, and furnished not filed for purposes of Section 18 of the Exchange Act).

Important Additional Information has been and will be filed with the SEC

This communication is being made, in part, in respect of the proposed business combination involving the Company, Vivendi and Vivendi Games. In connection with the proposed transactions, the Company has filed with the Securities and Exchange Commission (the "SEC") a preliminary Proxy Statement and other documents regarding the proposed transactions, and plans to file with the SEC a definitive Proxy Statement as well as other documents regarding the proposed transactions. The definitive Proxy Statement will be mailed to stockholders of the Company. INVESTORS AND SECURITY HOLDERS OF THE COMPANY ARE URGED TO READ THE PRELIMINARY PROXY STATEMENT AND OTHER RELEVANT MATERIAL FILED WITH THE SEC, AND THE DEFINITIVE PROXY STATEMENT AND OTHER DOCUMENTS TO BE FILED WITH THE SEC, CAREFULLY AND IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTIONS.

Investors and security holders may obtain free copies of the preliminary Proxy Statement and other documents filed with the SEC by the Company, and will be able to obtain free copies of the Proxy Statement (when available) and other relevant documents to be filed with the SEC by the Company, through the website maintained by the SEC at <http://www.sec.gov>. Free copies of the preliminary Proxy Statement (and the definitive Proxy Statement, when available) and other documents filed with the SEC can also be obtained by directing a request to the Company's Investor Relations.

The Company and its directors and executive officers and other persons may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction. Information regarding the Company's directors and executive officers is available in its Annual Report on Form 10-K for the year ended March 31, 2007, which was filed with the SEC on June 14, 2007, and its proxy statement for its 2007 annual meeting of stockholders, which was filed with the SEC on July 30, 2007. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, are contained in the preliminary Proxy Statement and will be contained in other relevant materials filed with the SEC (and will be contained in the definitive Proxy Statement and other relevant materials to be filed with the SEC when they become available).

THIS DOCUMENT IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT AN OFFER TO BUY OR THE SOLICITATION OF AN OFFER TO SELL ANY SECURITIES. THE SOLICITATION AND THE OFFER TO BUY SHARES OF ACTIVISION S COMMON STOCK WILL ONLY BE MADE PURSUANT TO AN OFFER TO PURCHASE AND RELATED MATERIALS THAT ACTIVISION INTENDS TO FILE WITH THE SEC. ONCE FILED, ACTIVISION STOCKHOLDERS SHOULD READ THESE MATERIALS CAREFULLY PRIOR TO MAKING ANY DECISIONS WITH RESPECT TO THE OFFER BECAUSE THEY CONTAIN IMPORTANT INFORMATION, INCLUDING THE TERMS AND CONDITIONS OF THE OFFER. ONCE FILED, ACTIVISION STOCKHOLDERS WILL BE ABLE TO OBTAIN THE OFFER TO PURCHASE AND RELATED MATERIALS WITH RESPECT TO THE OFFER FREE OF CHARGE AT THE SEC S WEBSITE AT [HTTP://WWW.SEC.GOV](http://www.sec.gov), OR FROM THE INFORMATION AGENT NAMED IN THE TENDER OFFER MATERIALS.

SIGNATURE

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

Date: February 8, 2008

ACTIVISION, INC.

By:

/s/ George L. Rose
George L. Rose
Chief Legal Officer of Activision
Publishing, Inc.

EXHIBIT INDEX

Exhibit No.	Description
99.1	Press Release dated February 7, 2008 (filed solely for purposes of Rule 425 under the Securities Act and Rule 14a-12 under the Exchange Act, and furnished not filed for purposes of Section 18 of the Exchange Act) (so filed and furnished with the Current Report on Form 8-K dated and filed on February 7, 2007).
99.2	Transcript of Conference Call and Webcast held on February 7, 2008 (filed solely for purposes of Rule 425 under the Securities Act and Rule 14a-12 under the Exchange Act, and furnished not filed for purposes of Section 18 of the Exchange Act).