

There have been some comments regarding the White Paper on Clearwire and this Note attempts to clarify several issues¹. We deal here solely with facts.

Fact 1: The Clearwire Venture, the "Venture", is a stock company composed of Clearwire and other participants. The others are Intel, Sprint, Time Warner Cable, Comcast, and brighthouse.

Fact 2: The Venture is structured with each of the principals to be considered under law as Key Players. A Key Player is a director, officer, and controlling shareholder. Under the law a controlling shareholder does not have to control more than 50% of the shares. A controlling shareholder only has to possess the power to influence the company in a manner that exceeds that of the typical shareholder.

Fact 3: A controlling shareholder, Key Player, is considered under law as a trustee of the corporation and has a fiduciary duty to it.

Fact 4: WiMax as a technology can provides and has been proposed to facilitate the deployment of video, voice, data and a multiple set of other services, under the umbrella rubric of 4G services.

Fact 5: Clearwire and the Venture are WiMax users and providers of 4G services.

Fact 6: Sprint remains in the cellular business and Time Warner, Comcast and brighthouse remain in the CATV business selling video, voice and data.

Fact 7: The Doctrine of Corporate Opportunity, under law, requires that Key Players submit opportunities of their business to the Venture first, but potentially also to their own companies as well. This is a per se conflict. For each of the players in Fact 6 have conflicted duties under the Doctrine. If they satisfy one shareholder they prejudice another.

Fact 8: Breaches of the Duty of Loyalty and the Duties under Corporate Opportunity are all actionable against the shareholder. Thus Sprint, Time Warner, Comcast and brighthouse are potentially all placing themselves in jeopardy for massive shareholder suits.

¹ <http://www.telmarc.com/References/Notes/No%2032%20Group%20Gropo.pdf>