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Latest updates On Insolvency & Bankruptcy

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"You are never too old to set another goal or to dream a new dream"

➤ **Creditors won't get to sell spectrum if Co goes bankrupt**

The draft telecom bill has cleared the air on spectrum ownership for companies undergoing insolvency proceedings and around regulating OTT communication services, analysts said.

They added that the draft telecom bill also offers a robust regulatory framework within the federal structure to obtain right of way (RoW) approvals in a uniform, non-discriminatory manner, for establishing telecoms infrastructure and expediting the rollout of 5G networks.

"The (draft telecom) bill aims to remove ambiguities over the ownership of spectrum for corporates under insolvency/stress as well as the regulating body for over-the-top (OTT) and internet service providers," India Ratings (Ind-Ra) said in a statement Monday. It added that the bill stipulates that spectrum ownership remains with the government and implies that value of spectrum cannot be sold by creditors under the Insolvency & Bankruptcy Code.

"The government reserves the right to take back the spectrum if the ailing telecom operator fails to pay government dues, further adding concerns on the operational viability of such telcos," Ind-Ra said.

Analysts said the draft bill, which was unveiled last Wednesday for wider stakeholder consultations, also recognises that spectrum is a valuable and inexhaustible natural resource, and hence, it creates an enabling provision for optimal usage of airwaves.

"While it mentions that auction will be the key means of selling of spectrum, it also provides for assignment of spectrum for the public good," said JM Financial.

The brokerage said the draft bill seeks to replace three existing laws - Indian Telegraph Act, 1885, Wireless Telegraphy Act, 1933, and Telegraph Wires (Unlawful Possession) Act, 1950. But to ensure a smooth transition to the new framework and ensure regulatory certainty, it provides for continuity of actions taken under the repealed laws.

"An entity providing telecom services or network under the current law will be entitled to continue to operate under its existing terms and conditions till it migrates to a set of new terms and conditions," JM Financial said in a note.

Credit Suisse, in turn, said the draft bill has expanded the scope of telecommunication services to include OTT communication services within its remit. "Telecom operators had been petitioning to seek a level playing field with companies offering competing OTT services such as voice and video calling, texting etc," the brokerage said

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/telecom/creditors-wont-get-to-sell-spectrum-if-co-goes-bankrupt/articleshow/94463045.cms>

➤ **Sebi moves NCLAT to block resolution of Pancard Clubs**

The country's capital market regulator has moved the National Company Law Appellate Tribunal (NCLAT) to block the insolvency proceedings of Pancard Clubs, which had raised ₹7,000 crore from five million individuals and has now gone bust, people aware of the matter said.

The Securities and Exchange Board of India (Sebi) is investigating Pancard Clubs for allegedly running an unregistered collective investment scheme (CIS) that was disguised as a club membership programme allowing access to members to use its resort properties for vacations.

Sebi has started auctioning 14 of Pancard Clubs' properties to refund money to its investors, and it fears the insolvency proceedings will hinder its efforts to sell the properties that are in its custody, people cited above said. The market regulator is yet to receive any bids.

National Company Law Tribunal (NCLT) admitted Pancard Clubs for insolvency proceedings on September 9 and appointed Rajesh Sheth as the company's insolvency resolution professional after about 100 aggrieved investors in the scheme approached the court.

Sebi and Sheth did not respond to ET's queries as of press time Monday. Sebi had opposed the admission of the company into insolvency proceedings at NCLT as well.

However, the court ruled that the investors had a right to invoke insolvency against the company irrespective of other ongoing investigations by regulators as long as it was evident that the nature of their subscription to Pancard Clubs membership programme was such that it could qualify as financial debt.

The investors had argued through their advocate Nausher Kohli at NCLT that the membership had embedded clauses that stated that they would get a fixed return on the money invested. This gave it the character of a debt instrument.

ET had reported on September 13 that the Serious Fraud Investigation Office (SFIO) has also moved NCLT to freeze the assets of the company. This could set the stage for a three-way fight between regulators, investigation agencies, and the aggrieved investors over how their claims should be recovered.

Mumbai-based Pancard Clubs founder and promoter Sudhir Moravekar passed away in 2017. The company's other directors are senior citizens and are said to be absconding.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-moves-nclat-to-block-resolution-of-pancard-clubs/articleshow/94465161.cms>

