

Hotels and restaurants association urges SEBI to suspend Oyo's IPO

The Federation of Hotel and Restaurant Association of India (FHRAI) has written to market regulator SEBI urging it to reject the draft red herring prospectus (DRHP) and suspend the proposed Initial Public Offer of hospitality major Oyo. In the letter, the FHRAI has claimed that Oravel Stays, the parent company of Oyo, has misrepresented in the draft prospectus and is resorting to unfair, anti-competitive and fraudulent dealings and business practices, which include entering into anti-competitive agreements as well as abusing its dominant position.

Oyo on October 1 filed its draft red herring prospectus (DHRP) with the SEBI for raising RS 8,430 crore through an IPO. FHRAI has accused the parent company of the hotel chain, which filed the draft papers for the IPO, over its alleged anti-competitive business practices, that it had made inadequate disclosures of critical court cases and that valuation of the company is “not sound or feasible”.

FHRAI said that Oravel Stays engages in anticompetitive business practices, an investigation into which is currently on by the Competition Commission of India. The CCI, after a preliminary hearing found a prima facie case for initiating investigation for violations of the provisions of the Competition Act, 2002 and has directed the Director General to investigate. The investigation is pending, the letter said. It adds that the company disclosed the possibility of a penalty that can be levied by CCI, it does not disclose that the CCI also “has the power to direct behavioural changes to be undertaken, which may completely upset the anti-competitive business practices engaged by Oravel”.

"If the SEBI permits companies, against which there are prima facie findings of anti-competitive conduct and against whom investigations by the Director General of CCI are pending, to raise funds from the general public by way of an IPO, the same would set a very bad precedent and gravely prejudice the interest of the investors," the FHRAI said in its letter.

It also said that there has been not a single case where a company being investigated for anti-competitive practices by the Director General of the CCI has been permitted to initiate an IPO by the SEBI.

The FHRAI has further told the market regulator that the company has attempted to avoid a large number of contractual payment obligations that it has towards hotels which are members of the travel body by claiming force majeure on account of COVID-19.

The letter further adds that the company has not disclosed “various criminal investigations pending against it, its directors and promoters along with its subsidiaries”. The FHRAI has provided its views in the public review and comments invited by the SEBI on Oyo's DRHP. The development comes weeks after former rival of Oyo, Zostel, which has been embroiled in a more than five-year-long legal battle, sought the regulator's intervention against the IPO of the homegrown hospitality company.

“In view of the aforesaid circumstances we request your good offices to suspend the IPO process till such time the deficiencies pointed out herein above are rectified so as to protect the interest of all stakeholders as well as the general public. FHRAI also remains available to assist your good offices in any manner as deemed necessary,” said Gurbaxish Singh Kohli, FHRAI’s Vice-President.

FHRAI’s move comes soon after Zostel also approached the markets regulator seeking to halt the IPO earlier this month which said the company’s capital structure is not final, that filing of the DRHP was illegal (in relation to the litigation between Zostel and Oyo), that it is “replete with material omissions and blatant misstatements” and that those in charge have been “derelict in their duty to carry out necessary due diligence”.