

FACTUAL EVALUATION OF RESCUE FEASIBILITY: A SIGNALLING THEORY APPROACH

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As required by various sections in the Companies act, the practitioner must place before the court facts proving reasonable prospect; this is mainly determined through the subjective thought process of the practitioners who rely on their experience and knowledge in rescue and/or business management. Signalling theory may contribute to better understand the thought processes followed by BRP's during their efforts to determine reasonable prospect.

This article investigates the relevance and utilisation of signalling theory by BRP's during their efforts to determine (initial) reasonable prospect that guide the decision making process during the initial stages of rescue.

Business Rescue is still in its infancy and reasonable prospect is one of the many vague but yet compulsory elements needed for initiating business rescue procedures. A better understanding of reasonable prospect and how signalling theory may contribute to the determination thereof may contribute greatly to the business rescue regime.

The research followed a qualitative approach to interview 6 purposively selected BRP's currently active in the industry, to derive frequently used signals during their efforts in determining reasonable prospect. Thereafter the findings were triangulated with previous study findings on reasonable prospect as well as literature on signalling theory to possibly identify tools to be utilised during the business rescue process.

Reasonable prospect is mainly based on the practitioner's experience and opinion which in turn contributes to the BRP's ability to recognise signals between the distressed business and the BRP. Factually proving reasonable prospect appears very difficult due to the presence of information asymmetry and the liability of data integrity but signalling theory may help to decrease the uncertainty. Due diligence must be applied throughout the business rescue process. Academic methods of determining financial distress/decline/position mostly serve as a communication tool as the business is already in distress with the commencement of business rescue proceedings.

BRP's and other affected parties could benefit from the insights obtained through this study. Confirming possible signals (signalling theory) that could assist with the determination of (initial) reasonable prospect can contribute to Business Rescue education/ development as well as avoid the current conflict

that surround the subject. Practical benefits for affected parties that must use reasonable prospect are also derived.

By identifying signals that are useful when determining (initial) reasonable prospect may contribute to the better understanding of business rescue and possibly help train future BRP's.

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