



Mergers, Competition, and Regulation: The Role of Competition Commission of India in Balancing Growth and Competition

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Abstract

A fair and competitive market is necessary for encouraging new ideas, protecting consumer interests and ensuring long-term economic growth. Strong competition prompts businesses to innovate, reduce their costs, and improve the quality of their goods, all of which benefits the customers and the economy as a whole. But, unchecked mergers and acquisitions can disrupt this balance, leading to a monopolistic market, fewer choices, and increased costs. In such a scenario, unchecked mergers can intensify market power and reduce consumer welfare. The regulatory framework underlying the Competition Act 2002 and the administrative strategies evolved by the Competition Commission of India are major contributors to maintaining this equilibrium by regulating transactions that may have anti-competitive effects and their remedial mechanisms. The legal framework aims to ensure healthy competition in the market, while providing various benefits for the public at large. This paper analyses how mergers, market competition, and regulatory frameworks interact within a complex set of dynamics, highlighting the importance of oversight that balances discipline and permissiveness so as to ensure fairness in the market. When companies merge, it can kill fair competition, favouring competition on factors other than price. They usually get away with this unless the regulators are closely watching to ensure they do not abuse their power. This paper examines how the regulatory framework, especially the Competition Commission of India (CCI), strikes a balance between the harmonious gains brought about by the mergers and preserving a competitive market. It analyses landmark cases, regulatory tools, and emerging issues such as the digital market. The present study also considers the efficacy of existing competition regulations and proposes improvements to ensure that mergers contribute positively to market efficiency and consumer well-being. The paper concludes with some suggestions to strengthen merger control in India.

Keywords: Mergers and Acquisitions, Market Competition, Regulatory Frameworks, Antitrust Regulation, Competition Commission of India.

Introduction

In the ever-evolving landscape of global commerce, mergers and acquisitions (M&A) have emerged as pivotal strategies for corporate growth and consolidation. These transactions can reshape industries and enhance competitive advantage. They also have the potential to drive significant economic progress. Merger control refers to the legal and regulatory mechanisms through which competition authorities review proposed mergers and acquisitions to assess their potential impact on market competition. Its primary objective is to prevent combinations that could create or strengthen dominant market positions, reduce consumer choice or distort fair competition. While mergers can generate efficiencies and promote innovation, they can also give rise to monopolistic behaviour if left unchecked or unregulated. This makes the interrelation between mergers, competition and regulation a crucial area of study. Mergers can dramatically alter the competitive dynamics of a market. By combining resources, expertise, and market share, merged entities often achieve economies of scale, and enhanced efficiency. This increased market power can lead to benefits such as lower production costs and improved product offerings. However, it also poses serious risks. A dominant merged entity may engage in anti-competitive practices like price-fixing, output restrictions, or exclusionary tactics to eliminate rivals. Such behaviours can stifle innovation, reduce consumer choices, and ultimately harm the broader economic environment.

The role of regulatory bodies in overseeing and mitigating these negative impacts is paramount. Organisations such as the Competition Commission of India (CCI), the Federal Trade Commission (FTC) in the United States, and the European Commission in the EU play a central role in this process. They are tasked with scrutinising M&A activities to prevent anti-competitive outcomes. Recent global developments illustrate the growing assertiveness of competition authorities in merger control. For example, the European Commission has taken a firm stand on large technology mergers, notably blocking the proposed acquisition of Booking Holding by eTraveli Group in 2023 and closely scrutinising Microsoft's acquisition of Activision Blizzard to address competition concerns in the gaming sector. Similarly, the Federal Trade Commission in the United States has intensified its oversight of Big Tech, challenging transactions such as Meta Platforms' acquisition of Within Unlimited Inc. and investigating Amazon over its acquisition of iRobot. These cases highlight how merger control is increasingly needed to focus on digital platforms and data-driven markets, where traditional competition measures may be insufficient. In India, the Competition Commission of India has adopted a more vigilant stance in high-profile mergers. A notable example is the proposed merger between Zee Entertainment Enterprises and Sony Pictures Networks India, where the CCI carried out a detailed Phase II investigation to assess potential market concentration in the media sector. Similarly, the Amazon-Future Retail dispute raised critical questions about foreign investments and competition in the retail sector. In 2022, the CCI also imposed penalties on Google for abusing its dominant position, demonstrating its willingness to intervene in the digital market. These global and domestic examples signify how merger control has become increasingly significant in both traditional and digital sectors. They also highlight the need for adaptive regulatory strategies to address new market dynamics and maintain competitive

balance. The regulatory bodies use tools such as market analysis, investigations, and legal actions to ensure that mergers do not result in unfair market dominance. Their activities are guided by antitrust legislation aimed at maintaining competition and protecting consumers from monopolistic behaviours.

Historical case studies provide valuable insights into the effectiveness of regulatory oversight. For instance, the merger between Tata Steel and Corus Group highlighted how strategic acquisitions can be successfully regulated to prevent anti-competitive behaviour. Similarly, the acquisition of Ranbaxy Laboratories by Sun Pharmaceuticals demonstrated how regulatory bodies can address compliance and ethical concerns to facilitate a smoother integration process. Despite these successes, regulatory frameworks often struggle to keep pace with the rapidly changing market dynamics. Corporations increasingly use sophisticated strategies that make oversight more challenging. The rise of digital markets, for example, has added new complexities in regulating mergers, as traditional metrics for assessing market power may not fully capture the nuances of digital competition. Therefore, regulatory bodies must continually adapt and innovate their approaches to ensure effective oversight.

This paper aims to explore the effects of mergers on market competition and the role of legal frameworks in ensuring fair play. By analysing primary data and case studies, it seeks to provide a comprehensive understanding of how mergers can influence competitive landscapes and the measures required to mitigate anti-competitive behaviours. The discussion will also highlight the importance of evolving regulatory practices to address the challenges posed by new market dynamics, ultimately contributing to a fairer and more competitive economic environment. Through this examination, the paper underlines the critical balance that must be maintained between facilitating corporate growth and preserving market integrity. It argues that effective merger regulation is essential to balance corporate growth with fair competition, ensuring that mergers enhance market efficiency without leading to monopolistic dominance.

Impact of Mergers on Market Competition

Mergers and acquisitions have long been recognised as a strategic tool for companies to enhance their competitive boundaries. They help firms achieve economies of scale and expand their market presence. However, the impact of these transactions on market competition can be profound. They often raise concerns about monopolistic practices, reduced consumer choices, and potential market abuse. In India, where the market consists of both large multinational corporations and a significant number of small and medium enterprises (SMEs), the consequences of mergers on competition are particularly significant.

Reduction in Competition and High Market Concentration

One of the most direct consequences of mergers is the reduction in the number of competitors within a market. When two firms combine, the consolidated entity may hold a larger market share, which can lead to increased market concentration. This reduction in competition is particularly evident in sectors with few dominant players. One such example is the merger of Idea Cellular and Vodafone India in 2018, creating Vodafone Idea Limited, making it one of the largest

telecommunications service providers in India. This consolidation reduced the number of major players in the telecom sector from four to three, potentially reducing competitive pressures. Higher market concentration can result in the creation of dominant firms that have the ability to influence market prices, output, and quality. These firms may engage in price-setting behaviour, raising prices beyond competitive levels. As a result, consumers have to face higher prices and fewer choices.

i. Economies of Scale and Barriers to Entry

Mergers often result in economies of scale, which allow the combined entity to reduce costs per unit through more efficient production processes, better utilisation of resources, and enhanced bargaining power with suppliers. While these efficiencies can lower prices and improve services for consumers, they also create high barriers to entry for new competitors. In the Indian pharmaceutical sector, for example, the 2014 merger of Sun Pharmaceuticals and Ranbaxy Laboratories created a pharmaceutical giant with considerable market power. The combined entity's ability to leverage economies of scale made it challenging for smaller firms to compete, thereby limiting new entrants in the market.

ii. Innovation and R&D

Innovation, Research and Development (R&D) can also be affected by mergers. On the one hand, when two or more businesses merge, their resources and skills can be used to make more investments in research and development, which can lead to new goods and services.

Reduced competition, however, may diminish the willingness of companies to innovate. In markets with less competition, large corporations may become confident and allocate fewer resources to research and development. The technology sector in India provides a compelling example. The acquisition of Flipkart by Walmart in 2018 was expected to drive innovation through increased investment in technology and logistics. However, it also raised concerns about reduced competition in e-commerce. This could discourage smaller and local competitors from coming up with new ideas.

Regulatory Scrutiny and Merger Control

Regulatory bodies play a critical role in overseeing M&A activities to ensure that they do not harm market competition. In India, the Competition Commission of India (CCI) is responsible for regulating mergers and preventing anti-competitive practices. The CCI assesses proposed mergers to determine their potential impact on market competition and can impose conditions or even block transactions that are deemed harmful. For instance, the CCI closely scrutinised the 2015 merger between Holcim and Lafarge, two of the world's largest cement companies, to ensure it did not lead to excessive market concentration in the cement industry. The CCI's intervention required the divestment of certain assets to maintain competitive balance in the market. Similarly, there are various case studies that have impacted competition in the Indian market. Like, Tata Steel's acquisition of Bhushan Steel in 2018 demonstrated the impact of mergers on competition in the steel industry. The acquisition helped Tata Steel enhance its production capacity and market presence. However, it also raised concerns about reduced competition and increased market power,

prompting regulatory scrutiny. The merger of HDFC Bank and Centurion Bank of Punjab in 2008 expanded HDFC Bank's footprint and customer base. The consolidation improved operational efficiencies and service offerings, but also highlighted the need for regulatory oversight to ensure fair competition in the banking sector. As mentioned earlier, the merger of Sun Pharmaceuticals and Ranbaxy Laboratories created the largest pharmaceutical company in India. While it brought operational efficiencies and enhanced global market reach, it also raised competition concerns, particularly regarding the reduced number of major players in the pharmaceutical market.

Mergers and acquisitions can significantly alter the competitive landscape, bringing both benefits and drawbacks. In India, where the market consists of large corporations as well as small enterprises, the impact of mergers is most noticeable. They can promote growth and efficiency, but they can also hinder smaller businesses, lessen competition or increase consumer prices. Regulatory agencies such as the Competition Commission of India (CCI) are essential in this regard. By preserving a competitive and balanced market, the CCI makes sure that mergers do not result in unfair business practices or harm consumer interests. Balancing the benefits of economies of scale and enhanced market capabilities with the need to maintain competitive markets, regulators can help foster an environment that promotes innovation, consumer choice, and economic growth. Therefore, the effect that mergers have on market competitiveness is a delicate balance that calls for stringent regulatory supervision and innovative corporate governance measures. The Indian market, with its own different dynamics, offers an array of case studies that highlight the significance of striking this balance to achieve a competitive and equitable economic landscape.

Regulatory Bodies and Their Role

Within the framework of mergers and acquisitions (M&A), regulatory authorities make a significant contribution to the preservation of equitable competition, the guarantee of efficient market operations, and the safeguarding of consumer interests. It is the responsibility of these bodies to investigate mergers and acquisitions (M&A) activities in order to avoid anti-competitive acts and to cultivate a healthy environment for business. The Competition Commission of India (CCI) is the primary regulatory institution in India that is responsible for monitoring concerns that are connected to competition. The functions, responsibilities, and impacts of regulatory agencies are discussed in further detail in this section. Particular attention is paid to Indian legislation and the role that the CCI plays in the regulatory process.

Regulatory bodies around the world keep an eye on competition and M&A to ensure fair market practices and stop monopolistic behaviour. This aligns with international guidance that emphasises the role of competition and consumer protection frameworks in ensuring equitable market outcomes and sustainable growth. Some of the most well-known organizations are the Competition Commission of India (CCI), which is in charge of antitrust issues in India; the Federal Trade Commission (FTC), which is in charge of competition laws in the US; the European Commission (EC), which is in charge of mergers and antitrust policies across the EU; and the Competition and Markets Authority (CMA), which is in charge of looking over M&A deals in the UK to protect consumer welfare. These governing groups have the power to investigate, evaluate, and either approve or bar mergers. This keeps the market competitive and protects consumer interests.

Competition Commission of India (CCI)

The Competition Act 2002 seeks to cover three Anti-Trust issues, namely: (a) anti-competitive Agreements by an Enterprise or association of Enterprises or person or association of persons; (b) Abuse of Dominant Position; and (c) Combinations. While Anti-competitive Agreements are dealt with by Section 3, Abuse of Dominant Position is dealt with by Section 4 and Combination by way of acquisition or merger or amalgamation is dealt with by Sections 5 and 6. The Competition Commission of India (CCI) was established in 2003 under the Competition Act, 2002. It is the primary regulatory authority in India, responsible for the promotion of fair competition, the prevention of anti-competitive practices, and the protection of consumer interests. Under a structured framework, the CCI regulates mergers, investigates anti-competitive conduct, advocates for competitive markets, and provides policy advice to the government. One of its primary responsibilities is the regulation of combinations (mergers and acquisitions) in accordance with Sections 5 and 6 of the Competition Act. These sections require that transactions that exceed specific financial thresholds obtain CCI approval to prevent an Appreciable Adverse Effect on Competition (AAEC). A notable example of this was the Sun Pharma-Ranbaxy merger (2014), which was approved by the CCI only after the parties agreed to divest certain overlapping businesses in order to prevent market dominance in specific therapeutic segments. Similarly, the CCI conducted a thorough examination of the Flipkart-Walmart acquisition (2018) for potential anti-competitive effects in India's e-commerce sector prior to granting conditional approval.

The CCI is actively engaged in the investigation of anti-competitive practices under Sections 3 and 4 of the Act, which prohibit cartels, bid-rigging, abuse of dominance, and discriminatory trade practices, in addition to merger control. The 2016 cement cartel investigation was a significant case in which the CCI imposed a sanction of ₹6,700 crore on 11 cement companies for price manipulation. In 2022, the CCI imposed a penalty of ₹1,337 crore on Google for exploiting its dominant position in the Android ecosystem by imposing unfair conditions on device manufacturers. This punishment was another significant ruling. The CCI's investigative powers encompass the ability to convene entities, conduct raids, and impose penalties of up to 10% of a company's turnover for violations. Under Section 49 of the Competition Act, 2002, the CCI is also involved in competition advocacy and guidance, with the objective of educating businesses, policymakers, and consumers on the principles of competitive markets. It has published market studies on sectors such as e-pharmacies and telecommunications to emphasise competition concerns and suggest regulatory enhancements. Additionally, the CCI provides workshops and compliance manuals to assist companies in complying with antitrust regulations.

Finally, the CCI serves as a policy advisory body, providing guidance to government entities on legislative and regulatory reforms that are intended to enhance competition. For example, it has been suggested that sectoral regulations in electricity, banking, and digital markets be amended to reduce entry barriers and promote innovation. The CCI guarantees a balanced market ecosystem in accordance with its mandate under the Competition Act, 2002, by performing these functions: merger regulation, enforcement against anti-competitive conduct, advocacy, and policy guidance.

Merger Control and the Scrutiny by the Competition Commission of India.

The Competition Commission of India (CCI) is responsible for ensuring that mergers and acquisitions (M&A) do not adversely affect competition in the market. Furthermore, effective merger control, as recognised in global competition policy discourse, is important to prevent market distortions and safeguard consumer welfare. Companies that are engaging in mergers and acquisitions (M&A) that cross certain financial criteria (based on asset size or turnover) must tell the CCI and get permission before going through with the deal, according to Sections 5 and 6 of the Competition Act, 2002. The CCI looks at whether the proposed merger, acquisition, or amalgamation could have an Appreciable Adverse Effect on Competition (AAEC) on the market in question. The process for reviewing a merger is organised in a certain way. Firstly, both parties must file a thorough filing (Form I or Form II, depending on the size of the agreement and its effect on the market) that includes information on the deal, market shares, and competitive effects. For example, the CCI needed a lot of information before deciding if the Zee Entertainment-Sony merger (2022) would give either company too much power in the broadcasting industry. Next comes the Preliminary Review (Phase I), where the CCI does an initial review within 30 days, as required by Regulation 19 of the CCI (Procedure in Regard to Transactions) Regulations, 2011. The merger is allowed if there are no worries about competition. The CCI accepted the Tata Steel-Bhushan Steel purchase in Phase I since there was not a lot of overlap in the markets. Phase II is the Detailed Investigation stage. If the CCI finds possible anti-competitive risks, it starts a full investigation within 210 days as per Section 31(7). This includes looking at the market, talking to stakeholders, and doing an economic analysis. Finally, the CCI can make decisions either approving unconditionally, as in the case of Flipkart and Walmart in 2018, where there were no substantial competition issues, or approve with remedies, like in the 2014 Sun Pharma-Ranbaxy case, where the CCI ordered the divestment of certain drugs to prevent monopoly. If AAEC is proven, the CCI can even block the merger, as witnessed in the proposed merger of Jet-Etihad, where dominance concerns arose. The CCI's merger control mechanism makes sure that corporate mergers don't hinder competition, which is in line with its purpose to keep the market ecosystem fair and efficient.

Challenges and Prospects of the CCI on Merger Regulation

Merger control under the Competition Act, 2002, constitutes a critical pillar of India's Competition law regime. The Competition Commission of India (CCI), acting under its statutory mandate, plays a decisive role in scrutinising mergers and combinations to ensure that they do not cause or are not likely to cause an "appreciable adverse effect on competition" (AAEC) within the relevant market. While the CCI has, over the past decades, demonstrated a growing capacity to address the competitive risk associated with mergers and acquisitions, the dynamic nature of the modern market has generated novel legal and regulatory challenges. These challenges necessitate recalibrating merger control to ensure its continued effectiveness in safeguarding competition and consumer welfare.

Regulating digital markets is one of the most important problems. The most pressing contemporary challenge arises from the increasing predominance of the digital market. Traditional merger control frameworks were designed primarily to assess concentration in industries where price,

output and market shares served as reliable indicators of competitive harm. In digital and platform-based markets, however, market power is often derived not from conventional dominance but from network effects, data aggregation and ecosystem lock-in. Such characteristics make it considerably more difficult to define relevant market, assess counterfactuals, and determine the likely competitive effects of a proposed combination. Global regulatory trends offer instructive parallels. For example, the Federal Trade Commission challenged the Meta Platform-Within Unlimited Inc. acquisition on the basis of potential future competition harms. Similarly, the European Commission imposed behavioural commitments in the Microsoft-Activision Blizzard merger to preserve access for rivals in the cloud gaming sector. These cases demonstrate the necessity of an analytical framework that looks beyond present market share to assess foreclosure risk, innovation harms, and barriers to entry. In India, platforms such as Amazon, Flipkart, and Google exert substantial influence in retail and digital ecosystems. Yet, many transactions involving digital players may escape scrutiny under current turnover and asset-based notification thresholds despite potentially significant competitive effects. This gap emphasises the need for tailored merger assessment frameworks that incorporate data concentration, interoperability concerns, and network-based market power. India could draw inspiration from legislative developments such as the Digital Market Act (EU), which imposes ex ante obligations on gatekeeper platforms, and Germany's 10th Amendment to its competition law, which expands the definition of dominance in the digital market.

Secondly, the increasing prevalence of cross-border mergers presents another intimidating challenge. Large global transactions are often subject to review by multiple competition authorities, creating risk of inconsistent outcomes, procedural fragmentation, and jurisdictional overlaps. The Microsoft-Activision merger is a pertinent illustration where the Competition and Market Authority (CMA) in the UK initially blocked the deal; the European Commission cleared it subject to behavioural remedies, and the FTC pursued litigation under Section 7 of the Clayton Antitrust Act of 1914. Divergent remedies and outcomes in different jurisdictions highlight the practical complexities of regulating cross-border mergers. For India, where an increasing number of multinational enterprises operate, regulatory coordination has become essential. The CCI has entered into a cooperation agreement with agencies such as the FTC and the CMA. However, these agreements remain largely limited to information exchange. There is scope to develop more structural corporate mechanisms, including joint investigation, remedy coordination, and participation in convergence forums under the International Competition Network and the Organisation for Economic Co-operation and Development (OECD). India may also consider issuing guidelines on extraterritorial mergers, similar to the EU Merger Regulation, to clarify jurisdictional triggers and the scope of CCI intervention where offshore transactions have substantial effects in the Indian markets.

Thirdly, effective merger control is contingent upon the institutional capacity of the competition authority. While the CCI has established a strong enforcement record, the increasing complexity of merger cases, particularly those involving technology and digital platforms, has exposed resource and expertise constraints. Unlike the European Commission's DG COMP or the US FTC, the CCI operates with a comparatively limited tool of in-house economists, technologists, and legal analysts. This resource asymmetry can affect both the depth and timeliness of merger assessments.

It also places pressure on the Commission to balance thoroughness with statutory timelines. Thus, to address this, there is a compelling case of institutional strengthening through targeted recruitment of specialised personnel, capacity-building programmes and adoption of advanced data analysis tools. The development of dedicated economic and digital market units within the CCI would enhance its ability to conduct forward-looking assessments and design remedies.

Furthermore, the existing merger control framework in India is grounded in turnover and asset threshold, which may not adequately capture transactions with significant competitive implications in data-driven markets. This raises the risk of so-called “killer acquisitions”, where dominant firms acquire nascent competitors to eliminate future competition. Several jurisdictions, including Germany and Austria, have introduced a ‘transaction-value threshold’ to address similar gaps. India may consider adopting a similar mechanism, thereby empowering the CCI to review strategically significant deals even when the target’s financial footprint is modest. Furthermore, phase II review procedures could be strengthened by articulating clearer substantive assessment guidelines, including explicit consideration of innovation effects, ecosystem dominance, and non-price parameters of competition. Another key area for development lies in remedy frameworks. The CCI has historically relied primarily on structural remedies, for example, divestitures. However, behavioural and hybrid remedies common in digital and technology markets should be more systematically incorporated, coupled with robust post-merger monitoring mechanisms to ensure enforceability and effectiveness.

A forward-looking merger control regime also requires a robust culture of competition advocacy. The CCI has initiated market studies and public consultations in certain sectors, but there remains significant potential to expand this function. Regular publication of guidelines, merger impact assessments, and remedy compliance reports can enhance predictability and legal certainty for market participants. Moreover, structured stakeholder engagement, including industry consultations during complex merger reviews, can enhance the quality and legitimacy of the decision. Such participatory practices align with approaches adopted by the European Commission and the US antitrust agencies, where stakeholder input often shapes both the substantive analysis and the remedies imposed.

The merger control framework in India stands at a critical juncture. The convergence of digital transformation, cross-border integration, and increasingly complex corporate structures necessitates an evolution from a primarily structural and market-share-based approach to a more sophisticated, effects-based framework. Future reforms should focus on enhancing the legal toolkit available to the CCI, expanding its institutional capacity, and harmonising its practices with international standards. Equally important is the need for adaptive, forward-looking assessments that address not just the present market structure, but also the potential for future foreclosure and innovation harm. Such reforms will not only align India with global best practices but also reinforce its competition law regime as a credible and effective instrument of economic governance.

Conclusion

The relationship between mergers, market competition and regulatory environment is complicated and changing. Mergers and acquisitions have the potential to promote economic growth, innovation, and operational efficiencies, as well as it has the the ability to create substantial threats to competition in market structure if left unregulated. Indeed, effective merger control is an instrument not only of regulation but also of law defending the society against the concentration of economic power. The balance between these has to be maintained, and for keeping this equilibrium the Competition Commission of India as per the provisions of the Competition Act 2002 is quite an effective tool at hand. By looking ex ante at transactions, by imposing structural and behavioural remedies both as a preventive measure if possible and as an intervention where necessary, it prevents corporate consolidation from leading to competition failures or damaging consumer welfare. Nevertheless, with the rapid changes of market and especially digital economy the scales and complexities of merger has increased significantly which brings new governance challenges that regulators need to be more flexible and intellectual in dealing with.

Reinforcing the institutional capacity of the CCI, refining its economic and legal tools and aligning its enforcement practices with international standards will, however, be a necessary step in addressing these challenges. Similarly, promoting prospective evaluations and digital market integration, as well as cross-border cooperation, will help sustain the relevance of the Indian merger control regime, helping it to stay effective and credible. By preserving the rigor, transparency and timeliness of the processes surrounding mergers, India can protect the fundamental objective of its Competition Law framework while assisting economic development. Ultimately, the effectiveness of a Competition law regime lies not merely in its provisions, but in its adaptability and enforceability thereof, in a rapidly evolving market.

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