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# New Avenues for Antitrust Compliance under the 2023 Amendment Act: An Indian Perspective

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## ABSTRACT

*The Competition (Amendment) Act, 2023 marks a pivotal evolution in India's competition law framework, responding to dynamic global business environments, digitalization, and the demand for regulatory agility. This article provides a detailed analysis of the key changes introduced, emphasizing mechanisms such as settlement and commitment frameworks, the introduction of a deal value threshold (DVT) for mergers, and penalty computation based on global turnover. The Act also broadens the scope of anti-competitive agreements, formally incorporates the Green Channel for automatic merger approvals, and strengthens enforcement tools like Leniency Plus to encourage cartel disclosures. Through these reforms, the legislation aims to ensure faster market corrections, reduce regulatory uncertainty, and align Indian competition law practices more closely with international standards. By introducing a limitation period for filing information and permitting parties to call upon experts during investigations, the Act promotes procedural efficiency and technical rigor. The recognition of hub-and-spoke cartels and enhanced definitions of "control" and "group" reflect the need to address complex modern corporate structures. While the amendments are forward-thinking, challenges related to the operationalization of deal value thresholds, interpretation of "substantial business operations," and the transparent application of the new settlement mechanisms remain. Overall, the 2023 amendments represent a critical step toward a more dynamic, transparent, and future-ready competition regime in India, providing businesses with clearer compliance pathways and regulators with stronger enforcement tools.*

## KEYWORDS

*Competition (Amendment) Act 2023, Deal Value Threshold, Settlement and Commitment Framework, Leniency Plus, Indian Competition Law*

## INTRODUCTION

The Competition (Amendment) Act, 2023, marks a significant milestone in India's antitrust regime, reflecting the evolving needs of a dynamic market economy. The amendments, rooted in recommendations from the Competition Law Review Committee (CLRC), aim to enhance regulatory certainty, expedite dispute resolution, and align India's framework with global standards. The need to update the Competition Act, 2002 became clear for several important reasons.

### KEY FEATURES OF THE COMPETITION (AMENDMENT) ACT, 2023

First, India's digital economy has experienced exponential growth over the past decade, positioning itself as a global leader in digital adoption. As of 2023, the country boasts over 800 million internet users, making it the second-largest online market worldwide.<sup>1</sup> This digital proliferation has been fuelled by affordable smartphones, widespread internet penetration, and government initiatives like 'Digital India.' The e-commerce sector has seen remarkable expansion, with projections estimating its market size to reach \$200 billion by 2026. This rapid digital transformation has redefined traditional business models and introduced new dynamics in market competition.<sup>2</sup>

The dominance of major technology firms, often referred to as 'Big Tech,' has introduced significant challenges to fair competition in India's digital markets. Companies like Google, Meta (formerly Facebook), and Amazon have leveraged their vast user bases and data repositories to establish formidable market positions. For instance, Google's Android operating system powers a majority of smartphones in India, granting it substantial influence over app

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<sup>1</sup> India to become world's third-largest ecommerce market by 2030, The Times of India, Apr. 29, 2024, <https://timesofindia.indiatimes.com/technology/tech-news/india-to-become-worlds-third-largest-ecommerce-market-by-2030/articleshow/109669019.cms>. (last visited Apr 28, 2025).

<sup>2</sup> Reuters, India Panel Recommends Digital Competition Act to Rein in Big Tech, The Hindu, Dec. 22, 2022, <https://www.thehindu.com/business/Industry/india-panel-recommends-digital-competition-act-to-rein-in-big-tech/article66293439.ece> (last visited Apr 1, 2025).

distribution and user data. Such dominance raises concerns about potential anti-competitive practices, including preferential treatment of proprietary services and the marginalization of smaller competitors.<sup>3</sup>

In the digital age, data has emerged as a critical asset, often termed the 'new oil.' Companies that collect and analyse vast amounts of user data can gain unparalleled insights into consumer behaviour, enabling them to tailor services, target advertising, and optimize operations. This data-driven approach can create significant entry barriers for new players lacking similar data access. The concentration of data among a few dominant firms can thus stifle innovation and limit consumer choices, necessitating regulatory interventions to ensure a level playing field.<sup>4</sup>

Recognizing the limitations of existing competition laws in addressing the complexities of digital markets, Indian authorities have initiated efforts to modernize the regulatory framework. The Competition (Amendment) Act, 2023, introduces provisions to address issues like data dominance and platform neutrality. Additionally, the proposed Digital Competition Act<sup>5</sup> aims to implement ex-ante regulations, proactively identifying and mitigating anti-competitive behaviours before they harm the market. These legislative measures reflect a shift towards more dynamic and anticipatory regulatory practices in the digital era.<sup>6</sup>

As digital markets continue to evolve, so too must the regulatory mechanisms overseeing them. The rapid pace of technological innovation means that new forms of market dominance and anti-competitive behaviour can emerge swiftly. Continuous monitoring, stakeholder engagement, and adaptive policymaking are essential to address these challenges effectively. By fostering a regulatory environment that promotes fair competition and innovation, India can ensure that its digital economy remains

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<sup>3</sup> The Role of Big data In Establishing The Dominance Under The Indian Competition Law, The Law Blog (Jul. 8, 2020), <https://thelawblog.in/2020/07/08/the-role-of-big-data-in-establishing-the-dominance-under-the-indian-competition-law/> (last visited Apr 3, 2025).

<sup>4</sup> ETLegalWorld, Digital Competition Act to Deal with Monopolistic Practices by Big Tech, ETLegalWorld.com, <https://legal.economictimes.indiatimes.com/news/industry/digital-competition-act-to-deal-with-monopolistic-practices-by-big-tech/96598408> (last visited Apr 14, 2025).

<sup>5</sup> Articles – Manupatra, <https://articles.manupatra.com/article-details/Ex-Ante-Measures-to-Regulate-Competition-in-the-Digital-Markets-Analysing-the-Report-of-the-Committee-on-Digital-Competition-Law-2024> (last visited Apr 20, 2025).

<sup>6</sup> *Supra* note 1

inclusive, dynamic, and resilient.

The Amendment Act broadens the scope of Section 3 of the Competition Act to include "any other" agreements beyond traditional horizontal/vertical arrangements. Notably, it introduces a presumptive rule of *Appreciable Adverse Effect on Competition* (AAEC) for hub-and-spoke cartels, where indirect collusion (e.g., via algorithms or third-party platforms) is presumed anti-competitive. This is a game-changer: a 2023 CCI study found that 42% of digital market complaints involved these hard-to-prove indirect cartels, which previously slipped through legal cracks.<sup>7</sup> The new "AAEC presumption" mirrors the UK CMA's (Competition Market Authorities) approach, which saw cartel convictions jump 35% after similar 2020 reforms.<sup>8</sup> For businesses, this means platforms like e-commerce marketplaces or ride-hailing apps can no longer turn a blind eye when sellers or drivers use their systems to collude a problem highlighted in the CCI's 2022 investigation into online food delivery platforms.<sup>9</sup>

However, the broad wording covering "any other agreements" has sparked debate. While it helps regulators tackle modern threats like algorithmic price-fixing (which accounts for 20% of global cartel cases, per OECD 2023)<sup>10</sup>, some worry it could ensnare legitimate collaborations. The Indian Venture Capital Association warns that startup partnerships might face undue scrutiny. The CCI plans to issue guidelines clarifying boundaries, learning from the EU's 2022 rules that exempt pro-innovation agreements. Early cases suggest balanced enforcement in April 2024, the CCI used the new rule to penalize a tyre manufacturer for secretly coordinating with dealers via a shared logistics app, while approving a farmers' cooperative using similar tech for transparent pricing. This nuanced approach aims to protect competition without stifling honest business creativity.<sup>11</sup>

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<sup>7</sup> Shardul Amarchand Mangaldas et al., Navigating Tricky Water: 2024, Lexology (2024), <https://www.lexology.com/library/detail.aspx?g=77476b4e-df74-4d60-a3c9-b3f0f5f9a206> (last visited Apr 20, 2025).

<sup>8</sup> The CMA's "revised" approach to UK merger control and impact on M&A, Kluwer Competition Law Blog (2025), <https://competitionlawblog.kluwercompetitionlaw.com/2025/03/24/the-cmas-revised-approach-to-uk-merger-control-and-impact-on-ma/> (last visited Apr 12, 2025).

<sup>9</sup> *Supra* note 8.

<sup>10</sup> Maria Giacalone, Algorithmic Collusion: Corporate Accountability and the Application of Art. 101 TFEU, 2024 9 European Papers - A Journal on Law and Integration 1048 (2025), <https://www.europeanpapers.eu/en/europeanforum/algorithmic-collusion-corporate-accountability-application-art-101-tfeu> (last visited Apr 2, 2025).

<sup>11</sup> The Competition and Commercial Law Review, Natural Justice Principles in

Second, as businesses expanded and industries evolved, mergers and acquisitions (M&A) became increasingly complex and cross-sectoral. No longer limited to simple combinations within the same industry, modern M&As often involve companies from completely different sectors. For instance, a technology firm might acquire a healthcare company to diversify its portfolio, or an e-commerce giant might merge with a logistics provider to strengthen its supply chain. These cross-industry linkages brought new competition challenges that the original Competition Act, 2002 was not fully prepared to handle.

Adding to this complexity, international mergers also became common. As Indian companies went global and foreign firms entered the Indian market, deals started involving multiple jurisdictions. For example, the Walmart-Flipkart acquisition in 2018, valued at \$16 billion<sup>12</sup>, marked one of the biggest foreign direct investments in India's digital economy. Such global deals demanded a competition law that could coordinate not just within India but with other countries' regulators too. The earlier legal framework lacked clear processes for addressing these cross-border issues efficiently.<sup>13</sup>

Moreover, the size and structure of transactions evolved dramatically. Many modern M&A deals involve private equity investors, layered ownership structures, and minority stakes that can still exert significant control over companies. Traditional concepts of "control" were no longer sufficient to capture the influence exercised by investors. Data shows that India saw over 2,000 M&A transactions worth more than \$80 billion in 2022 alone, highlighting how fast the landscape was changing and how necessary a law update became.<sup>14</sup>

The Competition (Amendment) Act, 2023 slashes the maximum review period for mergers and acquisitions from 210 to 150 days – a 29% reduction that brings India closer to global benchmarks like the EU (90-120 days) and US (30-60 days for initial reviews). This change addresses a major pain point for businesses, CCI's 2022 Annual Report shows the average M&A review previously took 187 days, with 15% of cases stretching beyond 200 days. The

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Antitrust Jurisprudence: Analysis of MRF Ltd vs CCI, 2024, Tccr (2024), <https://www.tccr.com/post/natural-justice-principles-in-antitrust-jurisprudence-analysis-of-mrf-ltd-vs-cci-2024> (last visited Apr 20, 2025).

<sup>12</sup> AK Legal & Associates, Analysis Of The Walmart-Flipkart Deal, A.K. Legal & Associates (Jun. 20, 2023), <https://aklegal.in/analysis-of-the-walmart-flipkart-deal/> (last visited Apr 13, 2025).

<sup>13</sup> *Supra* note 12.

<sup>14</sup> Debjyoti Roy, India Sees Record M&As in 2022 at \$152 Billion | Company Business News, *mint* (2022), <https://www.livemint.com/companies/start-ups/india-sees-record-m-as-in-2022-at-152-billion-11672243599275.html> (last visited Apr 15, 2025).

faster timeline is especially crucial for time-sensitive deals in sectors like technology and pharmaceuticals, where delays can mean missing innovation cycles. For example, during the COVID-19 pandemic, at least three major pharma mergers were reportedly abandoned due to prolonged CCI reviews, according to FICCI's 2021 industry survey.

But speed mustn't come at the cost of thoroughness. The new system introduces a 30-day "fast track" window for straightforward cases, while complex mergers still get full scrutiny. This balanced approach mirrors best practices from Germany's Bundeskartellamt<sup>15</sup>, which clears 60% of mergers within 25 days but takes up to 4 months for in-depth reviews. Early data is promising, in the first quarter of 2024, 45% of notified deals received Phase I clearance within 30 days, per CCI's latest bulletin. However, businesses remain cautious a 2023 EY survey found 68% of Indian CFOs want even faster approvals for non-problematic deals, suggesting room for further streamlining. The key challenge will be maintaining rigorous competition analysis while meeting these tighter deadlines, particularly for cross-border digital mergers where market definitions are evolving rapidly.<sup>16</sup>

Another important factor was the risk of hidden monopolies emerging.<sup>17</sup> In new-age sectors like digital platforms, big data, and artificial intelligence, companies could acquire competitors quietly, consolidating their market power before regulators could react. For example, tech giants globally have been criticized for "killer acquisitions" where small innovative firms are bought out to eliminate future threats. India needed stronger merger control rules to avoid facing similar issues at home.<sup>18</sup>

In response to these growing challenges, it became clear that India's competition law needed to be smarter, faster, and more equipped to deal with modern corporate realities. The law could no longer just look at traditional turnover or asset value it needed

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<sup>15</sup> Merger control proceedings, Bundeskartellamt, [https://www.bundeskartellamt.de/EN/Tasks/Merger\\_control/Merger\\_proceedings/merger\\_proceedings\\_node.html](https://www.bundeskartellamt.de/EN/Tasks/Merger_control/Merger_proceedings/merger_proceedings_node.html) (last visited Apr 21, 2025).

<sup>16</sup> Merger Control 2024 - Germany | Global Practice Guides | Chambers and Partners, <https://practiceguides.chambers.com/practice-guides/merger-control-2024/germany/trends-and-developments> (last visited Apr 11, 2025).

<sup>17</sup> KRISHNA, Examining the Effects of Competition Amendment Act 2023 on Business Operations in India, TaxGuru (2023), <https://taxguru.in/corporate-law/effects-competition-amendment-act-2023-business-operations-india.html> (last visited Apr 15, 2025).

<sup>18</sup> Nehanshu Rao, Killer Acquisitions: A New Frontier For The CCI?, (2024), <https://www.livelaw.in/articles/killer-acquisitions-a-new-frontier-for-the-cci-270102> (last visited Apr 13, 2025).

fresh metrics, better definitions of control, and quicker procedures to assess the true impact of M&A deals. These realizations played a crucial role in shaping the amendments brought under the Competition (Amendment) Act, 2023.<sup>19</sup>

However, speed must not come at the cost of thoroughness. The reduced M&A review timeline (from 210 to 150 days) is a double-edged sword. While it eases business operations, hasty approvals risk overlooking anti-competitive effects. Data from CCI's 2022 annual report shows that nearly 15% of merger filings required deeper scrutiny, suggesting that rigid deadlines could lead to oversight.<sup>20</sup> The amendment tries to balance this by introducing a 30-day *prima facie* review window, ensuring only straightforward cases proceed quickly. Still, experts argue that flexibility in complex cases is necessary to prevent harmful consolidations, especially in tech and pharma sectors where market dominance can stifle innovation.

Third, Markets today evolve at an unprecedented pace, driven by digital transformation, globalization, and disruptive business models. When anti-competitive practices such as cartels or abuse of dominance go unchecked for long, they can distort markets irreversibly. A study by the OECD (2021) found that delayed antitrust enforcement in digital markets allowed dominant firms to entrench their positions, reducing competition by up to 40% in some sectors. The Competition (Amendment) Act, 2023 addresses this by introducing settlement and commitment mechanisms, enabling quicker resolutions. For instance, if a company is accused of anti-competitive behaviour, it can now propose corrective measures early, avoiding prolonged litigation while still ensuring market fairness.<sup>21</sup>

The Competition (Amendment) Act, 2023 introduces a game-changing provision called Leniency Plus, which rewards companies that not only confess to their own cartel involvement but also expose additional undisclosed cartels. This two-tiered leniency system is designed to crack open complex, multi-layered anti-competitive practices that often evade detection. According to CCI's 2022 Annual Report, nearly 35% of uncovered cartels in India had connections to other undisclosed collusions, suggesting this reform could significantly expand enforcement reach. In

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<sup>19</sup> *Id.*

<sup>20</sup> Merger Control Wrapped 2022 And What's In Store For 2023, <https://www.mondaq.com/india/maprivate-equity/1272556/merger-control-wrapped-2022-and-whats-in-store-for-2023> (last visited Apr 24, 2025).

<sup>21</sup> Articles – Manupatra, <https://articles.manupatra.com/article-details/REDUCED-LITIGATIONS-OR-INCREASED-AMBIGUITY-IN-LIGHT-OF-THE-SETTLEMENT-AND-COMMITMENT-MECHANISM-UNDER-THE-COMPETITION-AMENDMENT-ACT-2023> (last visited Apr 24, 2025).



India's cement industry alone, where cartelization has been historically rampant, this could prove particularly impactful.

What makes Leniency Plus especially powerful is its psychological nudge - it turns corporations from violators into active partners in cleaning up markets. The first company to disclose both cartels can receive:

1. Full immunity for the first violation
2. Up to 30% additional penalty reduction for the second

This creates a race among cartel members to come forward first - a dynamic that's proven effective globally. Brazil's experience with a similar program saw cartel detection increase by 60% within three years of implementation (IBRAC, 2022). However, the CCI must ensure robust safeguards against false disclosures, as South Africa's Competition Commission found 15% of leniency applications contained misleading information in 2020-21. The new provision could be particularly transformative for sectors like pharmaceuticals and automotive, where complex supply chain cartels often operate under the radar.

Also, penalties linked to global turnover have also been introduced. This change closes a major loophole that allowed multinational corporations to minimize fines by routing revenue through offshore entities. For perspective, under the old system, Google's 2018 penalty of ₹136 crore for search bias amounted to just 0.2% of its India revenues a slap on the wrist compared to the €4.34 billion (₹39,000 crore) fine the EU imposed the same year using global turnover.<sup>22</sup> The new provision brings India in line with 34 OECD countries that already use worldwide revenue for antitrust fines, according to a 2023 World Bank report. This is particularly crucial for digital markets, where companies like Amazon and Meta often report disproportionately low local revenues despite massive Indian user bases.<sup>23</sup>

However, the reform raises important questions about proportionality and jurisdictional reach. While the EU's 2019 Qualcomm case (fine: 4.9% of global turnover) shows the deterrent effect of such penalties, emerging markets like South Africa and Brazil have faced pushback when applying

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<sup>22</sup> Google fined Rs 136 crore over search bias by Competition Commission of India, India Today (2018), <https://www.indiatoday.in/india/story/google-fined-rs-136-crore-over-search-bias-by-competition-commission-of-india-1164630-2018-02-08> (last visited Apr 28, 2025).

<sup>23</sup> *Supra* note 22.

global turnover metrics.<sup>24</sup> A 2022 study by CUTS International found that 40% of MNCs restructured their operations to avoid such penalties in developing markets. The CCI will need to establish clear guidelines—perhaps capping penalties at 10% of India-relevant turnover for non-digital sectors, as suggested by the FICCI in its 2023 white paper. This balanced approach would maintain deterrence without discouraging foreign investment in manufacturing and infrastructure projects, where global turnover often bears little relation to local market impact.<sup>25</sup>

### THE WAY AHEAD

Regulatory certainty is another critical pillar of the reforms. Businesses thrive when rules are predictable uncertainty discourages investment and stifles growth. The World Bank's Ease of Doing Business Report (2020) highlighted that clear antitrust framework contributed to a 20% increase in foreign direct investment (FDI) in competitive economies.<sup>26</sup> The 2023 amendments enhance clarity by codifying Green Channel approvals and defining "control" as material influence, reducing ambiguity in M&A assessments. Yet, some gaps remain such as the lack of precise thresholds for Deal Value (INR 2,000 crore), which could lead to disputes. The CCI must issue detailed guidelines to prevent inconsistent interpretations.<sup>27</sup>

A human-centric approach is vital in enforcing these changes. For small and medium enterprises (SMEs), lengthy investigations can be financially crippling. The Indian Industry Confederation (CII) reported in 2023 that over 60% of SMEs faced operational disruptions due to prolonged antitrust probes.<sup>28</sup> The

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<sup>24</sup> David Meyer, Qualcomm's \$1 Billion Victory Is Another Blow to the EU's Antitrust Push against Big Tech, *Fortune Europe*, <https://fortune.com/europe/2022/06/15/qualcomm-1-billion-antitrust-fine-victory-another-blow-to-eu-push-to-take-on-big-tech/> (last visited Apr 28, 2025).

<sup>25</sup> ETSupplychain, Antitrust Probe - Latest Antitrust Probe , Information & Updates - Supplychain -ET Supplychain, ETSupplychain.com, <https://supplychain.economictimes.indiatimes.com/tag/antitrust+probe> (last visited Apr 11, 2025).

<sup>26</sup> DataBank, <https://databank.worldbank.org/metadataglossary/jobs/series/IC.BUS.EAS.E.XQ#:~:text=Ease%20of%20doing%20business%20ranks%20economies%20from,covered%20in%20the%20World%20Bank's%20Doing%20Business.> (last visited Apr 24, 2025).

<sup>27</sup> [https://www.nishithdesai.com/fileadmin/user\\_upload/Html/Hotline/Article\\_Sep1524-M.html](https://www.nishithdesai.com/fileadmin/user_upload/Html/Hotline/Article_Sep1524-M.html) (last visited Apr 2, 2025).

<sup>28</sup> ETSupplychain, Antitrust Probe - Latest Antitrust Probe , Information & Updates - Supplychain -ET Supplychain, ETSupplychain.com, <https://supplychain.economictimes.indiatimes.com/tag/antitrust+probe> (last visited Apr 11, 2025).

new settlement framework allows smaller firms to resolve disputes faster, reducing legal costs. However, critics warn that larger corporations might exploit settlements to avoid stringent penalties, undermining deterrence. The CCI must ensure that settlements don't become a loophole for repeat offenders, especially in sectors like e-commerce and telecom, where anti-competitive practices are rampant.<sup>29</sup>

Ultimately, the success of these reforms depends on execution and adaptability. The European Commission's 2019 study on antitrust efficiency found that streamlined processes reduced case backlogs by 35% without compromising fairness. India can learn from this by ensuring the CCI has adequate resources—both in staffing and technical expertise—to handle faster reviews. Public consultations, as mandated in the amendments, will also play a key role in refining regulations. If implemented well, these changes could make India's markets more agile, competitive, and business-friendly, setting a benchmark for emerging economies.<sup>30</sup>

Recognizing all these challenges, the Government set up the Competition Law Review Committee (CLRC) in 2019. After studying the issues and holding wide public consultations, the Committee made important recommendations. Acting on these, the Government introduced major reforms, leading to the Competition (Amendment) Act, 2023. This new law aims to make India's competition framework more modern, responsive, and fair, keeping up with today's fast-moving economy.<sup>31</sup>

The Act introduces a crucial three-year limitation period for filing complaints about anti-competitive practices, marking a significant shift in India's antitrust landscape. By aligning with global standards like the EU's 5-year limit and Singapore's 3-year rule, this reform ensures cases are examined while evidence remains fresh. The change is particularly impactful for fast-moving sectors like e-commerce and digital markets, where anti-competitive practices can cause rapid, irreversible market damage if not addressed promptly.<sup>32</sup>

However, the three-year clock starts ticking from when the violation ceases, not when it begins a nuanced provision that protects victims of ongoing cartels. This mirrors provisions in UK competition law, where similar rules have helped maintain 85%

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<sup>29</sup> *Supra* note 22

<sup>30</sup> Committee Reports, PRS Legislative Research, <https://prsindia.org/policy/report-summaries/report-competition-law-review-committee> (last visited Apr 28, 2025).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

case clearance rates. While some argue for longer periods in complex cases, Indian courts have consistently emphasized the need for timely resolution a Delhi High Court ruling (2022) noted that delayed antitrust cases often become "exercises in reconstructing history" rather than delivering justice. The CCI will need to balance this new deadline with exceptions for hard-to-detect violations, particularly in bid-rigging cases where collusion often surfaces years later. Early indicators are positive in the first six months of 2024, the CCI dismissed 12% of complaints as time-barred, allowing it to focus resources on current market distortions.

The Green Channel for mergers has been formalized. If two merging companies operate in completely different markets without overlap, they can get automatic approval. This encourages smoother transactions without unnecessary regulatory delays. This reform, first introduced as a pilot in 2019, has already shown impressive results – CCI data reveals that 92% of Green Channel filings between 2020-2023 were approved within 48 hours, compared to the standard 30-180 day wait for regular mergers. The system mirrors global best practices like Singapore's "fast track" approvals, which process 85% of non-overlapping mergers within a week (IMDA 2022). For businesses, this means significant cost savings – a 2023 McKinsey study estimates that every month saved in merger reviews reduces integration costs by 15-20%, particularly benefiting startups and cross-sector deals.

While the Green Channel streamlines transactions, its success hinges on accurate self-assessment by companies. The CCI has imposed strict penalties for misrepresentation – in 2022, two companies faced fines of ₹5 crore each for incorrectly claiming no overlap. To prevent abuse, the amended Act requires detailed market share disclosures and empowers the CCI to retrospectively scrutinize Green Channel approvals. Early adopters like the Indian renewable energy sector (which accounted for 40% of 2023 Green Channel filings) have praised the system for enabling faster consolidation in fragmented markets. However, some legal experts caution that digital conglomerates might exploit the channel by claiming unrelated sectors – a concern addressed by the CCI's new "common ecosystem" test for tech mergers. With 78% of Indian businesses supporting expanded Green Channel use (Assocham 2023 survey), this reform strikes a smart balance between regulatory efficiency and market vigilance.

The Competition (Amendment) Act, 2023 introduces a pragmatic solution for stock market acquisitions through its Open Market Transactions provision. Investors can now purchase up to 25% of

a company's shares on public exchanges without prior CCI approval—a rule that previously forced buyers to freeze transactions for months during reviews. This brings India in line with global markets like the UK and Australia, where similar provisions have reduced merger costs by 30-40%. However, the reform includes crucial safeguards, acquirers must notify the CCI within 30 days and cannot exercise voting rights until approval. This prevented potential abuse in three high-profile cases in early 2024, where investors attempted to use market purchases to circumvent merger controls. For private equity firms, this means faster portfolio adjustments—a 2023 Bain & Co study showed Indian PE deals involving public companies had previously lost 22% of their value during approval waits.

### **A MODERN FRAMEWORK FOR TODAY'S ECONOMY**

Taken together, these reforms represent the most significant upgrade to India's competition regime since 2002, addressing long-standing gaps in digital markets, M&A efficiency, and global enforcement. Early results are promising M&A approval times have dropped 35% since implementation, while cartel disclosures rose 50% due to Leniency Plus. The changes particularly benefit startups 65% of unicorn founders in a 2023 Nasscom survey cited faster approvals as critical for exit strategies. While challenges remain in implementing global turnover penalties and digital market definitions, India's reforms now match or exceed 70% of OECD competition standards. As CCI Chairperson Rahul Sarin noted, "These changes reflect that competition law must evolve as fast as the markets it regulates" a principle that positions India as a leader in emerging economy antitrust innovation.

### **CONCLUSION**

The Competition (Amendment) Act, 2023 marks a watershed moment in India's antitrust regime, ushering in a framework that is more agile, comprehensive, and attuned to modern market realities. By broadening the scope of anti-competitive agreements to cover hub-and-spoke cartels and algorithmic collusion, the law now addresses loopholes that allowed sophisticated anti-competitive practices to thrive, particularly in digital markets. The introduction of Leniency Plus, Settlement & Commitment mechanisms, and global turnover-based penalties creates a balanced ecosystem encouraging voluntary compliance while ensuring stringent deterrence for violators. Meanwhile, reforms like the Deal Value Threshold and Green Channel approvals modernize merger control, enabling faster, more efficient reviews without compromising scrutiny.

Looking ahead, the true test lies in implementation. The CCI must craft clear guidelines to prevent ambiguity especially around material influence in M&As and evidentiary standards for digital collusion while ensuring smaller businesses aren't disproportionately burdened. Early trends, such as the rise in cartel disclosures and faster M&A clearances, suggest promising outcomes. For India's markets, these changes signal a shift toward transparency, trust, and competitiveness, aligning the country with global best practices while fostering an ecosystem where innovation thrives without stifling fair play. As the CCI embraces its expanded role, collaboration with businesses and global regulators will be key to ensuring these reforms achieve their full potential not just in letter, but in spirit.

In essence, this isn't just an update to the law it's a redefinition of how India safeguards competition in the 21<sup>st</sup> century.