

## Big Deals, Bigger Rules: CCI's 2024 Combination Shakeup

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Recently, the Central Government provided for threshold limits with respect to combination under Competition Law. The same was provided for under certain provisions of the Competition Act 2002. To guide their implementation, the Competition Commission of India introduced certain regulations, which came to be known as comprehensive 'Combination' Regulations. This acts as a landmark regulatory shift to the provisions of the Competition Act, 2002 which was already in talks by the way of [2023 Amendment](#). This shall have a prospective effect on both signed but not closed and signed and partially closed deals with certain immunity from gun-jumping penalties. This article shall analyze the provisions of [CCI Combination Regulations, 2024](#) in tandem with [Competition \(Criteria of Combination\) Rules, 2024](#) and [Competition \(Criteria for Exemption of Combinations\) Rules, 2024](#). At the same time, it shall analyze the impact on preventing monopolistic tendencies in the market across various sectors and fresh deals in furtherance of these.

### What is a Combination?

Before moving on to the details of a combination, there is a need to look into the actual meaning of an Anti-Competitive Agreement. As per Section 3 of the Competition Act, 2002<sup>[1]</sup>, no enterprise or association of enterprises or persons or association of persons shall enter into any agreement that has an appreciable adverse effect on competition in India. This further extends to all types of business involving production, supply, distribution, or even storage of goods and services. These agreements can be through Merger or Amalgamation agreements, agreements for combination, etc.

Hence, any anti-competitive agreement shall be per se construed as void between any two parties. In furtherance of the same, an illegal association of enterprises which can be formed and which can have an adverse effect on market competition is a combination. Since the basic objective of the Act as well as the commission is to prevent anti-competitive practices in market, all such combinations or merger of enterprises which are likely to affect competition adversely in India are sought to be struck down.<sup>[2]</sup>

A Combination, as per Section 4 of the Competition Act, 2002 refers to the acquisition of one or more enterprises by one or more persons or an amalgamation of enterprises which shall be a combination of such enterprises any acquisition where—

(i) the parties to the acquisition, being the acquirer and the enterprise, whose control, shares, voting rights or assets have been acquired or are being acquired jointly have,— (A) either, in India, the assets of the value of more than rupees one thousand crores or turnover more than rupees three thousand crores; or (B) 7 [in India or outside India, in aggregate, the assets of the value of more than five hundred million US dollars, including at least rupees five hundred crores in India, or turnover more than fifteen hundred million US dollars, including at least rupees fifteen hundred crores in India; or]

(ii) the group, to which the enterprise whose control, shares, assets or voting rights have been acquired or are being acquired, would belong after the acquisition, jointly have or would jointly have,— (A) either in India, the assets of the value of more than rupees four thousand crores or turnover more than rupees twelve thousand crores; or (B) 8 [in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turnover more than six billion US dollars, including at least rupees fifteen hundred crores in India.<sup>[3]</sup>

Based on this section, it can be sufficiently inferred that a combination, considering the financial strength that these have, can lead to a dominant position in the market, which can be abused and adversely impact market competition.

Combinations are further regulated under Section 6 of the Competition Act, 2002, under which no person or enterprise shall enter into a combination that causes or is likely to cause an appreciable adverse effect on competition within the relevant market in India and such a combination shall be void.[\[4\]](#)

Hence, any combination of enterprises whose aim is to establish a dominant position in the market and to further abuse it is strictly prohibited. Efforts have been made over the years by the Competition Commission of India to curb this issue of monopolization of markets.

## Background of Combination Regulations, 2024

Prior to the introduction of the Competition Commission of India (Combination) Regulations, 2024, there existed The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011.[\[5\]](#) The Regulations provided a foundational framework for regulating combinations (such as mergers, acquisitions, and even by the way of amalgamations) that could potentially harm competition in India.

1. As per Regulation 5[\[6\]](#), it was provided that “any enterprise which proposes to enter into a combination shall give notice of such combination to the Commission in accordance with sub-section (2) of section 6 of the Act and these regulations.” The notice was to be filed in accordance with Form I of Schedule II[\[7\]](#) of these Regulations.
2. Further, under Regulation 8, any failure to provide this notice shall lead to institution of inquiry by the Competition Commission.[\[8\]](#) The CCI reviewed the combination to assess whether it would lead to an appreciable adverse effect on competition (AAEC) within the relevant market.
3. The CCI then had to approve or raise objections within 210 days of receiving a notification. Combinations were deemed approved if no decision was issued within the timeframe.
4. The investigation was typically conducted in two phases: In the first phase, a preliminary examination is to be conducted to identify any potential concerns. In the second phase, a more detailed investigation was to be undertaken if Phase I raised red flags about appreciable adverse effects on competition.[\[9\]](#)
5. On basis of the same, if the CCI found that a combination could lead to an anti-competitive outcome, it could suggest modifications or in extreme cases, block the deal.
6. Lastly, any subsequent failure to notify the CCI or entering into a combination without approval could lead to penalties, including fines and invalidation of the transaction.

These were some of the major issues dealt with under the Combination Regulations, 2011. Yet there were still certain concerns which had to be addressed on an urgent basis. As a result, multiple amendments have been brought about to these Combination Regulations before the Competition (Amendment) Act, 2023 was brought into force, and further Combination Regulations 2024 were developed.

1. Through an amendment in these regulations in 2014, the De Minimis exemption had been provided wherein relaxation was offered to smaller combinations. Certain transactions having value below the defined threshold were also exempted.
2. By way of the 2016 amendment, a fast-track procedure was introduced, which gave a shorter review process for combinations and allowed for quicker approvals.
3. The 2017 amendment introduced Form I and Form II for the purpose of introducing filing procedures of combinations in a much more systematized manner. Form II filings were to be made in all those cases where combinations raised significant concerns to effective competitions in the market.
4. As per the 2019 amendment, the "Green Channel" was introduced for combinations where no overlap (horizontal, vertical, or complementary) existed between the entities involved.[\[10\]](#) This Green Channel Route in general provides a quicker method for resolving and making administrative decisions compared to standard legal processes. It can be used when:
  - There is no horizontal overlap between the entities involved,
  - No vertical overlap exists between the parties,

- There is no complementary overlap between the parties.

Once the Competition Commission of India (CCI) acknowledges that a transaction qualifies for the Green Channel Route, this acknowledgment is treated as approval. The parties can move forward with the combination immediately, without needing to wait for the CCI's review period to conclude

5. The amendment in 2022 further proposed certain changes with respect to the thresholds for Combination to keep them aligned with economic growth as well as inflation. Further, certain filing procedures were also directly simplified, such as streamlining data requirements under Form I.[\[11\]](#)
6. Eventually in 2023, the Competition Commission of India has started focusing more on combinations in the digital markets and the technology sectors. The deal value thresholds were again taken into consideration in cases of mergers and acquisitions in the technological space, for the purpose of ensuring that these are not specifically ignored.

Considering the growth in the digital space and increased business deals and mergers taking place, the Central Government decided to introduce new Competition Commission of India (Combination) Regulations, 2024. It had several changes from the previous regulations and focus has been to protect and promote competition in the market.

### **All about Competition Commission of India (Combination) Regulations, 2024**

The Government of India, on 10th September 2024, brought the provisions of the Competition Commission of India (Combination) Regulations, 2024, into force, which were the revised regulations with respect to regulating mergers inter-parties which can have an appreciable adverse effect on the market.[\[12\]](#) The main features of these regulations to control illegal combinations being formed are as follows:

1. A key change brought about in the Competition Law provisions has been introduction of Deal Value Thresholds. As per this, any deal entered into between any two players in the market, which exceeds INR 20 Billion or USD 240 Million has to be notified, specifically when the target enterprise has 'substantial business operations in India.'[\[13\]](#) For all such transactions, until approval has been received from the CCI, the transaction shall be kept on a hold at the global level.
2. The exemptions that had been previously provided under the Combination Regulations, 2011 have been effectively replaced under the new regulations. Certain new categories of combinations have now been exempted from pre-notification mandatory requirements that were not previously provided.[\[14\]](#)
3. Certain standstill obligations that the concerned party was required to adhere to without any recourse have now been done away with. Now, enterprises can be directly involved in certain on-market transactions regardless of their obligations and obtain post facto approval from the Commission provided certain conditions have been met prior.
4. The time period prescribed for the overall review of any merger as having an appreciable adverse effect on the market has also been significantly reduced from 210 days to 150 days in totality.[\[15\]](#) Further, the prima facie view with respect to any transaction has to be formed within a period of 30 days, and if they fail to do so, the transaction is said to be deemed as approved by the Commission. This process can, however, be extended because of several exclusions with respect to the time required to implement certain measures during this time period.
5. The definition of an affiliate has also been updated under the Combination Regulations, 2024. The updated definition of "affiliate" now considers entities where a business has the ability to access the other entity's commercially sensitive information (CSI), in addition to threshold on the basis of shareholding pattern or the Composition of Board of Directors.[\[16\]](#) This marks a shift from the previous standard, which solely focused on the right to exercise special privileges beyond those of ordinary shareholders. The inclusion of CSI is significant for evaluating overlaps and determining eligibility for the Green Channel route.

Hence, these have been some of the major developments with respect to the new Combination Regulations 2024. These have been further supplemented with Exemption Rules and several other related regulations.

## Other Supporting Regulations

### 1. Exemption Rules, 2024

These rules have effectively replaced Schedule I of the Combination Regulations, 2011, which was previously used to provide exemptions with respect to minority share acquisitions, bonus issues, stock splits, etc.[\[17\]](#) The key features of these exemption rules are as follows:

- a) The Minority Share acquisition exemption has now been divided into two separate exemptions now.
- b) The definition relating to acquisition of shares in the 'ordinary course of business' has now been limited only to include the acquisition of shares or voting rights only by underwriters, stock brokers and mutual funds. This exemption shall be applicable in all

those cases where acquirer doesn't hold more than the following proportion of shares:

Acquisition of unsubscribed shares as underwriter: <25%

Acquisition of shares as stockbroker: <25%

Acquisition of shares as mutual fund: <10%

- c) The exemption shall also extend to any individual or entity holding less than 25% of a target company's shares or voting rights without gaining any kind of control or access to commercially sensitive information (CSI) of the target company. It is to be viewed strictly as an investment. However, this form of exemption shall be applicable only if:

- d) The acquirer does not gain the right to appoint board members or observers or,

The deal does not result in horizontal overlaps, vertical, or complementary relationships or,

If such overlaps exist, the exemption is allowed only if the acquirer holds less than 10% of the target's shares or voting rights post-acquisition.

- e) For the purpose of these rules, acquirer and the group companies refer to the ultimate controlling group of acquirers or entities forming the group. An entity is considered to be an affiliate of another enterprise if that another enterprise has--

- (i) ten percent or more of the shareholding or voting rights of the enterprise; or
- (ii) right or ability to have a representation on the board of directors of the enterprise either as a director or as an observer; or
- (iii) right or ability to access commercially sensitive information of the enterprise.

### 2. Competition (Criteria of Combination) Rules, 2024

These rules provide certain major criteria on the basis of which combinations can be formulated.[\[18\]](#) As per Rule 3[\[19\]](#), the criteria for the combination have been explicitly provided, which shall be as follows:

- a) They don't produce identical or substitutable products or services
- b) they aren't engaged in activity involving production, supply, or distribution with respect to any product or service:
  - (i) which are the different stages of production
  - (ii) which are complementary to each other

Apart from these, the definition of an affiliate has been provided along with the parties to a combination.[\[20\]](#) Hence, these rules also directly supplement the CCI Combination Regulations, 2024 in terms of providing the criteria on basis of which the very foundation of combinations have been provided for regulating which the Combination Regulations, 2024 come into picture.

Prospective Impacts of Regulations

### **1) Encouraging Fair Competition**

The Competition Commission of India (Combination) Regulations, 2024 is designed to prevent monopolistic behavior by scrutinizing mergers valued above INR 20 billion or USD 240 million. By carefully reviewing large mergers, especially those with significant Indian business activities, the regulations promote healthy competition in the market. This helps ensure a balanced competitive environment, preventing the undue dominance of larger companies.

### **2) Improved Efficiency Through Shorter Timelines**

The reduction in review timelines from 210 to 150 days, along with the need for a prima facie assessment within 30 days, speeds up the regulatory approval process. While this faster pace benefits businesses by allowing quicker post-merger integration, it also demands that the CCI manage complex reviews more efficiently. Overall, this change enhances operational effectiveness without undermining regulatory control. Further, as provided by the Commission as against the notice filed by Pantaloons and Aditya Birla, there is a need to notify the Commission of the combination within the stipulated time period of 30 days and they shall decide accordingly.[\[21\]](#) This again reasserts the fact of expediting the overall process of decision making and approvals.

### **3) Greater Flexibility in Compliance**

Exemptions for specific types of transactions, such as minority share purchases, provide businesses with more operational flexibility. The possibility of seeking post-transaction approval and bypassing pre-notification for certain deals simplifies compliance, allowing companies to act swiftly in the market while still adhering to regulatory safeguards. This ensures smoother operations without unnecessary delays.

### **4) Effect on International Transactions**

The requirement for CCI approval for cross-border transactions involving significant Indian operations ensures that India's market remains shielded from anti-competitive practices by foreign companies. Multinational corporations will need to account for Indian regulatory requirements, potentially adjusting their transaction timing and structure. Although this may increase compliance costs, it ensures that competition within the Indian market remains fair.

### **5) Simplified Review with the Green Channel**

The Green Channel route, which provides automatic approval for low-risk mergers, has been revised with a broader definition of "affiliate," now including access to commercially sensitive information (CSI). This ensures a more thorough assessment of potential overlaps in key business areas and encourages companies to conduct careful due diligence to avoid regulatory infractions.

### **6) Enhanced Investor Confidence**

By enhancing transparency and predictability, the regulations boost investor confidence. Clear criteria for merger approvals, exemptions, and shortened timelines provide businesses and investors with greater certainty. This is particularly beneficial for private equity firms, venture capitalists, and institutional investors involved in minority acquisitions, giving them more confidence to invest in the Indian market.

Conclusion

The Competition Commission of India (Combination) Regulations, 2024 marks a pivotal step in strengthening competition and fostering a transparent business environment in India. By addressing

large-scale mergers, streamlining approval timelines, and introducing exemptions, these regulations strike a balance between regulatory oversight and business flexibility. The introduction of Deal Value Thresholds ensures that high-value transactions are scrutinized for their potential impact on market dynamics, while reduced timelines improve operational efficiency for businesses. Additionally, the focus on cross-border deals protects the Indian market from anti-competitive practices by foreign entities. The Green Channel route further simplifies the approval process for low-risk combinations, encouraging thorough due diligence. Overall, these regulations not only boost investor confidence but also ensure that market fairness and competition are preserved. Businesses, especially those involved in cross-border or large-scale mergers, will need to adapt strategically to comply with these new requirements while taking advantage of the streamlined processes.

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[1] Section 3, Competition Act, No 12 of 2003

[2] Gurpreet Kaur, Regulations of Combinations under Competition Act, 2002: An analysis, Indian Journal of Novel Research and Development, Volume 9, Issue 4 April 2024, ISSN: 2456-4184

[3] Section 4, Competition Act, No 12 of 2003

[4] Section 6, Competition Act, No 12 of 2003

[5] The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011

[6] Regulation 5, The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011

[7] Schedule II, The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011

[8] Regulation 8, The Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011

[9] Report of the Competition Law Committee, July 2019, Ministry of Corporate Affairs available at: <https://www.ies.gov.in/pdfs/Report-Competition-CLRC.pdf>

[10] Green Channel, Competition Commission of India, available at: <https://www.cci.gov.in/combination/green-channel-view>

[11] Competition Commission of India Revises Long Form for Merger & Acquisitions, PIB.gov.in, available at: <https://pib.gov.in/PressReleaselframePage.aspx?PRID=1813318>

[12] General Statement The Competition Commission of India (Combinations) Regulations, 2024

[13] India's Merger Control Regime gets a major overhaul, Lexology.com, available at: <https://www.lexology.com/library/detail.aspx?g=bd06e925-4bbb-4918-8fbb-012b515f3726>

[14] USHERING A NEW ERA OF INDIAN MERGER CONTROL REGIME, AZB and Partners, available at: [https://www.azbpartners.com/wp-content/uploads/2024/09/Client-Alert-\\_-CCI-New-Combination-Regulations.pdf](https://www.azbpartners.com/wp-content/uploads/2024/09/Client-Alert-_-CCI-New-Combination-Regulations.pdf)

[15] Supra Note 13

[16] Vaibhav Choukse, Merger Control 2024, Chambers and Partners, available at: <https://practiceguides.chambers.com/practice-guides/merger-control-2024/india/trends-and-developments>

[\[17\]](#) Competition (Criteria for Exemption of Combinations) Rules, 2024

[\[18\]](#) Competition (Criteria of Combination) Rules, 2024

[\[19\]](#) Rule 3, Competition (Criteria of Combination) Rules, 2024

[\[20\]](#) Rule 4, Competition (Criteria of Combination) Rules, 2024

[\[21\]](#) Competition Law Hotline, NishithDesai, available at:  
<https://www.nishithdesai.com/generateHTML/5003/4>