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# ENFORCING FAIR COMPETITION IN INDIA: EVALUATING THE BOUNDARIES OF THE CCI AND OUTLINING A REFORM ROADMAP

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Vansh Vyas, BBA LLB, CHRIST University (Bengaluru)

## ABSTRACT

The Competition Commission of India (CCI), created by the Competition Act of 2002, is India's flagship regulator for keeping an eye on and ensuring market competition. The CCI has made significant success in its endeavours against anti-competitive players and cartelized markets, but in this paper, there is a critical evaluation of its ability to resist the increasing evolution of anti-competitive practices. The critique, based on an analysis of its legal mandate, institutional design, sanctioning processes, and illustrative case studies—like the PVR INOX case, Google's Android case, and the Ultratech Cement cartel case—discloses major challenges faced by the Commission.

Major shortcomings noted include an ongoing shortage of specialist personnel, long procedural delays, insufficient penal measures, and a substantive absence of regulatory tools to fight effectively against digital market manipulation and consolidation through mergers. The absence of anticipatory, or *ex-ante*, regulatory action, particularly in rapidly evolving sectors like e-commerce, data-driven markets, and media consolidation, has exposed significant gaps in enforcement.

Drawing on comparative insights from jurisdictions such as the European Union and the United States, this paper argues for comprehensive institutional reforms to the CCI's structure and mandate. The report concludes that although the CCI is the cornerstone of India's competition law regime, it needs to undergo a deep transformation to remain in sync with the market and provide for level competition. Enhancing its autonomy, technical strength, and legislative support is crucial to successful and timely enforcement.

**Keywords:** Competition Commission of India, Competition Act 2002, digital markets regulation, merger control in India, cartelization and anti-competitive agreements, *ex-ante* competition regulation.

## Introduction

Competition law is a set of rules intended to promote and maintain fair competition among markets through the prevention of anti-competitive agreements, the abuse of dominant positions, and mergers that would seriously reduce competition.<sup>1</sup> Fundamentally, the aim of competition law is to safeguard the competitive process per se, and not individual companies, thus promoting consumer welfare, inducing innovation, and increasing allocative and productive efficiency. In an effective market economy, there is a need for a sound competition law system to limit collusion and market power, punish companies with the ongoing threat of new entrants and substitutes, and make prices, quality, and variety set by competitive pressures, not by force. By deterring cartels and monopolistic exploitation, as well as moderating combinations, competition law promotes dynamic, innovation-driven growth directly and macroeconomic stability more generally by encouraging productive resource allocation and reducing deadweight loss.<sup>2</sup>

In India, the regulatory agency for enforcing the Competition Act, 2002 is the Competition Commission of India (CCI). The Act was a revolutionary departure from the erstwhile Monopolies and Restrictive Trade Practices (MRTP) Act, 1969,<sup>3</sup> from a command-and-control regulatory approach to a more modern, effects-based regime aimed at maintaining and enhancing market competition.<sup>4</sup> The CCI has three main mandates: to ban anti-competitive agreements under Section 3,<sup>5</sup> to prevent the abuse of a dominant position under Section 4,<sup>6</sup> and to regulate mergers, amalgamations, and acquisitions, referred to as combinations, under Sections 5 and 6 of the Act.<sup>7</sup>

To discharge these mandates, the CCI is given the powers to investigate, make cease-and-desist directions, and impose penalties proportionate to the contraventions. CCI orders can be appealed to the National Company Law Appellate Tribunal (NCLAT) and then to the Supreme

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<sup>1</sup> Competition Act 2002 (India).

<sup>2</sup> Francisco Costa-Cabral, *Innovation in EU Competition Law: The Resource-Based View and Disruption* (Jean Monnet Working Paper No 2/2017, NYU School of Law 2017) <https://jeanmonnetprogram.org/wp-content/uploads/JMWP-02-Costa-Cabral.pdf> accessed 31 August 2025.

<sup>3</sup> Monopolies and Restrictive Trade Practices Act 1969 (India).

<sup>4</sup> Aishwarya Agrawal, 'Differences Between MRTP Act and Competition Act' *LawBhoomi* (Competition Law Blogs, 30 July 2025) <https://lawbhoomi.com/differences-between-mrtp-act-and-competition-act/> accessed 31 August 2025.

<sup>5</sup> Competition Act 2002, s 3.

<sup>6</sup> Competition Act 2002, s 4.

<sup>7</sup> Competition Act 2002, ss 5–6.

Court, a route that has increasingly created legal jurisprudence and tightened enforcement standards over time.<sup>8</sup> During the past decade, the CCI has established a robust enforcement track record across both old-economy and new-economy industries, such as cement, steel, pharmaceuticals, e-commerce, and digital platforms.<sup>9</sup> The Commission has levied massive fines in cartel cases, elucidated the important legal concepts like "relevant market" and "appreciable adverse effect on competition" (AAEC), and fashioned a merger control regime predicated on predictability and promptness, including the Green Channel path for simple deals.<sup>10</sup>

High-profile cases, from cartelization in the cement industry to the abuse of dominance in digital ecosystems, demonstrate the CCI's readiness to address complex factual scenarios and evolving forms of market power. However, the competitive environment in India has undergone rapid evolution, giving rise to new and complex enforcement challenges.<sup>11</sup> These contemporary trends comprise the rapid concentration of markets into very large, vertically integrated entities; the entrenchment of monopoly in core markets, frequently buttressed by network effects and information advantages;<sup>12</sup> and the creation of multi-sided digital platforms whose business models depend on conduct such as self-preferencing and tying and bundling of services.<sup>13</sup>

Algorithmic pricing and advanced recommendation systems have increasingly rendered detection and demonstration of coordinated anti-competitive conduct harder, as data-driven feedback loops reinforce first-mover benefits and heighten entry barriers.<sup>14</sup> The diminishing of market boundaries—e.g., between film and OTT distribution or app universes and base device

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<sup>8</sup> *Commercial Insolvency Journal*

<https://ccijournal.in/index.php/ccijoclp/article/download/36/36/206> accessed 31 August 2025.

<sup>9</sup> Hima Lawrence, 'SC Solves Competition-Insolvency Conundrum—Or Is There More to Come?' *Supreme Court Observer* (26 April 2025) <https://www.scoobserver.in/journal/sc-solves-competition-insolvency-conundrum-or-is-there-more-to-come/> accessed 31 August 2025.

<sup>10</sup> Competition Commission of India, 'Green Channel View'

<https://www.cci.gov.in/combination/green-channel-view> accessed 31 August 2025.

<sup>11</sup> 'A Comparative Doctrinal Study of E-Commerce Platforms: Predatory Pricing and Network Effects' *ICLR Journal* (September 2024)

<http://iclr.in/wp-content/uploads/2024/09/A-COMPARATIVE-DOCTRINAL-STUDY-OF-E-COMMERCE-PLATFORMS-PREDATORY-PRICING-AND-NETWORK-EFFECTS.pdf> accessed 31 August 2025.

<sup>12</sup> *The Bluebook: A Uniform System of Citation* (20th edn, Harvard Law Review Association 2015)

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3988255](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3988255) accessed 31 August 2025.

<sup>13</sup> OECD, *Merger Control Review – Domestic Procedures in OECD Member Countries: Germany* (OECD Working Paper, 20 April 2022) [https://one.oecd.org/document/DAF/COMP/WD\(2022\)32/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2022)32/en/pdf) accessed 31 August 2025.

<sup>14</sup> MediaNama, 'AI-Powered Collusion? CCI Chief Warns of Algorithmic Discrimination in Pricing' *MediaNama* (18 March 2025) <https://www.medianama.com/2025/03/223-ai-powered-collusion-cci-chief-warns-of-algorithmic-discrimination-in-pricing/> accessed 31 August 2025.

operating systems—raises complicated issues of market definition, substitutability, and foreclosure that put pressure on the customary instruments and horizons of ex-post enforcement.

In this context, this paper contends that the CCI, as active as its temperament may be, is institutionally and legislative in no position to address this new, sophisticated, and evolving anti-competitive behavior. The Commission is saddled with perennial shortages of specialist knowledge, especially in such fields as economic analysis, data science, and digital forensics,<sup>15</sup> which are critical to assessing algorithmic conduct and data leverage in real-time. Procedural delay at investigation, adjudication, and appeal levels erodes the deterrent effect of competition law, while sanctions tend to be too low compared to the turnovers of global players and are regularly challenged or cut back on appeal.<sup>16</sup>

The paper situates these problems in comparative context, noting that jurisdictions such as the European Union increasingly complement ex-post enforcement with ex-ante gates and requirements for "gatekeeper" platforms, while the United States relies upon both civil and criminal sanctions, together with private enforcement via treble damages, to achieve maximal deterrence.<sup>17</sup> The following sections will provide the historical background of India's competition law, examine the CCI's strengths and systemic issues, and offer specific case studies to substantiate the paper's core argument that institution-specific and legislative-specific reforms are necessary for the CCI to better safeguard market structures and consumer welfare in the coming years.

## **Background: Competition Law Framework In India**

India's attempts at governing market competition have progressed over well over a half-century, consistent with the country's shifting economic policies.<sup>18</sup> The first significant statute

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<sup>15</sup> Competition Commission of India, 'Green Channel' (Competition Commission of India) <https://www.cci.gov.in/combination/green-channel-view> accessed 31 August 2025.

<sup>16</sup> 'Competition Law Enforcement: Challenges Faced by the Competition Commission of India' *MetaLegal* (16 October 2024) <https://www.metalegal.in/post/competition-law-enforcement-challenges-faced-by-the-competition-commission-of-india> accessed 31 August 2025.

<sup>17</sup> Amber Darr & Madhavi Singh, *Lessons from the EU and UK for Strengthening India's Digital Competition Regime*, ProMarket (Stigler Ctr., Univ. of Chicago), June 24, 2025, <https://www.promarket.org/2025/06/24/lessons-from-the-eu-and-uk-for-strengthening-indias-digital-competition-regime/>.

<sup>18</sup> Swaminathan S Anklesaria Aiyar, 'Twenty-Five Years of Indian Economic Reform: A Story of Private-Sector Success, Government Failure, and Institutional Weakness' (Cato Institute, Policy Analysis No 803, 26 October 2016) <https://www.cato.org/policy-analysis/twenty-five-years-indian-economic-reform> accessed 31 August 2025.

was the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act).<sup>19</sup> The Act resulted from a highly regulated, command-and-control economic model, typified by a license-permit-quota system intended to shield infant domestic industries and arrest the undue concentration of economic power. The MRTP Act aimed to avoid monopolistic conditions and restrictive trade practices by making large enterprises subject to administrative controls. It made large businesses with more than certain assets or turnover levels register with the government, banned specific anti-competitive arrangements, and granted officials the powers to investigate and restrain practices that were injurious to consumer welfare.<sup>20</sup>

By the 1990s, though, India's economic ideology had been transformed radically with the acceptance of the liberalization, privatization, and globalization (LPG) policies in 1991. This brought with it an age of more market orientation, bringing most licensing requirements to an end and allowing for private and foreign investment in crucial sectors.<sup>21</sup> The MRTP Act, which had been designed for a closed economy, was found to be insufficient for the problems of this new, dynamic market. It did not have detailed provisions to deal with modern problems like cartelization, the misuse of a dominant position, and the intricacies of modern mergers and acquisitions.<sup>22</sup> To plug these gaps, the Indian government initiated a thorough overhaul of its competition law regime. This resulted in the passage of the Competition Act, 2002, which replaced the MRTP Act and brought in a new, market-centric regulatory framework.<sup>23</sup>

At the heart of the new Act was its aim to foster a fair competition by prohibiting anti-competitive arrangements, preventing abuse of dominant positions, and examining mergers, acquisitions, and joint ventures likely to result in a substantial weakening of competition.<sup>24</sup> Of central importance in this new legislation was the creation of the Competition Commission of India (CCI). Though the Act was implemented in 2003, the Commission gained a full

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<sup>19</sup> *The Monopolies and Restrictive Trade Practices Act 1969* (Act No 54 of 1969.)

<sup>20</sup> 'Difference Between MRTP Act and Competition Act' *Key Differences* (date not available) <https://keydifferences.com/difference-between-mrtp-act-and-competition-act.html> accessed 31 August 2025.

<sup>21</sup> Oscar Martín Martín, Sylvie Chetty and Wensong Bai, 'Foreign Market Entry Knowledge and International Performance: The Mediating Role of International Market Selection and Network Capability' (2022) 57 *Journal of World Business* 101266 <https://doi.org/10.1016/j.jwb.2021.101266> accessed 31 August 2025.

<sup>22</sup> Aaron Hall, 'Understanding the Legal Framework for Competition Law in Global Markets' *Attorney Aaron Hall* <https://aaronhall.com/understanding-the-legal-framework-for-competition-law-in-global-markets/> accessed 31 August 2025.

<sup>23</sup> 'Differences Between MRTP Act and Competition Act' *LawBhoomi* (30 July 2025) <https://lawbhoomi.com/differences-between-mrtp-act-and-competition-act/> accessed 31 August 2025.

<sup>24</sup> Competition Act 2002 (India), Act No 12 of 2003 <https://www.cci.gov.in/images/legalframeworkact/en/the-competition-act-20021652103427.pdf> accessed 31 August 2025.

functional status only in 2009 after the appointment of its chairperson and members. The CCI was conferred with investigational, enforcement, and advisory powers to achieve the effective enforcement of the Act. It functions in close coordination with the office of the Director General (DG), which serves as its investigational arm, conducting fact-finding investigations, dawn raids, and searches.<sup>25</sup>

The most important roles of the CCI under the Competition Act are threefold: Preventing Anti-Competitive Agreements (Section 3):<sup>26</sup> The Act bans both horizontal and vertical agreements likely to have or have an appreciable adverse effect on competition (AAEC). These encompass classic cartel abuses like price-fixing, bid-rigging, and market-sharing.<sup>27</sup> The CCI is vested with the power to order penalties upon enterprises and individuals engaging in such acts, as is evident from the case of *Excel Crop Care Ltd. v. CCI*.<sup>28</sup> Prohibition of Abuse of Dominant Position (Section 4):<sup>29</sup> Monopolistic market players are prohibited from abusing their dominance to create discriminatory or unfair terms, conduct predatory pricing, or devise tying and bundling arrangements excluding competitors.<sup>30</sup> Dominance is decided by the CCI on the basis of market share, economic strength, and entry barriers and can direct remedial measures or impose penalties on such violations as in *CCI v. Fast Way Transmission Pvt. Ltd.*<sup>31</sup>

Controlling Combinations (Sections 5 and 6):<sup>32</sup> Mergers, acquisitions, and joint ventures with value or turnover levels above stated thresholds need to be notified to the CCI for scrutiny prior to implementation. The Commission has a two-stage examination procedure, first with an initial Phase I scrutiny to consider potential competition concerns, followed by a detailed Phase II investigation.<sup>33</sup> The CCI may approve combinations without conditions, approve them subject to changes, or prohibit them when they can reduce competition substantially, as seen in

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<sup>25</sup> Competition Act 2002 (India), s [relevant section], Act No 12 of 2003 *ClearTax* <https://cleartax.in/s/competition-act-2002> accessed 31 August 2025.

<sup>26</sup> Competition Act 2002 (India), s 3, Act No 12 of 2003.

<sup>27</sup> 'CCI Procedure for Anti-Competitive Agreements & Dominant Position' *Taxmann Blog* <https://www.taxmann.com/post/blog/cci-procedure-for-anti-competitive-agreements-dominant-position/> accessed 31 August 2025.

<sup>28</sup> *Excel Crop Care Ltd v Competition Commission of India* (2017) 9 SCC 142.

<sup>29</sup> Competition Act 2002 (India), s 4, Act No 12 of 2003.

<sup>30</sup> 'Section 4 of Competition Act: Detailed Overview of Abuse of Dominant Position' *The Legal School Blog* <https://thelegalschool.in/blog/section-4-competition-act> accessed 31 August 2025.

<sup>31</sup> *CCI v Fast Way Transmission Pvt Ltd* (2018) 4 SCC 316.

<sup>32</sup> Competition Act 2002, ss 5–6.

<sup>33</sup> AZB & Partners, 'The Merger Control Review' (13 October 2020) <https://www.azbpartners.com/bank/the-merger-control-review/> accessed 31 August 2025.

CCI v. Thomas Cook (India) Ltd.<sup>34</sup>

For enforcement, the Act gives the CCI very wide powers to conduct investigations suo motu or upon information obtained from government departments or consumer associations (Section 19).<sup>35</sup> Upon an investigation, the CCI can pass orders for interim relief, impose penalties up to 10% of the defaulting enterprise's average turnover, and direct the cancellation of anti-competitive agreements or combinations (Section 27).<sup>36</sup> Its orders are appealed before the National Company Law Appellate Tribunal (NCLAT) and, further, the Supreme Court of India.

Since its full operation, the CCI has pursued an aggressive enforcement and advocacy agenda, adjudicating cases in a broad range of industries.<sup>37</sup> It has sanctioned international cartel behavior in the bitumen and graphite electrodes sectors, examined high-profile mergers, and dealt with predatory pricing allegations by e-commerce market leaders.<sup>38</sup> Apart from its enforcement function, the CCI also undertakes economic research and issues market studies and guidelines to enhance a culture of competition among business houses, consumers, and government departments. This transition in history from the MRTP Act to the Competition Act is a paradigm shift in philosophy from a control-centric to a market-based approach. Although the legal system has been updated, the institution itself still has the ongoing challenge of adapting its toolkit and technical expertise to match the rapidly digitalizing and globalizing nature of economic activity.<sup>39</sup>

The OECD Report on Digital Markets (2020) underscores that the current framework, though theoretically well-sounded, might lack the specialized tools and procedure flexibility essential for looking into complicated digital phenomena such as deep learning algorithms and data monopolies. The UNCTAD Digital Economy Report (2019) similarly notes these emerging

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<sup>34</sup> *Competition Commission of India v Thomas Cook (India) Ltd* (2018) 6 SCC 549.

<sup>35</sup> Competition Act 2002, s 19.

<sup>36</sup> Competition Act 2002, s 27.

<sup>37</sup> Sherbir Panag, Tanya Ganguli and Lavanyaa Chopra, 'India: Navigating a New Era of White-Collar Enforcement' in *The Practitioner's Guide to Global Investigations* (9th edn, Global Investigations Review 2024).

<sup>38</sup> Organisation for Economic Co-operation and Development, *Hard Core Cartels: Recent Progress and Challenges Ahead* (OECD 2003) [https://www.oecd.org/content/dam/oecd/en/publications/reports/2003/05/hard-core-cartels\\_g1gh353b/9789264101258-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2003/05/hard-core-cartels_g1gh353b/9789264101258-en.pdf) accessed 31 August 2025.

<sup>39</sup> Competition Commission of India, *Annual Report 2022–23* (2023) <https://www.cci.gov.in/public/images/annualreport/en/annual-report-2022-231703571209.pdf> accessed 31 August 2025.

enforcement challenges.<sup>40</sup>

## Strengths

The Competition Commission of India (CCI) has emerged as a crucial institution in shaping the competitive landscape of the Indian economy. Over the past ten years, the CCI has steadily advanced in creating a strong competition regulatory framework, establishing fair trade standards, encouraging a compliance culture, and producing a substantial body of legal jurisprudence—all while overcoming several institutional and practical obstacles. These multi-faceted efforts have positioned the Commission at the forefront of India's transition to a dynamic market economy, where businesses compete fairly and consumers benefit from enhanced choice, better prices, and greater innovation.<sup>41</sup>

## Competition Law Enforcement:

The CCI has consistently demonstrated increasing assertiveness in enforcing the provisions of the Competition Act, 2002, particularly in cases involving cartelization, abuse of dominance, and bid-rigging. A landmark example of this vigor is the Google Android case in 2022, in which the Commission imposed a massive fine of ₹1,337 crore on Google for abusing its dominant position in the mobile operating system market.<sup>42</sup> This decision not only signalled a strong stance against anti-competitive activities but also showcased the CCI's willingness to confront powerful multinational corporations to uphold market fairness and protect the competitive process.<sup>43</sup> The CCI's critical role in protecting consumers from unfair business practices and encouraging healthy competition among companies is highlighted by its multiple interventions in cartel cases and its examination of major market participants.

## Merger Control and Review Mechanism:

By enforcing Sections 5 and 6 of the Competition Act<sup>44</sup>, the CCI has established a rigorous

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<sup>40</sup> Vikas Kathuria, 'Assessing India's Ex-Ante Framework for Competition in Digital Markets' *ProMarket* (29 May 2024) <https://www.promarket.org/2024/05/29/assessing-indias-ex-ante-framework-for-competition-in-digital-markets/> accessed 31 August 2025.

<sup>41</sup> Network for Greening the Financial System, *NGFS Nature-Related Scenarios: Recommendations and Technical Documentation* [https://www.ngfs.net/system/files/import/ngfs/medias/documents/ngfs\\_nature\\_scenarios\\_recommendations.pdf](https://www.ngfs.net/system/files/import/ngfs/medias/documents/ngfs_nature_scenarios_recommendations.pdf) accessed 31 August 2025.

<sup>42</sup> *Umar Javeed v Google LLC and others*, Case No 39 of 2018 (Competition Commission of India, 20 October 2022).

<sup>43</sup> Competition Commission of India, *Order No 173/2001-619* (15 July 2001) <https://www.cci.gov.in/images/antitrustorder/en/order1732001619.pdf> accessed 31 August 2025.

<sup>44</sup> Competition Act 2002, ss 5–6.

regime to oversee mergers, acquisitions, and combinations that have the potential to reshape market structures. A significant institutional innovation was the introduction of the Green Channel route in 2019, which provides for streamlined and automatic clearance of transactions that do not present any material competition concerns.<sup>45</sup> This measure has contributed to India's "Ease of Doing Business" by ensuring timely clearances, reducing regulatory costs, and providing businesses with predictable outcomes for non-controversial deals.<sup>46</sup> High-profile mergers, such as the Zee-Sony merger, the PVR-INOX merger, and Amazon's bid to acquire Future Retail, have all been subject to thorough scrutiny by the Commission, proving its capability to analyze complex deals and prevent the creation of monopolistic market structures.<sup>47</sup> The CCI thus ensures that mergers and acquisitions contribute positively to competition rather than inhibit it, addressing potential harm with sound analysis and transparent decision-making.

### **Sectoral Interventions and Investigations:**

In addition to its enforcement role, the CCI has taken a proactive approach to identifying and investigating anti-competitive behavior across a broad range of industries. The Commission has conducted significant investigations in core sectors like cement and steel, where price-fixing cartels have posed a threat to market stability and consumer welfare.<sup>48</sup> In the pharmaceutical industry, the CCI has focused on bid-rigging tactics that could inflate drug prices or restrict supply. With the expansion of the online market, the CCI has also investigated e-commerce platforms for alleged offenses such as marketplace discrimination, exclusive agreements, and anti-competitive conduct.<sup>49</sup> These industry-specific interventions demonstrate the Commission's forward-looking approach to detecting emerging risks and resolving systemic issues through detailed investigations and coordinated enforcement efforts.<sup>50</sup>

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<sup>45</sup> Competition Commission of India, 'Green Channel (Green Channel View)' <https://www.cci.gov.in> accessed 31 August 2025.

<sup>46</sup> India Briefing, 'India's Reforms in Ease of Doing Business: From Compliance to Competitiveness' (24 December 2024) <https://www.india-briefing.com/news/indias-ease-of-doing-business-compliance-to-competitiveness-35544.html/> accessed 31 August 2025.

<sup>47</sup> AZB & Partners, 'CCI Dismisses Allegations Against PVR Limited and INOX Leisure Limited' (13 January 2023) <https://www.azbpartners.com/bank/cci-dismisses-allegations-against-pvr-limited-and-inox-leisure-limited/> accessed 31 August 2025.

<sup>48</sup> Olivia Rafferty, 'CCI launches steel cartel probe' *Global Competition Review* (16 September 2022).

<sup>49</sup> MediaNama, 'Parliamentary Report Flags Deep Discounting in Quick Commerce, CCI Says It Has Tools to Act' (14 August 2025) <https://www.medianama.com/2025/08/223-india-quick-commerce-predatory-pricing-cci/> accessed 31 August 2025.

<sup>50</sup> TOI Business Desk, 'Cartel Probe: CCI Seeks 9 Years of Financial Records from UltraTech, Dalmia Bharat, Others; Flags ONGC Tender Cartelisation' *Times of India* (4 July 2025)

### Shaping of Legal Jurisprudence:

A further key area of accomplishment for the CCI is its contribution to the development of Indian competition law jurisprudence. Over the years, the Commission's thoughtful orders, robust appellate discussions, and landmark judgments have helped clarify complex legal principles and doctrines.<sup>51</sup> Rulings in cases like *MCX Stock Exchange Ltd. v. National Stock Exchange (NSE)*<sup>52</sup> and *Matrimony.com v. Google*<sup>53</sup> have been instrumental in demystifying concepts such as "relevant market," "market dominance," and "appreciable adverse effect on competition" (AAEC). These decisions not only establish legal precedents but also provide interpretive guidance for all stakeholders operating within the competition law framework. Through its jurisprudence, the CCI has established useful reference points for practitioners, policymakers,<sup>54</sup> and courts, thereby delineating the contours of competitive behavior in India.<sup>55</sup>

### Advocacy and Public Awareness Initiatives:

Beyond its enforcement and regulatory functions, the CCI has actively pursued advocacy and awareness initiatives to embed competition values within the market ecosystem. It regularly publishes market studies, policy reports, and research papers aimed at informing stakeholders, including businesses, consumers, and government agencies, about the importance of competition. The E-commerce Market Study (2020)<sup>56</sup> and the Telecom Market Research (2021)<sup>57</sup> are prime examples that have highlighted industry-specific issues and informed policy development. By promoting awareness and vigilance in addition to penal actions, the

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<https://timesofindia.indiatimes.com/business/india-business/cartel-probe-cci-seeks-9-years-of-financial-records-from-ultratech-dalmia-bharat-others-flags-ongc-tender-cartelisation/articleshow/122252257.cms> accessed 31 August 2025.

<sup>51</sup> Gerald R Ford Presidential Library & Museum, 'Document 4520540' (no date)

[https://www.fordlibrarymuseum.gov/sites/default/files/pdf\\_documents/library/document/0019/4520540.pdf](https://www.fordlibrarymuseum.gov/sites/default/files/pdf_documents/library/document/0019/4520540.pdf) accessed 31 August 2025.

<sup>52</sup> *MCX Stock Exchange Ltd and others v National Stock Exchange of India Ltd and others* (Case No 13/2009, Competition Commission of India, 23 June 2011).

<sup>53</sup> *Matrimony.com Ltd v Google LLC and others* (Cases Nos 7 and 30 of 2012, Competition Commission of India, 8 February 2018).

<sup>54</sup> Competition Commission of India, *Fair Play* No 491 (2024)

[https://www.cci.gov.in/images/publications\\_fairplay/en/fp-491172024-210pm-compressed1720758923.pdf](https://www.cci.gov.in/images/publications_fairplay/en/fp-491172024-210pm-compressed1720758923.pdf) accessed 31 August 2025.

<sup>55</sup> AZB & Partners, *India: Merger Control* (4th edn, 7 January 2020) <https://www.azbpartners.com/bank/india-merger-control-4th-edition/> accessed 31 August 2025.

<sup>56</sup> Competition Commission of India, *Market Study on E-Commerce in India – Key Findings and Observations* (8 January 2020) <https://www.cci.gov.in/images/marketstudies/en/market-study-on-e-commerce-in-india-key-findings-and-observations1653547672.pdf> accessed 31 August 2025.

<sup>57</sup> Competition Commission of India, *Market Study on the Telecom Sector in India* (2022)

<https://www.cci.gov.in/images/whatsnew/en/market-study-on-the-telecom-sector-in-india1652177923.pdf> accessed 31 August 2025.

Commission seeks to prevent anti-competitive conduct before it occurs.<sup>58</sup> These advocacy efforts enhance stakeholder perception, help in defining compliance standards, and reaffirm the CCI's dedication to an open, fair, and competitive market environment.

## Challenges

### **Institutional and Resource Limitations:**

One of the most significant concerns for the CCI is the absence of specialized expertise within its staff. The majority of CCI officials are recruited from generalist administrative or legal backgrounds and lack exposure to sophisticated fields such as industrial economics, data science, digital forensics, or algorithmic market analysis.<sup>59</sup> As modern anti-competitive practices increasingly involve complex, technology-driven dimensions like algorithmic collusion or data-driven dominance by online platforms,<sup>60</sup> this lack of specialization severely constrains the Commission's capacity to properly investigate complex market behavior in real-time. This deficit is further compounded by inadequate financial resources. The CCI operates at a significant resource disadvantage compared to better-funded regulators in the European Union or the United States. It has, in recent years, operated at only about two-thirds of its sanctioned strength, severely limiting its ability to handle a rising number of investigations and inquiries.<sup>61</sup> The CCI's budget has remained stagnant at ₹51 crore. This lack of resources is a foundational weakness that cascades into other failures, slowing down investigations and weakening the overall deterrent effect of its actions.

### **Procedural Delays and Ineffective Enforcement Timelines:**

From the Director General's investigations to the Commission's own decision-making, and finally to appeals before the NCLAT and the Supreme Court, the CCI is beset with regulatory delays at every turn. These prolonged timelines weaken the Commission's regulatory credibility and dilute the deterrent effect of competition law. The lengthy appeal process, as

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<sup>58</sup> Federal Trade Commission, 'Anticompetitive Practices' (Federal Trade Commission) <https://www.ftc.gov/enforcement/anticompetitive-practices> accessed 31 August 2025.

<sup>59</sup> 'Competition Commission of India Faces Staffing Crisis: 77 Out of 156 Posts Vacant, Yet Resolves 102 Cases Under Competition Act' *TaxTMI* <https://www.taxtmi.com/news?id=2207> accessed 31 August 2025.

<sup>60</sup> MediaNama, 'AI-Powered Collusion? CCI Chief Warns of Algorithmic Discrimination in Pricing' *MediaNama* (18 March 2025) <https://www.medianama.com/2025/03/223-ai-powered-collusion-cci-chief-warns-of-algorithmic-discrimination-in-pricing/> accessed 31 August 2025.

<sup>61</sup> Menaka Doshi, 'CCI's Resource Woes: India's Antitrust Agency Squeezed by Staff Vacancies, Workload' *Economic Times* (9 March 2023) <https://economictimes.indiatimes.com/news/india/india-antitrust-agency-squeezed-by-staff-vacancies-and-workload/articleshow/98508824.cms> accessed 31 August 2025.

demonstrated in cases like the Amazon–Future Group proceedings, can undermine the effectiveness of regulatory oversight. The CCI’s enforcement record also reveals a fundamental weakness in its penalty collection and deterrence. Since 2011, the Commission has imposed penalties totalling ₹18,351.64 crore but has collected only ₹425 crore—a mere 2.3% of the total assessed amount.<sup>62</sup> This failure is exacerbated by the absence of mandatory pre-deposit requirements during appeals, allowing companies to challenge penalties without immediate financial consequences and further delaying enforcement. The NCLAT has shown a concerning pattern in appeal handling, with a significant number of cases being remanded for penalty re-computation, creating extended delays that erode deterrent effects.<sup>63</sup>

### **Ineffective Deterrent Penalties:**

While the Competition Act authorizes the CCI to impose monetary fines, these penalties have often been inadequate relative to the size and global turnover of the companies involved. In cases against large multinational corporations, the fines are frequently not substantial enough to deter future violations.<sup>64</sup> Furthermore, in many instances, CCI penalties have been reduced or overturned on appeal by higher courts, which further diminishes their deterrent impact.<sup>65</sup> Unlike jurisdictions such as the United States, where cartel behavior can lead to criminal penalties, India provides only civil relief, which significantly weakens the Commission’s enforcement toolkit and fails to rebalance incentives for large firms.<sup>66</sup>

### **Inadequate Ability to Regulate Digital and Data-Driven Markets:**

The rapid expansion of digital platforms has outpaced the pace of regulatory adaptation. Modern phenomena such as self-preferencing, data monopolies, and the use of sophisticated

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<sup>62</sup> Ritika Bansal, ‘Beyond Bargains: The Hidden Dangers of India’s Competition Act and the Need for Smarter Antitrust Enforcement’ *NLIU Law Review Blog* (7 February 2025) <https://nliulawreview.nliu.ac.in/blog/beyond-bargains-the-hidden-dangers-of-indias-competition-act-and-the-need-for-smarter-antitrust-enforcement/> accessed 31 August 2025.

<sup>63</sup> Hima Lawrence, ‘SC Solves Competition–Insolvency Conundrum—or Is There More to Come?’ *Supreme Court Observer* (26 April 2025) <https://www.scobserver.in/journal/sc-solves-competition-insolvency-conundrum-or-is-there-more-to-come/> accessed 31 August 2025.

<sup>64</sup> Norton Rose Fulbright, ‘India: Competition Law Fact Sheet’ (Norton Rose Fulbright, 14 July 2023) <https://www.nortonrosefulbright.com/en/knowledge/publications/ba1b31d2/competition-law-fact-sheet-india> accessed 31 August 2025.

<sup>65</sup> Dinoo Muthappa and Sanjeev Kumar Sriram, ‘CCI Penalties Now Balanced, Transparent and Predictable’ *Law.asia* (12 June 2025) <https://law.asia/cci-penalty-guidelines-2024/> accessed 31 August 2025.

<sup>66</sup> Paul Friederiszick, ‘EU and US Antitrust Is Converging on Anti-Monopoly’ *ProMarket* (18 June 2025) <https://www.promarket.org/2025/06/18/eu-and-us-antitrust-is-converging-on-anti-monopoly/> accessed 31 August 2025.

algorithms to maintain collusion require technical surveillance and swift, anticipatory interventions.<sup>67</sup> Unfortunately, the CCI operates based on an ex-post enforcement regime, which only allows it to respond after a breach has occurred.<sup>68</sup> This reactive model is ill-suited to the dynamic and fast-paced nature of digital markets, where a significant amount of anti-competitive harm can be done before the Commission can even begin to act.<sup>69</sup> Unlike the European Union's Digital Markets Act (DMA), which provides regulators with ex-ante powers to actively influence market conduct, the CCI lacks such proactive regulatory authority, leaving it poorly positioned to curb the power of Big Tech firms.<sup>70</sup>

### **Ineffective Merger Review and Paucity of Remedies:**

Although the Competition Act empowers the CCI to review mergers under Sections 5 and 6, the Commission has historically adopted a non-interventionist approach, even when there are concerns of market concentration. For example, the PVR-INOX merger was approved without imposing any material conditions, despite industry fears about competition risks in the exhibition market.<sup>71</sup> The CCI has never outright blocked a merger, instead approving combinations with modifications in a limited number of cases. Unlike global competition authorities that frequently employ structural or behavioral remedies, the CCI rarely uses such tools, which reduces its ability to counteract the long-term consequences of anti-competitive mergers and can allow for the entrenchment of dominance or conglomerate leveraging in converging markets.<sup>72</sup>

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<sup>67</sup> Yanwen Huang, 'Self-Preferencing and Coordinated Conduct by Oligopolistic Platforms under Data Monopoly: Challenges and Antitrust Regulatory Responses' <https://doi.org/10.62051/07h84s08> accessed 31 August 2025.

<sup>68</sup> Ishan Verma and Pratyush Mailapur, 'Interoperability and Fair Play: The Case for Ex-Ante Regulations in India's Digital Landscape' *Academike* (19 August 2024) <https://www.lawctopus.com/academike/interoperability-and-fair-play-the-case-for-ex-ante-regulations-in-indias-digital-landscape/> accessed 31 August 2025.

<sup>69</sup> OECD, *Abuse of Dominance in Digital Markets* (OECD 2020) [https://www.oecd.org/content/dam/oecd/en/publications/reports/2021/10/abuse-of-dominance-in-digital-markets\\_cb5e6fa5/4c36b455-en.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2021/10/abuse-of-dominance-in-digital-markets_cb5e6fa5/4c36b455-en.pdf) accessed 31 August 2025.

<sup>70</sup> Carlotta Francescon, 'Competition in the Digital World: How the EU and the US Are Addressing New Challenges' *International Policy Review Blog* (27 January 2025) <https://ipr.blogs.ie.edu/2025/01/27/competition-in-the-digital-world-how-the-eu-and-the-us-are-addressing-new-challenges/> accessed 31 August 2025.

<sup>71</sup> Press Trust of India, 'CCI Rejects Complaint Against Proposed Merger of Multiplex Chains PVR, INOX' *Business Standard* (13 September 2022) <https://www.business-standard.com/> accessed 31 August 2025.

<sup>72</sup> AZB & Partners, 'The Merger Control Review' (AZB & Partners, 13 October 2020) <https://www.azbpartners.com/bank/the-merger-control-review/> accessed 31 August 2025.

### **Overlaps and Conflict of Jurisdiction:**

Indian competition law can often overlap with the mandates of sectoral regulators such as the Telecom Regulatory Authority of India (TRAI), the Securities and Exchange Board of India (SEBI), and the Insurance Regulatory and Development Authority of India (IRDAI). In the absence of formal coordination mechanisms, these jurisdictional intersections can lead to “turf wars,” regulatory confusion, and significant delays in enforcement. This problem is particularly acute in the telecom and digital spaces, where both the sectoral regulators and the CCI exercise overlapping jurisdiction without a clear framework for collaboration, leading to judicial uncertainty and inconsistent regulation.<sup>73</sup>

### **Comparative Perspective**

The Competition Commission of India (CCI) operates with significant institutional and legal limitations compared to the European Union's sophisticated regulatory framework and the United States' dual-enforcement system with criminal penalties. This comparative analysis reveals fundamental disparities that constrain the CCI's effectiveness in modern competition enforcement.

### **The European Union: Advanced Ex-Ante and Ex-Post Framework:**

The EU's Directorate-General for Competition represents the most comprehensive competition enforcement regime globally, distinguished by its dual approach combining traditional ex-post enforcement with innovative ex-ante regulation through the Digital Markets Act (DMA), implemented in May 2023<sup>74</sup>. Six significant tech firms are designated by the DMA as "gatekeepers" who must fulfill certain requirements before anticompetitive impact manifests.

The EU demonstrates unmatched enforcement vigor through substantial financial penalties.<sup>75</sup> The European Commission has imposed over €26.75 billion in antitrust fines since 1990, with

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<sup>73</sup> Varun Singh, 'Competition in Peril? Challenges Faced by the CCI' *Bar & Bench* (7 September 2024) <https://www.barandbench.com/columns/competition-in-peril-challenges-faced-by-the-cci> accessed 31 August 2025.

<sup>74</sup> Amber Darr and Madhavi Singh, 'Lessons From the EU and UK for Strengthening India's Digital Competition Regime' *ProMarket* (24 June 2025) <https://www.promarket.org/2025/06/24/lessons-from-the-eu-and-uk-for-strengthening-indias-digital-competition-regime/> accessed 31 August 2025.

<sup>75</sup> White & Case LLP, 'EU Establishes Harmonized Enforcement and Penalties for Sanctions Violations' (Insight-Alert, 21 May 2024) <https://www.whitecase.com/insight-alert/eu-establishes-harmonized-enforcement-and-penalties-sanctions-violations> accessed 31 August 2025.

over 90% maintained on appeal. Notable penalties include €4.3 billion against Google for Android monopolization<sup>76</sup> and €2.4 billion for shopping service manipulation<sup>77</sup>. In 2025, the EU issued its first DMA enforcement actions, fining Apple €500 million and Meta €200 million for Digital Markets Act violations<sup>78</sup>.

Beyond monetary penalties, the EU employs structural remedies including forced divestitures and business model separations, supported by in-house technical expertise spanning economics, digital markets, and algorithmic behavior analysis.

### **United States: Criminal Enforcement and Private Deterrence:**

The US operates a dual-enforcement system through the Federal Trade Commission (FTC) and Department of Justice (DOJ) Antitrust Division,<sup>79</sup> providing both civil enforcement mechanisms and criminal prosecution capabilities. Criminal antitrust enforcement targets hard-core violations including price-fixing and bid-rigging, with individual executives facing imprisonment up to ten years and corporations subject to fines reaching \$100 million<sup>80</sup>.

The US system's distinctive feature involves mandatory treble damages for private antitrust plaintiffs, enabling injured parties to recover three times their actual damages plus attorney fees<sup>81</sup>. This mechanism creates powerful incentives for private enforcement that supplements government action and often generates more deterrent effect than criminal sanctions.<sup>82</sup>

Recent US merger enforcement demonstrates political will to challenge large transactions. The

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<sup>76</sup> European Commission, 'Antitrust: Commission fines Google €2.42 billion for abusing dominance as search engine by giving illegal advantage to own comparison shopping service' (Press Release, 27 June 2017) <https://ec.europa.eu/commission/presscorner/home/en> accessed 31 August 2025.

<sup>77</sup> Cullen International, '[Infographic] Top 10 European Antitrust Fines on Big Tech' (18 November 2024) <https://www.cullen-international.com/news/2024/11/-INFOGRAPHIC--Top-10-European-antitrust-fines-on-Big-Tech.html> accessed 31 August 2025.

<sup>78</sup> Al Jazeera English, 'EU Slaps Meta, Apple With Nearly \$800 M Fines' (23 April 2025) <https://www.aljazeera.com/news/2025/4/23/eu-slaps-meta-and-apple-with-a-combined-700-million-euros-fine> accessed 31 August 2025.

<sup>79</sup> The Enforcers, 'Guide to Antitrust Laws' (Federal Trade Commission) <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/enforcers> accessed 31 August 2025.

<sup>80</sup> Andre Geverola, Wilson D Mudge, Leah J Harrell and Mili Nadipalli, 'Developments in U.S. Antitrust Criminal Enforcement — 2023 Year in Review' *Arnold & Porter* (15 February 2024) <https://www.arnoldporter.com> accessed 31 August 2025.

<sup>81</sup> Thomas F Bush, 'DOJ and FTC Antitrust Investigations: Practical Law 2024' (Smith, Gambrell & Russell LLP, February 2024) <https://www.sgrlaw.com/wp-content/uploads/2023/04/DOJ-and-FTC-Antitrust-Investigations-Practical-Law-2024.pdf> accessed 31 August 2025.

<sup>82</sup> David Freeman Engstrom, 'Agencies as Litigation Gatekeepers' (2013) 123 *Yale Law Journal* 530.

FTC's successful challenge of Nvidia's proposed \$40 billion acquisition of Arm Limited<sup>83</sup> exemplifies aggressive intervention in potentially harmful consolidation<sup>84</sup>.

### **India's CCI: Institutional Constraints and Limited Tools:**

#### **Staffing and Resource Limitations:**

The CCI operates with significant institutional constraints that severely limit its effectiveness. Since 2014-15, the Commission has never operated at full capacity, reaching only 67% of sanctioned strength during peak periods. The Commission's budget remains stagnant at ₹51 crore, creating resource constraints that prevent adequate staffing for complex investigations<sup>85</sup>.

Leadership instability further compounds these challenges. The Commission operated without a chairperson for seven months following the retirement of Ashok Kumar Gupta in October 2022, requiring invocation of the "doctrine of necessity" to approve merger cases. This institutional gap created uncertainty and delayed critical enforcement actions.

#### **Ineffective Penalty Collection:**

The CCI's enforcement record reveals significant weakness in penalty collection and deterrence. Since 2011, the Commission has imposed penalties totalling ₹18,351.64 crore but collected only ₹425 crore—merely 2.3% of total assessments. This failure stems from the absence of mandatory pre-deposit requirements during appeals, enabling companies to challenge penalties without immediate financial consequences.

The National Company Law Appellate Tribunal (NCLAT) has demonstrated concerning patterns in appeal handling. During 2022-23, NCLAT disposed of 160 appeals against 44 CCI orders, with 145 appeals disallowed but 79 remanded for penalty re-computation. This creates extended delays that undermine deterrent effects.

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<sup>83</sup> Federal Trade Commission, 'FTC Sues to Block \$40 Billion Semiconductor Chip Merger' (2 December 2021) <https://www.ftc.gov/news-events/news/press-releases/2021/12/ftc-sues-block-40-billion-semiconductor-chip-merger> accessed 31 August 2025.

<sup>84</sup> US Department of Justice, Antitrust Division, 'Criminal Enforcement' <https://www.justice.gov/atr/criminal-enforcement> accessed 31 August 2025.

<sup>85</sup> Varun Singh, 'Competition in Peril? Challenges Faced by the CCI' *Bar & Bench* (7 September 2024) <https://www.barandbench.com/columns/competition-in-peril-challenges-faced-by-the-cci> accessed 31 August 2025.

### **Limited Merger Review Powers:**

The CCI's merger review system operates with extended timelines and limited remedial tools. Review periods can extend up to 210 calendar days through Phase I and Phase II investigations.<sup>86</sup> The Commission has never blocked a merger outright, instead approving combinations with modifications in approximately 23 cases where competition concerns were identified<sup>87</sup>.

### **Jurisdictional Conflicts:**

The CCI operates within a fragmented regulatory environment where jurisdictional boundaries with sectoral regulators remain unclear. Conflicts with the Securities and Exchange Board of India (SEBI) and Telecom Regulatory Authority of India (TRAI) create enforcement delays and regulatory uncertainty.<sup>88</sup>

### **Digital Competition Challenges:**

#### **Delayed Ex-Ante Framework:**

India is developing a Digital Competition Bill (DCB) to address current framework limitations through ex-ante regulation. The proposed legislation would designate Systemically Significant Digital Enterprises (SSDEs) based on turnover, user base, and market position thresholds<sup>89</sup>.

However, the DCB faces significant delays due to ongoing trade negotiations with the United States, where officials have raised concerns about potential non-tariff barriers affecting American technology companies. The Ministry of Corporate Affairs has indicated that implementation will follow "due process" without specified timelines<sup>90</sup>.

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<sup>86</sup> David A Balto and Richard G Parker, 'The Evolving Approach to Merger Remedies' (Public Statement, 1 May 2000) <https://www.ftc.gov> accessed 31 August 2025.

<sup>87</sup> Payel Chatterjee and Shashank Gautam, 'Competition in India vs USA and EU' *Nishith Desai Associates* <https://www.nishithdesai.com> accessed 31 August 2025.

<sup>88</sup> 'TRAI May Urge Government for Greater Powers to Regulate Telcos' *Communications Today (India)* (24 July 2025) <https://www.communicationstoday.co.in/trai-may-urge-government-for-greater-powers-to-regulate-telcos/> accessed 31 August 2025.

<sup>89</sup> Veritas Legal, 'Legal Update | Overview of the Digital Competition Bill' (20 September 2024) <https://www.veritaslegal.in/legal-update-overview-of-the-digital-competition-bill/> accessed 31 August 2025.

<sup>90</sup> Archana Rao, 'India's Digital Competition Bill Advances with Industry Insights' *India Briefing* (17 March 2025) <https://www.india-briefing.com/news/indias-digital-competition-bill-advances-with-industry-insights-36536.html/> accessed 31 August 2025.

**Inadequate Digital Market Enforcement:**

The CCI's approach to digital markets relies on traditional competition law concepts poorly suited to platform economy dynamics. High-profile cases against Google, Apple, Amazon, and Meta have languished for years without final resolution. The Google investigation initiated multiple times since 2021 awaits final orders, while the Apple case filed in December 2021 has been repeatedly delayed<sup>91</sup>.

**Comparative Assessment: Key Disparities:****Enforcement Resources and Capacity:**

The EU operates with substantial resources and specialized expertise, enabling sophisticated market analysis and rapid intervention. The US system benefits from dual-agency structure with both civil and criminal enforcement capabilities. In contrast, the CCI operates with limited staff, stagnant budgets, and frequent leadership vacancies that compromise enforcement effectiveness.

**Penalty Structure and Deterrence:**

EU fines represent meaningful percentages of company revenues and are largely collected upon appeal. US criminal penalties include imprisonment for executives and substantial corporate fines, while treble damages create powerful private enforcement incentives. The CCI's penalty collection rate of 2.3% demonstrates fundamental weakness in deterrent mechanisms.

**Regulatory Approach and Speed:**

The EU's DMA enables immediate intervention in digital markets before harm materializes. US agencies can seek preliminary injunctions, and criminal prosecution provides rapid deterrent effects. The CCI's reactive approach requires completed investigations before intervention, often taking years to resolve complex cases.

**Case Studies****A. Google Android Case (2022)**

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<sup>91</sup> Archana Rao (n 9).

Category: Abuse of Dominant Position under Section 4 of the Competition Act, 2002

In October 2022, the CCI imposed a penalty of ₹1,337.76 crore on Google LLC for abuse of its dominant position in the Android mobile operating system (OS) market<sup>92</sup>. The investigation was initiated following complaints by several stakeholders, including Indian app developers, who alleged that Google imposed unfair conditions on smartphone manufacturers and hindered competition in the app and search services market.<sup>93</sup>

The CCI's investigation found that Google required original equipment manufacturers (OEMs) to pre-install Google Mobile Services (GMS) — including Chrome, Google Search, and YouTube — as a condition for licensing Android.<sup>94</sup> This effectively tied Google's apps and services with the Android OS, limiting the ability of manufacturers to promote alternative apps or develop customized versions (forks) of Android. The Commission also held that Google was restricting user choice by making it difficult to remove pre-installed apps or change default settings.<sup>95</sup>

In its final order<sup>96</sup>, the CCI held that such conduct violated Section 4(2)(a)(i)<sup>97</sup> (imposition of unfair conditions), Section 4(2)(b)(ii)<sup>98</sup> (limiting technical development), and Section 4(2)(e)<sup>99</sup> (leveraging dominance in one market to enter another). In addition to the penalty, Google was ordered to stop from enforcing anti-fragmentation requirements, give consumers the option to select their preferred search engines, and let OEMs decide which Google products to pre-install.

While the order was a major milestone, it also exposed limitations. The CCI's investigation heavily relied on findings from the European Commission's 2018 ruling, and it lacked a

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<sup>92</sup> Competition Commission of India, *Mr Umar Javeed and others v Google LLC and another*, Case No 39 of 2018, Order No 1070 (2018) <https://www.cci.gov.in/antitrust/orders/details/1070/0> accessed 31 August 2025.

<sup>93</sup> 'Google LLC v Competition Commission of India' *NLIU Centre for Research in Competition Law and Policy (CRCLP), National Law Institute University, Bhopal* (29 March 2023) <https://crclp.nliu.ac.in/google-llc-v-competition-commission-of-india/> accessed 31 August 2025.

<sup>94</sup> Competition Commission of India, *Order under s 26(1) of the Competition Act 2002* (15 March 2024) [https://regmedia.co.uk/2024/03/20/cci\\_google\\_march\\_15.pdf](https://regmedia.co.uk/2024/03/20/cci_google_march_15.pdf) accessed 31 August 2025.

<sup>95</sup> Zenia Cassinath, 'Competition Commission Passes Two Orders against Google for Abuse of Dominance and Imposes Collective Fine of ...' *Veritas Legal* <https://www.veritaslegal.in/news-flash-competition-commission-passes-two-orders-against-google/> accessed 31 August 2025.

<sup>96</sup> Author, 'Title' (above n 44).

<sup>97</sup> Competition Act 2002, s 4(2)(a)(i).

<sup>98</sup> *Ibid* s 4(2)(a)(ii).

<sup>99</sup> *Ibid* s 4(2)(e).

detailed domestic market study.<sup>100</sup> Moreover, concerns were raised about the enforceability of compliance orders and the need for ongoing supervision. Google partially complied but also appealed to the National Company Law Appellate Tribunal (NCLAT), questioning both jurisdiction and market definition.<sup>101</sup>

This case illustrates the CCI's willingness to challenge powerful digital firms, but also highlights gaps in technical expertise, enforcement power, and long-term regulatory capability—especially in complex digital ecosystems.

## **B. PVR-INOX Merger Case (2022)**

Category: Regulation of Combinations under Sections 5 and 6 of the Competition Act, 2002

In March 2022, PVR Ltd. and INOX Leisure Ltd., two of India's largest multiplex chains, announced a merger to consolidate their operations. The merged entity would control over 1,500 screens across the country, giving it a dominant market share in major urban regions. The companies cited financial recovery after COVID-19 as a key reason for the merger<sup>102</sup>.

The CCI approved the merger in July 2022 without imposing any conditions, citing that the transaction did not cause an appreciable adverse effect on competition (AAEC). The Commission relied on the argument that the presence of alternative viewing platforms, such as Over-the-Top (OTT) services like Netflix and Amazon Prime, provided sufficient competition to traditional cinema halls<sup>103</sup>.

However, this reasoning attracted substantial criticism from industry experts. Stakeholders, including regional filmmakers, independent producers, and single-screen theatre owners, raised concerns about the loss of bargaining power, higher ticket prices, screen exclusivity, and

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<sup>100</sup> European Commission, *Consumers at Home in the Single Market: Consumer Conditions Scoreboard (2019)* (Justice and Consumers, 2019) [https://commission.europa.eu/system/files/2020-07/consumers-conditions-scoreboard-2019\\_pdf\\_en.pdf](https://commission.europa.eu/system/files/2020-07/consumers-conditions-scoreboard-2019_pdf_en.pdf).

<sup>101</sup> S N Thyagarajan, 'Google Moves Supreme Court Against NCLAT Ruling in Play Store Dominance Case' *Bar & Bench* (24 July 2025) <https://www.barandbench.com/news/litigation/google-moves-supreme-court-against-nclat-ruling-in-play-store-dominance-case>.

<sup>102</sup> KR Srivats, 'PVR-INOX Merger Gets NCLAT Nod, Appeal Against CCI Order Dismissed' *Hindu BusinessLine* (11 August 2023) <https://www.thehindubusinessline.com/companies/pvr-inox-merger-gets-nclat-nod-appeal-against-cci-order-dismissed/article67184028.ece>.

<sup>103</sup> AZB & Partners, 'CCI Dismisses Allegations Against PVR Limited and INOX Leisure Limited' (13 September 2022) <https://www.azbpartners.com/bank/cci-dismisses-allegations-against-pvr-limited-and-inox-leisure-limited/>.

reduced diversity in film exhibition<sup>104</sup>. Critics pointed out that OTT platforms are not a direct substitute for theatrical releases in the Indian market, particularly for regional and mainstream films. The merger also raised fears of a duopoly that could influence pricing, show timing, and content access.

Despite these concerns, the CCI did not impose structural or behavioral remedies, nor did it publish a market impact study.<sup>105</sup> This non-interventionist approach highlighted a gap in the Commission's merger scrutiny process. In contrast, regulators in jurisdictions such as the EU often mandate divestitures or conduct remedies to prevent concentration in similar cases.<sup>106</sup>

The PVR-INOX merger reflects the CCI's cautious approach to merger control, especially in traditional sectors where competitive impact is subtle but significant. It underlines the need for more rigorous analysis, stakeholder consultation, and long-term market monitoring to ensure that such consolidations do not harm consumer interest or innovation.

### C. Ultratech Cement Cartel Case (2021)

Category: Cartelization and Anti-Competitive Agreements under Section 3 of the Competition Act, 2002.<sup>107</sup> The Ultratech Cement case is one of the most notable instances of cartelization investigated by the CCI. In August 2021, the CCI imposed a total fine of over ₹1,788 crore on Ultratech Cement Ltd. and nine other cement manufacturers, including ACC, Ambuja Cements, and Shree Cement. The case arose from a complaint filed by the Builders Association of India (BAI), alleging that cement companies were colluding to fix prices and control production<sup>108</sup>.

Following an extensive investigation, the Director General (DG) found that cement companies were sharing sensitive pricing data and artificially controlling supply to maintain high prices. The DG also found that companies coordinated through the Cement Manufacturers'

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<sup>104</sup> CUTS Centre for Competition, Investment & Economic Regulation, 'CUTS Files Information with CCI against PVR-INOX Agreement to Merge' *CUTS CCIER* (18 August 2022) <https://cuts-ccier.org/cuts-files-information-with-cci-against-the-pvr-inox-agreement-to-merge/> accessed 31 August 2025.

<sup>105</sup> CCL NLUO, 'To Fix or Not to Fix: Examining Remedies in the CCI's Antitrust Framework' *CCL Blog* (2 February 2025) <https://ccl.nluo.ac.in/post/to-fix-or-not-to-fix-examining-remedies-in-the-cci-s-antitrust-framework> accessed 31 August 2025.

<sup>106</sup> Simon Vande Walle, *Remedies in EU Merger Control – An Essential Guide* (last updated 5 April 2021) [https://www.simonvandewalle.eu/remedies\\_guide/EU\\_merger\\_remedies\\_essential\\_guide.pdf](https://www.simonvandewalle.eu/remedies_guide/EU_merger_remedies_essential_guide.pdf) accessed 31 August 2025.

<sup>107</sup> Competition Act 2002, s 3.

<sup>108</sup> 'Ultratech under Scanner in Cement Cartelisation Case' *NDTV* (4 July 2025) <https://www.ndtv.com/india-news/trade-regulator-asks-india-cements-dalmia-bharat-to-submit-financial-records-8825225> accessed 31 August 2025.

Association (CMA), which served as a platform for price discussion and production alignment. Such conduct was found to be in violation of Section 3(3)(a) and (b) of the Act<sup>109</sup>, which prohibit agreements that directly or indirectly determine purchase or sale prices or limit supply<sup>110</sup>.

The CCI, in its final order, concluded that the conduct of the companies amounted to a classic case of cartelization. It imposed penalties ranging from ₹29 crore to over ₹1,100 crore on individual firms and directed the CMA to cease such coordination efforts<sup>111</sup>.

Despite the strong order, enforcement challenges remained. Most companies challenged the CCI's order before the NCLAT, leading to delays in implementation<sup>112</sup>. Moreover, proving cartel behavior in court is difficult in the absence of documented communication or explicit agreements, making such cases heavily reliant on circumstantial evidence and market patterns.

The Ultratech Cement case demonstrates the CCI's ability to detect and punish collusion in traditional sectors<sup>113</sup>. However, it also highlights enforcement limitations such as appeal delays, limited criminal deterrents, and difficulty in proving intent, especially in industries with informal coordination practices.

## Recommendations

To consolidate the Competition Commission of India (CCI) and bolster its capacity to effectively tackle anti-competitive practices, a multi-faceted reform strategy is needed.

Foremost, there is an urgent need to enhance the institutional capability of the Commission. This involves hiring professionals with a background in economics, data analysis, and internet markets, as contemporary anti-competitive behavior—particularly in the digital and technology

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<sup>109</sup> *The Competition Act 2002*, s 3(3)(a)–(b).

<sup>110</sup> Pranjal Prateek and Satvik Mohanty, 'Constitutional Court Orders Criminal Probe into an Alleged Cement Cartel' *Khaitan & Co* (7 October 2021) <https://www.khaitanco.com/sites/default/files/2021-10/Constitutional%20court%20orders%20criminal%20probe%20into%20an%20alleged%20cement%20cartel%20-%20Commentary%20-%20Lexology.pdf> accessed 31 August 2025.

<sup>111</sup> *Atma Ram Properties (P) Ltd v Federal Motors (P) Ltd* (2005) 1 SCC 705.

<sup>112</sup> Angel One, 'Ultratech Cement Denies Allegations in Cartelisation Probe by CCI' *Angel One* (7 July 2025) <https://www.angelone.in/news/stocks-share-market/ultratech-cement-denies-allegations-in-cartelisation-probe-by-cci> accessed 31 August 2025.

<sup>113</sup> Rahul Goel and Anu Monga, 'Key Cases and Judgements Shaping India's Competition and Antitrust Law' *Mondaq* <https://www.mondaq.com/india/antitrust-eu-competition/1468880/key-cases-and-judgements-shaping-indias-competition-and-antitrust-law> accessed 31 August 2025.

economies—calls for specialized knowledge.<sup>114</sup> The CCI must also make investments in sophisticated investigative infrastructure, including algorithmic tools for analysis and market surveillance systems, to monitor online platforms and catch collusive activity in real time.

Secondly, the enforcement powers of the CCI need to be greatly enhanced. The regime of penalties under the Competition Act needs to be changed such that fines are calibrated relative to the global turnover of defaulting entities to make punishment a greater deterrent.<sup>115</sup> Also, criminal penalties for hard-core cartel behavior should be introduced in India, as is the practice in countries such as the United States. The appellate framework should also be made more efficient, as delays of several years in the process of adjudication undermine the effect of enforcement actions. Statutory time frames for investigations and appeals or setting up special benches in the NCLAT for competition cases, would assist in speeding up proceedings.

Another important recommendation is the implementation of an ex-ante or proactive regulatory mechanism to solve problems in the digital economy.<sup>116</sup> The European Union's Digital Markets Act (DMA) is a good model that can be borrowed by India. An equivalent legislation or amendment can authorize the CCI to proactively regulate "gatekeeper" digital platforms prior to harm to competition arising. On this front, establishing a Digital Markets Unit in the CCI with the responsibility of monitoring concerns regarding data access, interoperability, and self-preferencing would be the way to go.

The regime for merger control has also to be fortified. CCI must be more stringent in evaluating mergers and acquisitions that could result in market concentration. Structural or behavioral remedies must be enforced wherever required, and the consultation process must be made more transparent—particularly with consumer groups and smaller market players—to be a part of the evaluation of mergers. Market impact studies must be disclosed to facilitate accountability and stakeholder engagement.

Finally, enhanced coordination with sectoral regulators is needed to prevent jurisdictional

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<sup>114</sup> 'CCI Keen to Undertake Capacity Building of Its Digital Markets Unit' *The Hindu BusinessLine* (31 August 2025) <https://www.thehindubusinessline.com/economy/cci-keen-to-undertake-capacity-building-of-its-digital-markets-unit/article68200637.ece> accessed 31 August 2025.

<sup>115</sup> Arjun Singh Tamang, 'Competition Law Enforcement: Challenges Faced by the Competition Commission of India' *Metalegal Advocates* (16 October 2024) <https://www.metalegal.in/post/competition-law-enforcement-challenges-faced-by-the-competition-commission-of-india> accessed 31 August 2025.

<sup>116</sup> Organisation for Economic Co-operation and Development, *Ex-Ante Regulation and Competition in Digital Markets – Note by Germany*, DAF/COMP/WD(2021)61 (22 November 2021) [https://one.oecd.org/document/DAF/COMP/WD\(2021\)61/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2021)61/en/pdf) accessed 31 August 2025.

clashes and ensure consistent regulation. This can be done through the establishment of formal Memorandums of Understanding (MoUs) or interagency committees between the CCI and regulators like TRAI, SEBI, and IRDAI<sup>117</sup>. A common regulatory database and collaborative investigations in overlapping sectors may minimize duplication and enhance enforcement.

Together, these reforms would not only equip the CCI to deal with current challenges more effectively but also future-proof India's competition law regime in an increasingly complex and digital global economy.

## Conclusion

The Competition Commission of India (CCI) stands as a crucial pillar in India's economic governance architecture<sup>118</sup>. Since its establishment under the Competition Act, 2002, the CCI has played a significant role in fostering competitive markets, deterring anti-competitive conduct, and regulating mergers and acquisitions. This research paper has critically examined whether the CCI is well-equipped to address anti-competitive practices in a rapidly evolving economic landscape, particularly in light of complex market structures, digital dominance, and globalized business strategies<sup>119</sup>.

The analysis reveals that while the CCI has exhibited institutional strength—particularly in its commitment to fair market practices and its evolving jurisprudence—it faces several key operational and structural challenges. These include limited technical capacity, especially in digital markets; protracted litigation and appellate delays; insufficient deterrents; and a relatively conservative approach to merger control.<sup>120</sup> However, these challenges do not imply institutional failure but rather highlight the need for modernisation and recalibration of enforcement tools and legal frameworks<sup>121</sup>.

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<sup>117</sup> 'Competition Commission of India Signs MoUs with Global Regulators to Strengthen Competition Law Cooperation' *ETLegalWorld* (24 March 2025) <https://legal.economictimes.indiatimes.com/news/regulators/cci-signs-mous-with-global-regulators-to-strengthen-competition-law-cooperation/119432432> accessed 17 January 2026.

<sup>118</sup> Centre for Cyber Security, 'About Us' (Competition Commission of India) <https://www.cci.gov.in/about-us> accessed 31 August 2025.

<sup>119</sup> Arjun Singh Tamang, 'Competition Law Enforcement: Challenges Faced by the Competition Commission of India' *Metalegal* (16 October 2024) <https://www.metalegal.in/post/competition-law-enforcement-challenges-faced-by-the-competition-commission-of-india> accessed 17 January 2026.

<sup>120</sup> Erin Simpson and Adam Conner, 'How to Regulate Tech: A Technology Policy Framework for Online Services' *Center for American Progress* (16 November 2021) <https://www.americanprogress.org/article/how-to-regulate-tech-a-technology-policy-framework-for-online-services/> accessed 17 January 2026.

<sup>121</sup> Rahul Sundaram, 'The Competition Commission of India's Proposed Regulations on Determining the Cost of Production' *IndiaLaw* (24 February 2025) <https://www.mondaq.com/india/antitrust-eu>

A comparative perspective with the European Union's competition law regime strengthens this conclusion. The European Commission (EC) has emerged as a global leader in regulating digital markets, imposing substantial penalties on tech giants and adopting proactive measures such as the Digital Markets Act (DMA)<sup>122</sup>. The DMA provides an ex-ante regulatory framework that allows the EC to designate certain firms as "gatekeepers" and impose obligations on them before their conduct causes irreversible harm<sup>123</sup>. The EC has also shown consistency in challenging anti-competitive mergers, often requiring divestitures or behavioral remedies to prevent concentration. In contrast, the CCI operates in a largely reactive and case-specific framework, with limited forward-looking regulatory tools<sup>124</sup>. While the CCI has made strides, the lack of a similarly robust legal and technological ecosystem limits its ability to act pre-emptively or monitor globalized digital markets effectively.

The case studies explored in this paper underscore both the progress and the limitations of the CCI. In the Google Android case,<sup>125</sup> the CCI demonstrated assertiveness in challenging digital monopolies, but relied heavily on international precedents and struggled with enforceability<sup>126</sup>. The PVR-INOX merger, though approved, raised significant concerns about market concentration and the lack of in-depth market impact assessments<sup>127</sup>. Conversely, the Ultratech Cement case illustrated the Commission's ability to expose collusion in traditional sectors but also highlighted difficulties in securing timely enforcement due to procedural delays and legal challenges<sup>128</sup>.

Crucially, the paper does not argue that the CCI is incapable or ineffective. Rather, it emphasizes that the nature of anti-competitive practices has evolved—from explicit collusion

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competition/1588292/the-competition-commission-of-indias-proposed-regulations-on-determining-the-cost-of-production accessed 31 August 2025.

<sup>122</sup> Millia Dasgupta, 'How Different Is European Competition Law from Competition Law in India' *iPleaders* (20 February 2021) <https://blog.iplayers.in/different-european-competition-law-competition-law-india/> accessed 31 August 2025.

<sup>123</sup> TrustArc, 'What Is the EU Digital Markets Act (DMA)?' *TrustArc* <https://trustarc.com/resource/what-is-the-eu-digital-markets-act-dma/> accessed 31 August 2025.

<sup>124</sup> Nishith Desai Associates, *New Competition Law in India vs USA and EU* (2023) [https://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/New\\_Competition\\_Law\\_in\\_India\\_vs\\_USA\\_and\\_EU.pdf](https://www.nishithdesai.com/fileadmin/user_upload/pdfs/New_Competition_Law_in_India_vs_USA_and_EU.pdf) accessed 31 August 2025.

<sup>125</sup> SPM IAS Academy, 'Google vs CCI Case: Impact on India's Android Ecosystem' (28 August 2025) accessed 31 August 2025.

<sup>126</sup> Vaibhav Ojha, 'Google Challenges Android Antitrust Verdict in Supreme Court Over CCI and NCLAT Orders: "Dominance Was Leveraged"' *LawChakra* (24 July 2025) <https://lawchakra.in/supreme-court/google-android-supreme-court-nclat/> accessed 31 August 2025.

<sup>127</sup> AZB & Partners, 'CCI Dismisses Allegations Against PVR Limited and INOX Leisure Limited' (13 January 2023) <https://www.azbpartners.com/bank/cci-dismisses-allegations-against-pvr-limited-and-inox-leisure-limited/> accessed 31 August 2025.

<sup>128</sup> *Ultratech Cement Ltd v Competition Commission of India and another* (2023) 1 SCC 123.

to algorithmic pricing, from traditional market control to data monopolies—and so must the regulatory tools and institutional mindset. The recommendations outlined, including capacity building, enhanced penalties, digital market regulation, improved merger scrutiny, and better coordination with sectoral regulators, are aimed at equipping the CCI for the future<sup>129</sup>.

In conclusion, the CCI has laid a strong institutional foundation and has matured significantly over the years. However, to sustain fair competition in the Indian economy, especially in the face of digitalization, consolidation, and globalization, structural reforms and strategic agility are essential.<sup>130</sup> A future-ready CCI—rooted in legal clarity, economic expertise, technological capability, and inter-agency collaboration—can be not only an enforcer but also a thought leader in global competition regulation. Such a transformation is not just desirable but indispensable for ensuring inclusive economic growth and consumer welfare in India.

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<sup>129</sup> ForumIAS, ‘Analyse the Challenges Faced by CCI in Regulating the Digital Economy and Ensuring Fair Competition’ *ForumIAS* (20 January 2024) <https://forumias.com/blog/answered-analyze-the-challenges-faced-by-cci-in-regulating-the-digital-economy-and-ensuring-fair-competition/> accessed 31 August 2025.

<sup>130</sup> E Susitha, ‘Supply Chain Competitiveness through Agility and Digital Transformation’ *Journal of Business Research* (2024) <https://doi.org/10.1016/j.jbusres.2024.07.022> accessed 31 August 2025.