



# ASIA-PACIFIC ANTITRUST REVIEW 2022

# Asia-Pacific Antitrust Review 2022

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# Preface

Global Competition Review is a leading source of news and insight on national and cross-border competition law and practice, with a readership that includes top international lawyers, corporate counsel, academics, economists and government agencies. GCR delivers daily news, surveys and features for its subscribers, enabling them to stay apprised of the most important developments in competition law worldwide.

Complementing our news coverage, the *Asia-Pacific Antitrust Review 2021* provides an in-depth and exclusive look at the region. Pre-eminent practitioners have written about antitrust issues in five key jurisdictions, with this edition including new chapters on merger control in China, leniency proceedings in India and a broad take on the intersection of data privacy and antitrust throughout the region. In addition, we have expanded the scope of the country overviews to encompass cartels and abuse, and pharmaceuticals.

This annual review expands its remit each year, especially as the Asia-Pacific region gains even more significance in the global antitrust landscape. It has some of the world's most developed enforcers – in Australia and Japan, for example – as well as some of the world's newest competition regimes.

The authors are, unquestionably, among the experts in their field within both their own jurisdictions and the region as a whole. Their knowledge and experience, and, in particular, their ability to contextualise both law and policy, give this report special value.

Although every effort has been made to ensure that all the matters of concern to readers are covered, competition law is a complex and fast-changing field of practice, and therefore specific legal advice should always be sought. Subscribers to Global Competition Review will receive regular updates on any changes to relevant laws during the coming year.

If you have a suggestion for a topic to cover or would like to find out how to contribute, please contact [insight@globalcompetitionreview.com](mailto:insight@globalcompetitionreview.com).

GCR thanks all of the contributors for their time and efforts.

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# India: Merger Control

**Avaantika Kakkar and Vijay Pratap Singh Chauhan\***

Cyril Amarchand Mangaldas

## IN SUMMARY

This chapter explains the salient features of the merger control regime under Indian competition law. It discusses the recent trends and development of the law and policy in relation to merger control and some of the major combination cases handled by the Competition Commission of India (CCI). It also provides a brief overview of the measures taken by the CCI in light of the covid-19 pandemic, recent market studies conducted by the CCI and proposed amendments to the merger control regime in India.

## DISCUSSION POINTS

- Online filing to the CCI is allowed with subsequent physical filings
- CCI's market studies
- Reopening of previously approved mergers
- Proposed amendments to the merger control regime

## REFERENCED IN THIS ARTICLE

- Competition Act 2002 read with Competition Commission of India Regulations 2011
- *Arcelormittal India Pvt Ltd v Abhijit Guhathakurta*
- Proceedings against Amazon.com NV Investment Holdings LLC
- *Abbott Laboratories/St Jude Medical Inc* (C-2016/08/418)
- *ChrysCapital/Intas Pharmaceutical* (C-2020/04/741)
- *ZF Friedrichshafen AG/WABCO Holdings Inc* (C-2019/11/703)
- *Holcim Limited/Lafarge SA* (C-2014/07/190)
- *DLF Utilities Limited (DUL)/PVR Limited (PVR)* (C- 2015/07/288)
- *Bayer Aktiengesellschaft (Bayer)/Monsanto Company (Monsanto)* (C- 2017/08/523)
- *Larsen & Toubro Limited (L&T), Schneider Electric India Pvt Ltd (Schneider) and MacRitchie Investments Pte Ltd (MacRitchie)* (C-2018/07/586)

The Indian merger control regime completed 10 years in 2021. It came into effect on 1 June 2011. Since then, over 800 notifications have been filed with the CCI. The regime is governed by the Competition Act 2002 (as amended) (the Competition Act) and regulations framed thereunder, such as the Competition Commission of India (Procedure in regard to the transaction of business relating to combination) Regulations 2011 (as amended) (the Combination Regulations).

### **Overview: legal framework**

To ensure that mergers and acquisitions do not cause any ‘appreciable adverse effect on competition’ (AAEC) in India, acquisitions (of shares, control, voting rights or assets), mergers or amalgamations, where the assets and turnover of transacting parties exceed certain jurisdictional thresholds (combinations), are assessed by the CCI.

### **Mandatory and suspensory regime**

The Indian merger control regime is mandatory and suspensory in nature. This means that combinations are notifiable unless they specifically exempted, and cannot be consummated, either entirely or in part, before an approval from the CCI has been obtained.

### **Types of transactions**

The Indian regime covers acquisitions of control, shares, voting rights or assets as well as mergers and amalgamations.

### **Obligation to notify**

In a transaction structured as an acquisition, the obligation to notify a combination lies upon the acquirer, whereas in a merger or an amalgamation, the transacting parties are required to notify the combination jointly to the CCI.

### **Interconnected transactions**

The parties may be required to notify a series of transactions or interconnected transactions, one or more of which may amount to a combination, through a single notice. In essence, steps of an interconnected transaction or a series of multiple transactions that may not be notifiable as stand-alone transactions will also have to be notified to the CCI and cannot be closed before obtaining the CCI’s approval.

## Thresholds

All transactions, including foreign-to-foreign transactions that breach the thresholds under the Competition Act, are required to be notified to the CCI. Analysis of the thresholds consists of asset and turnover assessment, which is a three-pronged test, the first of which is based solely on the assets and turnover of the target, whereas the second and the third limbs are based on the assets and turnover of the parties and their group or groups, respectively.

### De minimis exemption

A combination is exempt from notification if the value of assets of the target in India does not exceed 3.5 billion rupees or the value of the turnover of the target does not exceed 10 billion rupees. At present, this exemption is available until 27 March 2022. There have been no updates so far on whether the de minimis exemption will be extended.

If the de minimis exemption is unavailable, the parties need to assess whether their transaction falls under Schedule I of the Combination Regulations, which includes transactions that are not ordinarily required to be notified as they are presumed not to cause AAEC (Schedule I Exemptions). If none of the exemptions are available and the jurisdictional thresholds are met, the CCI's approval must be sought.

### Jurisdictional thresholds

Under section 5 of the Competition Act, the jurisdictional thresholds comprise eight different threshold tests related to worldwide and domestic assets and turnover of the transacting parties (the parties test) and their groups (the group test).

<b>Direct parties test: India</b>	
For acquisitions	Direct acquirer and target
For competitor acquisitions	Target and competing enterprise included in acquirer's group
For mergers and amalgamations	Merging enterprises
Assets	Turnover
Combined Indian assets > 20 billion rupees	or Combined Indian turnover > 60 billion rupees
Direct parties test: worldwide and India	
For acquisitions:	Direct acquirer and target

For competitor acquisitions	Target and competing enterprise included in acquirer's group
For mergers and amalgamations	Merging enterprises
Assets	Turnover
Combined worldwide assets > US\$1 billion Combined Indian assets > 10 billion rupees	or Combined worldwide turnover > US\$3 billion Combined Indian turnover > 30 billion rupees
Acquiring group test: India	
For acquisitions (including competitor acquisitions)	Acquiring group and target
For mergers and amalgamations	Group to which merged enterprise will belong
Assets	Turnover
Combined Indian assets > 80 billion rupees	or Combined Indian turnover > 240 billion rupees
Acquiring group test: Worldwide and India	
For acquisitions (including competitor acquisitions)	Acquiring group and target
For mergers and amalgamations	Group to which merged enterprise will belong
Assets	Turnover
Combined worldwide assets > US\$4 billion Combined Indian assets > 10 billion rupees	or Combined worldwide turnover > US\$12 billion Combined Indian turnover > 30 billion rupees

### Calculation of the thresholds

The values of the assets and turnover as provided in the consolidated financial statements of the relevant parties for the immediately preceding financial year are considered for analysing the applicability of the jurisdictional thresholds and the de minimis exemption.

For the asset value, the book values of fixed and current assets are considered, including brand value, value of goodwill, value of intellectual property rights or other similar commercial rights. For the turnover value, the total turnover of the enterprise, including revenue from exports, net revenue from operations excluding indirect taxes, other income not connected with operations and intra-group sales (only sales made by and between Indian group entities are to be excluded while determining the Indian turnover) must be considered.

In asset acquisitions, business transfers and so on, the asset or turnover of only the true target (and not the seller) is to be considered when applying the de-minimis exemption and the jurisdictional thresholds.<sup>1</sup>

## Joint ventures

Joint ventures created through transfer of assets by one or more enterprises may be notifiable provided the jurisdictional thresholds are met. Joint ventures formed afresh by capital contributions by one or more enterprises are generally exempted from the requirement to notify to the CCI.

While determining the applicability of the jurisdictional thresholds and the de minimis exemption for joint ventures, the values of only the relevant asset, being transferred by the parents, and the turnover generated from such relevant assets, need to be considered.

## Exemptions

Transactions that meet the jurisdictional thresholds may avail certain exemptions under the Competition Act or the Combination Regulations.

### Exemption of minority acquisitions

Minority acquisitions of less than 25 per cent shares are exempt if they are made solely as an investment or in the acquirers' ordinary course of business, with a caveat that such transactions do not result in the acquisition of 'control' or confer any special shareholder rights upon the acquirers.

However, various orders passed by the CCI over the course of the past few years have limited the applicability of this exemption. One such interpretation that the CCI seems to be increasingly adopting is that where an acquirer and the target are engaged in competing businesses or where their businesses are vertically related, the acquisition 'need not necessarily be termed as an acquisition made solely as an investment or in the ordinary course of business'.

In the case of private equity transactions, while the parties may not be direct competitors, the private equity fund may have interest in portfolio companies that are in the same line of business or vertically linked with the target. The CCI recently conducted a market study on the trends of common ownership by PE investors in

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<sup>1</sup> Notification S.O. 988(E), dated 27 March 2017, by Ministry of Corporate Affairs, government of India.

India to understand investors' incentives while making investments in competing companies; the kind of special rights available to them; the degree of influence that can be exercised as a result of such rights; and safeguards available to mitigate any competition concerns. The CCI is yet to publish its findings from this market study.

### **Exemption for acquisition of additional shares or voting rights**

If an acquirer or its group that already has 25 per cent shareholding in a target acquires additional shareholding not exceeding 50 per cent in the target, the acquisition of additional shares is exempt if the acquirer or its group does not acquire any control (sole or joint) over the target.

Similarly, acquisitions where the acquirer or its group holds 50 per cent in the target and acquires additional shares in the target without any transfer of joint to sole control are exempt.

### **Intra-group transactions**

Acquisitions or mergers and amalgamations where the parties belong to the same group and the target is not jointly controlled by enterprises outside the same group are exempt.

### **Other exemptions**

A number of other transactions are also exempt, such as the acquisition of shares due to bonus issue, stock splits, consolidation of face value, buy-back or subscription to rights of issue of shares, that does not lead to acquisition or change in control.

### **Exemptions under section 6 of the Competition Act**

Share subscriptions or financing facilities, or any acquisition by a public financial institution, foreign institutional investor, bank, or venture capital fund, pursuant to any covenant of a loan agreement or investment agreement, are exempt and need not be notified to the CCI.

### **Exemptions for certain banks and petroleum companies**

The government (through the Ministry of Corporate Affairs) has provided blanket exemptions from the requirement to notify combinations to the CCI for the following three sectors: amalgamations of regional rural banks; reconstitution, transfer (whole or part) and amalgamation of nationalised banks; and acquisitions, mergers and

amalgamations under the Petroleum Act 1934 or the Oilfields (Regulation and Development) Act 1948 that involve central public sector enterprises and their wholly or partly owned subsidiaries.

## **Key concepts in merger control and recent developments**

### **The concept of control under the Competition Act 2002**

The interpretation of the term ‘control’ forms one of the cornerstones of the Indian merger control framework. This is on account of the fact that several of the exemptions under Schedule I (as discussed above) pivot around these terms. The CCI has analysed different degrees of control in competition law. The first degree of control identified by the CCI is material influence, which constitutes the lowest level of control and gives an enterprise the ability to influence the affairs and management of another enterprise. The second degree of control identified by the CCI is de facto control, where an enterprise holds less than the majority of the voting rights, but in practice controls more than half of the votes actually cast at a meeting. The third degree of control identified by the CCI is de jure or controlling interest, which exists where an entity has a shareholding conferring more than 50 per cent of the voting rights upon it. A nuanced review of commercial realities is required to be undertaken by the parties for ascertaining whether the CCI’s approval is required for a particular transaction.

The CCI has also considered the acquisition of veto rights for the approval of business plans and annual operating plans or budgets; commencement of a new line of business or to set up operations in new cities; discontinuation of an existing business; appointment of key managerial personnel including key terms of employment; influencing material terms of employee benefit plans; and strategic business decisions, as acquisition of rights amounting to control under the Competition Act.

## **Trigger events and form of filing**

### **Trigger events**

Transactions are required to be notified to the CCI upon the occurrence of one of the following trigger events:

In the case of acquisitions, the trigger is the execution of binding transaction documents or any other binding document that indicates an agreement to acquire control, shares, voting rights or assets. A subset of acquisitions are transactions involving takeover of listed companies pursuant to an open offer in terms of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations 2011 (as amended). In such cases, the public announcement made to the Securities and Exchange Board of India is considered as the trigger.

In the case of mergers or amalgamations (a court-approved process in India), approval of the transaction by the board of directors of the respective parties is the trigger event.

### Trigger for acquisition of distressed assets

In relation to acquisitions of distressed assets under the Insolvency and Bankruptcy Code 2016 (the Code), the CCI must be notified upon finalisation of the acquirer's resolution plan.

Pursuant to the recent view of the National Company Law Appellate Tribunal in its decision in *Arcelormittal India Pvt Ltd v. Abhijit Gubathakurta* (Company Appeal (AT) (Insolvency) No. 524 of 2019), obtaining the approval of the CCI before a resolution plan is approved by the committee of creditors is directory in nature and not mandatory. However, parties must seek the CCI's approval prior to the approval of the resolution plan by the National Company Law Tribunal to avoid gun-jumping penalties.

### Form of filing

Parties can either file a short Form I (as amended) or a long Form II with the CCI. A Form III (post completion notification) is prescribed for certain exempt transactions.

If parties are competitors and hold a market share exceeding 15 per cent or if parties are vertically integrated and hold an individual or combined market share exceeding 25 per cent, a Form II filing is recommended.

### Green channel notification

In line with the government's policy to improve the ease of doing business in India, the CCI, on 13 August 2019, introduced the concept of a 'Green Channel' approval route under the Combination Regulations.

This allows parties to file a simplified version of Form I and receive deemed approval of the transaction immediately upon notifying the same to the CCI. The Green Channel applies to only those transactions where the acquirer (and the acquirer group) has no existing interests in companies:

- that may be seen as competitors to the target's business;
- that operate in markets with vertical linkages to the target's business; and
- that operate in markets with complementary linkages to the target's business.

26 notices have been filed and deemed approved in 2021 under the Green Channel route.



## **Deadline for filing and timeline for clearance**

### **Phase I investigation and prima facie review**

The CCI is required to form a prima facie opinion on whether a proposed combination would cause an AAEC within 30 working days of the parties notifying it.

If the CCI reaches out to third parties for the assessment of the impact of a transaction, an additional 15 working days are available to the CCI for the assessment to be completed.

If the CCI's prima facie opinion is that the transaction does not or is not likely to cause an AAEC in India, the CCI passes an order approving the proposed combination. This is loosely referred to as a Phase I investigation, whereby the CCI usually approves simple notifications within 30 working days, concluding that these transactions do not cause an AAEC in India.

### **Request for additional information and clock stops**

The CCI may request additional information from the parties to the combination. The assessment clock stops while the parties respond to requests for information from the CCI and the time taken by the parties to respond is excluded from the 30-working days timeline.

### **Show-cause notice (SCN) and response to SCN**

If the CCI is of the opinion that there is likely to be an AAEC in the market, a notice is issued to the parties requiring them to explain why a detailed investigation to assess the proposed combination's competitive effects should not be conducted. If the parties successfully address the CCI's concerns in response to the SCN, which could include offering voluntary behavioural or structural remedies, the CCI may approve the transaction. If the CCI's concerns persist, it will commence a Phase II investigation.

### **Outer time limit**

It may take up to 210 calendar days for the CCI to review and approve a proposed combination (Phase I or Phase II) from the date of filing of the notification excluding time taken by parties to respond to the CCI's information requests.

An additional 60 working days may be available to the CCI in certain circumstances. In a Phase II investigation, the parties to the proposed combination must publish certain information about the transaction for inviting public comments.

## **Invalidation**

### **Invalidation of notice**

The CCI has the authority to invalidate any notification filed by parties if the notification is incomplete or not in compliance with the Combination Regulations. An opportunity to be heard prior to invalidation may be given by the CCI to the parties.

### **Withdraw and refile**

Parties have the option of withdrawing and refile a fresh merger notification. The filing fee already paid to the CCI is adjusted against the fee payable for the new notification, provided the new notification is given within three months from the date of withdrawal. The timeline for review of an invalidated notice will restart when the complete form is refiled with the CCI.

### **Global transactions**

The parties to a global filing must ensure that they receive the CCI's approval before the transaction closes globally and in India. The trigger event for notifying global transactions could either be a country specific implementation agreement or the global agreement. Carve outs and hold separate agreements are not permitted by the CCI unless parties establish that they continue to operate independently in Indian markets.

### **Failure to notify and limitation**

#### **Gun-jumping**

The maximum penalty for failure to notify a combination to the CCI is 1 per cent of the combined assets or turnover, whichever is higher, of the combining parties. In December 2021, the CCI imposed the highest-ever penalty of 2 billion rupees on Amazon for gun-jumping in relation to its investment in Future Coupons Private Limited (FCPL).<sup>2</sup>

### **Power of the CCI to look back at effects of the transaction**

The CCI can look back at the effects of a transaction that was not notified for a period of one year from the date of its completion based on its own information or knowledge of any transaction. There is no time limitation to the CCI's power to penalise parties for a failure to notify it.

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<sup>2</sup> Proceedings against Amazon.com NV Investment Holdings LLC under sections 43A, 44 and 45 of the Competition Act 2002.

## Orders of the CCI and remedies

So far, the CCI has cleared eight Phase II investigations with modifications and approved transactions as part of protracted Phase I investigations where the parties voluntarily offered to divest certain assets.

While the CCI has publicly stated that it prefers structural remedies over behavioural remedies, the remedies accepted by the CCI depend on the specific facts of each case.

## Factors considered by the CCI while assessing a combination

The CCI assesses various negative and positive factors to determine whether a combination causes AAEC, especially in instances where the parties have horizontal or vertical overlaps and have substantial incremental market share in such overlapping markets.

## Powers of the CCI

The CCI has the power to block transactions:

- where the proposed combination is likely to cause an AAEC in India;
- where the parties to the proposed combination fail to carry out the modifications that they initially committed to, and such combination is deemed to have an AAEC in India due to non-implementation of the modifications; and
- where the parties fail to accept the modifications proposed by the CCI within 30 working days or within a further additional period of 30 working days and the proposed combination is deemed to have an AAEC in India.

## Remedies

As discussed above, the CCI may approve combinations that are likely to cause AAEC subject to appropriate remedies. In the table below are a few important cases where the CCI has granted its approval based on voluntary modifications suggested by the parties during the Phase I review period.

### Illustrative list of Phase I cases

Case	Sector	Time for clearance	Commitment offered by the parties to the combination
<i>Abbott Laboratories/ St Jude Medical Inc</i> (C-2016/08/418)	Medical surgical products – vascular closure devices	135 calendar days	The parties volunteered to divest the small hole vascular closure devices business of St Jude Medical Inc, to a third party on a worldwide basis.

Case	Sector	Time for clearance	Commitment offered by the parties to the combination
<i>ChrysCapital/ Intas Pharmaceutical</i> (C-2020/04/741)	Pharmaceutical	14 calendar days	This case involved a minority acquisition of 3% stake by PE fund ChrysCapital in Intas Pharmaceuticals. Chryscapital also held minority stakes in certain competitor companies. To address CCI's concerns Chryscapital undertook to: (1) remove its director from the board of Mankind Pharma; (2) not exercise its veto rights in Mankind Pharma and (3) restrict use of non-public information concerning Intas, Curatio and Mankind Pharma.
<i>ZF Friedrichshafen AG /WABCO Holdings Inc</i> (C-2019/11/703)	Automotive parts	99 calendar days	ZF offered a voluntary remedy proposal in the nature of behavioural compliances, which was viewed as an inadequate remedy by the CCI. Thereafter, in response to CCI's show cause notice, ZF offered to divest 49% of its shareholding in a direct competitor of WABCO. The CCI cleared the transaction subject to such voluntary divestment by ZF.

In the table below are some cases where the CCI granted an approval subject to modifications during the Phase II review period.

#### Illustrative list of Phase I cases

Case	Sector	Time for clearance	Commitment offered by the parties to the combination
<i>Holcim Limited/ Lafarge SA</i> (C-2014/07/190)	Cement	569 calendar days	As per its initial order, the CCI required the parties to divest two cement plants in the affected market. Certain regulatory hurdles for the transfer of mining leases delayed the closure of the deal. Thus, the CCI modified its order and an alternate proposal was offered by the parties for divesting 100% share capital of Lafarge India. The CCI accepted the alternate proposal offered by the parties.

Case	Sector	Time for clearance	Commitment offered by the parties to the combination
<i>DLF Utilities Limited (DUL)/ PVR Limited (PVR)</i> (C- 2015/07/288)	Film screening – movie theatres/ multiplex	302 calendar days	PVR offered to modify the transaction documents to acquire lesser number of screens from the seller. Additionally, PVR undertook other commitments such as not acquiring direct or indirect interest over the assets that were excluded from the sale and to not expand in certain markets either organically or inorganically for a period of five years.
<i>Bayer Aktiengesellschaft (Bayer)/ Monsanto Company (Monsanto)</i> (C- 2017/08/523)	Agro chemicals	311 calendar days	The CCI ordered Bayer to divest the certain businesses to an independent entity. It also ordered Monsanto to divest its shareholding in Maharashtra Hybrid Seed Company Limited (26%) to an independent entity. Further, the parties also made behavioural commitments including a policy of non-exclusive licensing of certain products by the combined entity and access to certain data on a FRAND basis.

## Year in review: 2021

### Market studies and research

The CCI has been proactive in undertaking and publishing sector-wise studies and papers. This includes a market study on the telecom sector,<sup>3</sup> a paper on blockchain technology,<sup>4</sup> a market study on the pharmaceutical sector,<sup>5</sup> and a market study on common ownership.<sup>6</sup> Such market studies and discussion papers have proven to be important tools for analysing specific markets, their functioning, and understanding complex competition issues.

3 Market Study on the Telecom Sector in India dated 22 January 2021, available at [https://www.cci.gov.in/sites/default/files/whats\\_newdocument/Market-Study-on-the-Telecom-Sector-In-India.pdf](https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-Study-on-the-Telecom-Sector-In-India.pdf).

4 Discussion paper on blockchain technology and competition dated April 2021, available at [https://www.cci.gov.in/sites/default/files/whats\\_newdocument/Blockchain.pdf](https://www.cci.gov.in/sites/default/files/whats_newdocument/Blockchain.pdf).

5 Market Study on the Pharmaceutical Sector in India dated 18 November 2021, available at [https://www.cci.gov.in/sites/default/files/whats\\_newdocument/Market-Study-on-the-Pharmaceutical-Sector-in-India.pdf](https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-Study-on-the-Pharmaceutical-Sector-in-India.pdf).

## Reopening past approvals

In December 2021, the CCI for the first time in its merger enforcement history, reopened the approval granted to Amazon's investment in FCPL after it came to light that Amazon concealed material information and made false statements relating to its intention to enter the retail space through FCPL's stake in Future Retail Limited. The CCI imposed a landmark penalty of 2 billion rupees and directed the parties to file for fresh approval.<sup>7</sup>

## Proposal to introduce deal value thresholds

The year 2022 may prove to be a pivotal year for competition law in India, as officials have stated that amendments to the Competition Act are in the works<sup>8</sup> that will help in regulating competition in digital markets. These amendments empower the government to prescribe new jurisdictional criteria (primarily a deal value threshold) for regulating mergers and acquisitions involving digital economy firms. This is in line with the position in Europe, where the European Commission published new guidance to article 22 of the EU Merger Regulation, which allows member states to refer concentrations that fall below national thresholds. In a press release, the European Commission stated that the transactions targeted were those where 'the turnover of at least one of the undertakings concerned does not reflect its actual or future competitive potential',<sup>9</sup> particularly, concentrations involving nascent competitors and innovative companies. Deal value thresholds have already been implemented by German and Austrian authorities, who have recently published guidance on the application of their respective transaction value thresholds.<sup>10</sup>

\* *The authors would like to thank Avani Joshi, Shivani Sathe and Shreya Joshi for their assistance.*

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6 News report dated 5 December 2020, available at: <https://indianexpress.com/article/business/business-others/cci-to-launch-study-into-impact-of-multiple-investments-by-pe-firms-in-same-sector-7092183/>.

7 Proceedings against Amazon.com NV Investment Holdings LLC under sections 43A, 44 and 45 of the Competition Act 2002.

8 News report dated 23 September 2021, available at <https://www.livemint.com/news/india/amendments-to-merger-regulation-on-the-anvil-cci-chief-11632399990364.html>.

9 Press Release by the European Commission dated 26 March 2021, available at: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_1384](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1384).

10 News alert dated 4 January 2022, available at: <https://www.whitecase.com/publications/alert/german-and-austrian-competition-authorities-publish-updated-joint-guidance>.

**AVAANTIKA KAKKAR**

Cyril Amarchand Mangaldas

Avaantika is the head of the competition and antitrust practice, her professional career spans over 18 years and she was among the first Indian lawyers to start practising competition law in 2009, when it first became effective.

Avaantika advises on complex merger filings cases and was the lead lawyer in the first Phase II merger control case in India (*Sun Pharma/Ranbaxy*) and in the first few cases involving remedies. She represents her clients on the enforcement side and provides strategic support on commercial arrangements and compliance issues. She was involved with filing the first few leniency applications before the Competition Commission of India. Avaantika is one of the few lawyers in India with on-the-ground experience with dawn raids. Her investigations practice spans the white goods, cement, alcohol, personal care, pharmaceutical and automotive sectors.

Avaantika was a member of the working group set up by the Competition Law Review Committee established by the Government of India to review the Indian competition law regime. She has been ranked as an 'Elite Practitioner' by *AsiaLaw* (2021–2019), 'Leading Individual' by *The Legal 500* (2021–2018), 'Band-1' Practitioner' by *Chambers & Partners Asia-Pacific* and included in the IBLJ A-List of top 100 Indian lawyers (2020–2019) and GCR's *Women in Antitrust 2021*. She was awarded the Economic Times 40 Under Forty Award 2018. She has also authored a book titled *A Perspective on Product Liability Law and Consumer Safety* (2006) and is a published novelist.



**VIJAY PRATAP SINGH CHAUHAN**

Cyril Amarchand Mangaldas

Vijay is a partner and advises international and domestic clients on full range of competition law matters with a professional career extending over 13 years.

On the merger control side, Vijay has extensive experience on strategising, advising, drafting and making merger control filings for several high-profile multi-jurisdictional M&A transactions and representing a range of clients, including corporations and financial investors and foreign law firms.

On the enforcement side, Vijay has represented clients in some of the major cartel, leniency, bid-rigging and abuse of dominance cases before the CCI, the appellate tribunal and courts in various sectors. He has also represented several leniency applicants before the competition law authorities in India. In addition, he has conducted internal competition law investigations, mock dawn raids, competition compliance audits (including forensic review) for several international and domestic companies and has regularly advised in respect of their competition law compliance programmes and dawn-raid readiness.

Vijay has co-authored the India chapter 'Indian competition authority continues to grow' for Freshfields' publication *Antitrust in Asia*, 2017. He is recognised in 2020–2022 rankings of *Chambers and Partners* and as a 'Future Leader' by *Who's Who Legal* (GCR) 2018–2020.





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Cyril Amarchand Mangaldas (CAM) is India's leading law firm with a global reputation of being trusted advisers to its clients. Tracing its professional lineage to 1917, CAM was founded to continue the legacy of Amarchand & Mangaldas & Suresh A Shroff & Co – whose pre-eminence, expertise and reputation of almost a century was unparalleled in the Indian legal fraternity.

The firm advises a large and diverse set of clients, including domestic and foreign commercial enterprises, financial institutions, private equity funds, venture capital funds, start-ups, and government and regulatory bodies. CAM is the largest full-service law firm, enabling it to deliver truly multidisciplinary advice for its clients' business needs.

Central to the firm's culture is its 'ahead of the curve' mindset. The firm has been at the forefront of innovation in the Indian legal market, often breaking new ground where no precedent existed. By looking ahead, it anticipate challenges and pushes itself to deliver complex, practical solutions to its clients.

The firm received several awards for its outstanding performance, such as 'Most Innovative National Law Firm of the Year' at IFLR APAC Awards, 'Law Firm of the Year' at the Asian Legal Business (ALB) India Law Awards and 'Law Firm of the Year, India' at the Asialaw Regional Awards. The firm was recognized as 'Law Firm of the Year' by IFLR 1000 India Awards 2021.

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