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CRITICAL ANALYSIS OF GUN-JUMPING AND THE CHANGING ARCHITECTURE OF INDIAN MERGER CONTROL UNDER INDIAN COMPETITION LAW

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ABSTRACT

The prohibition of undesirable execution of notifiable combinations also known as 'gun jumping' is one of the important elements of the mandatory and suspensory merger control regime which has been established by the Competition Act of 2002. The article outlines the historical evolvement of the prohibition from the beginning of the Competition Commission of India and the triggering document case law to the wave of enforcement of information-exchange interpretation from 2024 to 2026 and places it in the context of the structural reforms made by Competition (Amendment) Act of 2023 particularly, deal value threshold and shortened 150-day review.

The position of India is observed in comparison with the experience of European Union, USA and Israel before the article highlights the doctrinal problems of the thresholds of the combination coming into force, increasing reliance on commercially sensitive information as some kind of possibility for measurement of any material influence and the noticeable impact made by the Supreme Court's intervention in Amazon-Future Coupons litigation which is an important reason of uncertainty for the parties involved. It also analyses the latest legal and regulatory changes, including the pending Corporate Laws (Amendment) Bill, 2026. The author concludes by addressing the challenges presented by the need for a stringent enforcement framework, which must meet the conditions of a mature framework of merger control.

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I. Introduction

'Jumping the gun', an idiom borrowed from the starting blocks of track and field, describing a competitor who begins running before the starting signal, has, over the past decade, become one of the most consequential and closely litigated phrases in Indian merger control practice.[1] In competition law parlance, it describes conduct by which parties to a notifiable combination either fail to notify the Competition Commission of India ('the CCI' or 'the Commission') of a transaction that meets the jurisdictional thresholds prescribed under sections 5 and 6 of the Competition Act 2002 ('the Act'), or proceed to implement the transaction, in whole or in part, before the Commission has approved it or the statutorily prescribed review period has lapsed.[2]

The Indian merger control regime is, in this respect, mandatory and suspensory: unlike the voluntary notification systems that prevail in a handful of jurisdictions, parties to a notifiable transaction in India have no discretion either to notify or to abstain from notifying, and unlike hybrid regimes that permit conditional closing, they may not close the transaction until the CCI grants approval or the prescribed period expires, whichever occurs first.[3] This 'standstill obligation', codified in section 6(2A) of the Act, exists to preserve the pre-merger competitive relationship between the parties for the duration of the Commission's assessment. The underlying rationale, as the Commission itself has explained, is that any erosion of independent competitive conduct during the interim period cannot be fully undone even where the Commission subsequently blocks or modifies the transaction on account of an appreciable adverse effect on competition.[4] The obligation is, in other words, prophylactic rather than merely remedial: it is designed to prevent an anti-competitive state of affairs from arising at all, rather

[1] Sachin Goyal and Konark Bhandari, 'Gun Jumping in India: Lessons from the Competition Commission of India's Enforcement Activities' (2017) 5(2) Journal of Antitrust Enforcement 216, 217.

[2] Competition Act 2002, s 6(2A).

[3] Ravikant Bhardwaj, Business Implications of Gun Jumping in Combination Regulations (Working Paper, School of Competition Law and Market Regulation, Indian Institute of Corporate Affairs, June 2015).

[4] Bharti Airtel Limited, Combination Registration No C-2017/10/531, order of the Competition Commission of India dated 27 August 2018.

than to unwind one after the fact, since certain forms of competitive harm, the loss of an independent commercial rival, the premature transfer of strategic information, the dulling of a target's incentive to compete, are not readily capable of ex post reversal even by an order of divestiture.

For much of the past decade, the Commission's gun-jumping jurisprudence developed against a comparatively static statutory backdrop: asset and turnover thresholds that remained substantially unrevised between 2011 and 2024, a two-hundred-and-ten-day outer deemed-approval period, and a thirty-day notification deadline that was itself suspended in 2017 and periodically renewed thereafter.[5] That equilibrium has, in the last three years, been disturbed. The Competition (Amendment) Act 2023, operationalised in phases through notifications and subordinate regulations issued between May 2023 and September 2024, has introduced a deal value threshold, compressed review timelines, and revised the statutory basis on which gun-jumping penalties are computed.[6] Concurrently, the Commission's decisional practice has entered what commentators have described as an enforcement 'spree', with 2025 recording more gun-jumping determinations than several of the preceding years combined, and with the analytical centre of gravity shifting away from the formal question of notification timing towards the substantive question of access to commercially sensitive information.[7] The Supreme Court's intervention in May 2026, setting aside the Commission's best-known and largest gun-jumping-adjacent penalty, the ₹202 crore order against Amazon in the Future Coupons matter, has further recalibrated the jurisdictional and evidentiary discipline within which the Commission must operate, and that recalibration has, in turn, already begun to shape the Commission's approach to the fresh wave of enforcement orders passed in the first half of 2026.[8]

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[5]Ministry of Corporate Affairs, Notification No S.O. 2039(E), 29 June 2017, suspending the thirty-day notification requirement under s 6(2) of the Competition Act 2002; the suspension was subsequently renewed by further notification dated 16 March 2022, extending its validity to 28 June 2027.

[6]Competition (Amendment) Act 2023; Ministry of Corporate Affairs Notification dated 18 May 2023 bringing the first tranche of provisions into force; Ministry of Corporate Affairs Notification dated 9 September 2024 (effective 10 September 2024) bringing the deal value threshold and the Competition Commission of India (Combinations) Regulations 2024 into force.

[7]'Trends in Gun-Jumping: Recurring Themes in CCI's Decisional Practice in CY 2025' (PYMNTS/CPI, 11 March 2026).

[8]Amazon.com NV Investment Holdings LLC v Competition Commission of India and Ors, Civil Appeal No 4974 of 2022, Supreme Court of India, judgment dated 27 May 2026 (Nath and Mehta JJ).

This article undertakes a doctrinal re-examination of the law of gun-jumping under the Act in light of these developments. Part II maps the statutory architecture of the standstill obligation. Part III examines the structural reforms introduced by the 2023 Amendment and its subordinate rules, with particular attention to the deal value threshold. Part IV traces the Commission's decisional practice, from the foundational trigger-document cases through the information-exchange jurisprudence of 2021–22 to the green-channel and limitation controversies of 2024–26. Part V provides contemporary regulatory and enforcement developments of 2025–26. Part VI provides that comparative analyses of Indian position with that of European Union, together with reference to the United States and Israel. Part VII identifies the doctrinal and structural fault that continue to generate uncertainty notwithstanding a decade and a half of enforcement, and Part VIII proposes reforms directed at converting the Commission's presently fact-intensive, case-by-case approach into a more codified and predictable framework.

II. The Statutory Architecture of the Standstill Obligation

Merger control in India is governed by the Competition Act 2002, read with the Competition Commission of India (Combinations) Regulations 2024, which with effect from 10 September 2024 replaced the erstwhile Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations 2011.[9] Sections 5 and 6 of the Act define a 'combination' by reference to asset, turnover, and, since 10 September 2024, deal-value thresholds, and mandate that acquisitions, mergers, and amalgamations exceeding those thresholds be notified to the Commission before consummation.[10] Section 6(2) requires the acquirer, or in the case of a merger both parties, to give notice of the proposed combination to the Commission; the erstwhile requirement that this be done within thirty days of the board's approval of the proposal or the execution of the relevant agreement has been suspended by successive Ministry of Corporate Affairs notifications since 2017, most recently renewed on 16

[9]S M Dugar, Guide to Competition Law (7th edn, LexisNexis 2017); Competition Commission of India (Combinations) Regulations 2024, reg 41 (repeal and savings).

[10]Competition Act 2002, ss 5, 6(1), as amended by the Competition (Amendment) Act 2023.

March 2022 until 28 June 2027, so that while there is no longer a fixed outer filing deadline, the transaction must still be notified before it is given effect.[11]

The operative prohibition is contained in section 6(2A), which provides that no combination shall come into effect until either the Commission has passed an order under section 31 or the review period prescribed under the Act has elapsed, whichever is earlier.[12] Read together, sections 6(2) and 6(2A) impose what the Commission and commentators alike have described as a bifurcated obligation: a procedural duty to notify, and a substantive duty to refrain from implementation pending clearance.[13] Contravention of either limb attracts the penalty jurisdiction conferred by section 43A, under which the Commission may, after affording a reasonable opportunity of being heard, impose a penalty which may extend to one per cent of the total turnover or the assets, or, following the 2023 Amendment, the value of the transaction, whichever is higher, for failure to give notice under section 6(2) or for consummating a combination in contravention of section 6(2A).[14]

The regime is tempered by a de minimis target exemption: transactions in which the assets or turnover of the target enterprise fall below prescribed thresholds are exempt from the notification requirement altogether. These thresholds were revised upward by the Ministry of Corporate Affairs with effect from 7 March 2024, from the previous levels of ₹350 crore in assets and ₹1,000 crore in turnover, which had applied since 2017, to their present levels of ₹450 crore in assets or ₹1,250 crore in turnover, a revision expressed to remain valid until 7 March 2026, subject to any further extension the Ministry may notify.[15]

Two analytically distinct species of contravention have crystallised in the Commission’s practice. ‘Procedural’ gun-jumping arises where parties to a notifiable transaction fail to notify the Commission in a timely manner, notwithstanding that the transaction thresholds are met;

[11]Ministry of Corporate Affairs, Notification No S.O. 2039(E), 29 June 2017 (n 4); Notification dated 16 March 2022 (n 4).

[12]Competition Act 2002, s 6(2A) (n 2).

[13]Goyal and Bhandari (n 1) 219–221.

[14]Competition Act 2002, s 43A, as amended by the Competition (Amendment) Act 2023, s 28.

[15]Ministry of Corporate Affairs, Notification S.O. 1131(E), 7 March 2024 (De Minimis Exemption Notification), revising the thresholds prescribed under the notification dated 27 March 2017 (as extended by notification dated 16 March 2022) from assets of ₹350 crore/turnover of ₹1,000 crore to assets of ₹450 crore/turnover of ₹1,250 crore, with effect from 7 March 2024 and continuing in force until 7 March 2026.

'substantive' gun-jumping arises where the parties coordinate their competitive conduct, or otherwise implement the transaction, before the Commission's approval has been obtained, a distinction that, as the analysis in Part IV demonstrates, has increasingly come to turn on the parties' access to, and use of, commercially sensitive information rather than on the formal act of closing.[16] It bears emphasis that the two species are not mutually exclusive: a single transaction may, and frequently does, attract liability on both limbs simultaneously, as several of the 2024–25 orders discussed in Part IV illustrate, where a defective or ineligible Green Channel filing has been treated as both a procedural irregularity and, once consummation had occurred on the strength of that filing, a substantive violation of the standstill obligation.

III. Contemporary Legislative Reform: The Deal Value Threshold and the New Regulatory Architecture

The Competition (Amendment) Act 2023 received presidential assent on 11 April 2023 and has been brought into force in tranches, with several provisions, including those dependent on subordinate regulations, taking effect only once the Commission notified the corresponding rules.[17] For the law of gun-jumping, five strands of the 2023 reform are of particular significance.

A. The Deal Value Threshold

The most structurally significant change is the introduction, by way of amendment to section 5, of a deal value threshold ('DVT'). DVT captures any acquisition, merger, or amalgamation in which the value of the transaction, including direct, indirect, immediate and deferred consideration, exceeds ₹2,000 crore (approximately USD 238–250 million, depending on the prevailing exchange rate), provided that the target enterprise has 'substantial business operations in India'.[18] The DVT was designed to close a lacuna in the erstwhile asset-and-turnover-based regime, under which high-value acquisitions of nascent or digital-first targets, possessing limited

[16]'Trends in Gun-Jumping' (n 5).

[17]Competition (Amendment) Act 2023 (n 6).

[18]Competition Commission of India (Combinations) Regulations 2024, regs 3–4; Ministry of Corporate Affairs Notification dated 9 September 2024; Lakshmikumaran& Sridharan, 'MCA Notifies Deal Value Threshold amongst Other Amendments to the Competition Act' (October 2024).

current assets or turnover but considerable strategic value, could escape notification altogether.[19] Transitional guidance clarifies that the DVT does not apply to transactions where definitive agreements were signed but not closed before 10 September 2024, and that in multi-step or interconnected transactions, gun-jumping exposure under the DVT attaches only to those tranches that independently or cumulatively meet the threshold, even where earlier steps in the same transaction have already been consummated.[20] The practical consequence is a considerable expansion of the universe of notifiable transactions and, correspondingly, of the standstill obligation's field of application.[21]

B. Timelines and the Standstill Period

The 2023 Amendment also compresses the Commission's review timelines materially. Where the erstwhile framework contemplated an outer deemed-approval period of two hundred and ten days from notification, the amended framework, given effect through the CCI (Combinations) Regulations 2024, reduces the overall outer review period to one hundred and fifty calendar days, and requires the Commission to form a prima facie opinion on whether a transaction is likely to cause an appreciable adverse effect on competition within thirty calendar days of notification, failing which the transaction stands deemed approved.[22] Green Channel filings, the fast-track route for transactions presenting no horizontal, vertical, or complementary overlap, continue to be approved on the date of filing itself, subject to the acknowledgment of the notice.[23] For parties, the practical effect is a shorter standstill window in the ordinary run of cases, but a correspondingly higher premium on getting the initial filing, including the Green Channel eligibility assessment, right, since an erroneous Green Channel filing does not shorten the parties' gun-jumping exposure but instead converts what would have been a procedural filing error into a substantive violation of the standstill obligation, as the decisions discussed in Part IV.C illustrate.

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[19] 'Competition Law in India: Deal Value Threshold and Other Changes Notified' (Mondaq, 13 September 2024).

[20] PwC, What's New: Regulatory Insights (11 September 2024); Lakshmikumaran& Sridharan (n 12).

[21] KSK Competition Law, 'Gun-Jumping & Pre-Closing Conduct Guide' (ksandk.com, February 2026).

[22] 'India's Competition Act 2023: New Provisions and Deal Thresholds Enforced' (India Briefing, 7 October 2024); Competition Commission of India, The Quarterly Newsletter of the CCI (FairPlay, November 2024) 5.

[23] Competition Commission of India, Green Channel FAQs (September 2022 and revised 2025).

C. Explicit Proscription of Partial Implementation and the Open-Offer Carve-Out

The amended section 6(2A) now expressly prescribes not merely the consummation but the partial implementation of a combination pending approval, codifying what had until then been a matter of decisional gloss rather than statutory text.[24] At the same time, the 2023 Amendment introduces a calibrated carve-out for open offers and acquisitions of shares or securities made on a regulated stock exchange: such acquisitions may proceed prior to CCI approval, provided the acquirer does not exercise any ownership or beneficial rights, including voting rights, or receive dividends or other economic benefits attaching to the securities, until approval is obtained, and provided notice of the acquisition is filed with the Commission within thirty days of the purchase.[25] This provision reflects a deliberate legislative attempt to reconcile the informational efficiency of open capital markets, where a mandatory standstill on share acquisition would itself distort price discovery and disclosure obligations under securities law, with the competition policy objective of preventing premature integration.

D. Penalty Basis, Exemption Rules, and the 2024 Regulatory Suite

The 2023 Amendment revises the quantum on which gun-jumping penalties may be computed, empowering the Commission to impose a penalty of up to one per cent of the parties' total turnover, assets, or the value of the transaction, whichever is higher, a departure from the erstwhile formulation, which referred only to turnover or assets of 'such combination'.[26] This is complemented by the Competition (Criteria for Exemption of Combinations) Rules 2024, which, among other things, preserve a 'solely as an investment' exemption for financial investors but expressly condition its availability on the acquirer not obtaining a right or ability to access commercially sensitive information of the target, or exercising any material influence over the target's management, affairs, or strategic commercial decisions, a condition that, as the decisions discussed in Part IV.C demonstrate, the Commission has applied with considerable rigour.[27]

[24]Competition Commission of India (Combinations) Regulations 2024, reg 5; India Briefing (n 15).

[25]Competition (Amendment) Act 2023, s 6(2A) proviso; Trilegal, 'New Era for Indian Merger Control Begins on 10 September 2024' (Client Update, September 2024).

[26]Competition Act 2002, s 43A (as amended) (n 9); 'Competition law in India – Deal Value Threshold and other changes notified' (Lakshmikumaran& Sridharan, September 2024).

[27]Competition (Criteria for Exemption of Combinations) Rules 2024.

Taken together with the revised CCI (Combinations) Regulations, this suite of reforms constitutes the most substantial recalibration of the Indian merger control framework since the Combination Regulations were first notified in 2011, and it is against this recalibrated framework that the Commission's recent decisional practice must now be read.[28]

E. The Codified Definition of Control: 'Material Influence'

A fifth and closely related strand of the reform, and one that bears directly on the gun-jumping analysis, is the Competition (Amendment) Act 2023's codification of an expanded definition of 'control', which now expressly extends to the 'ability to exercise material influence' over the management, affairs, or strategic commercial decisions of another enterprise, in addition to the pre-existing standards of decisive influence and de facto or de jure control.[29] Because the material-influence standard is deliberately calibrated below the threshold of decisive control, it widens, rather than narrows, the range of minority investments, board-observer rights, and information-access arrangements capable of triggering a notification obligation in the first place, and, by extension, widens the range of interim conduct capable of constituting gun-jumping once a transaction is notified, since conduct that confers material influence during the standstill period is treated by the Commission as being of a piece with conduct that confers control. The interaction between this expanded control standard and the CSI-centred gun-jumping jurisprudence traced in Part IV.C is a recurring theme of the Commission's most recent decisional output, examined further in Part V below.

IV. Decisional Practice of the Competition Commission of India

The Commission's gun-jumping jurisprudence has developed cumulatively, case by case, in the absence of any binding regulation defining the central statutory phrase 'comes into effect'. What follows is an analytical survey of that jurisprudence organised thematically rather than

[28]Nishith Desai Associates, 'Gun Jumping Penalty: CCI Denies Availability of Exemption' (Lexology, 3 February 2025), discussing the order of the Competition Commission of India dated 14 January 2025.

[29]Competition (Amendment) Act 2023, s 2 (amending s 2(za) of the Act); Competition Commission of India (Combinations) Regulations 2024; 'CCI's M&A Overhaul: Stricter Scrutiny, Faster Approvals under New Rules' (Business Standard, 19 September 2024). The 'material influence' formulation itself derives from the Commission's own decisional practice, notably UltraTech Cement Limited, Combination Registration No C-2015/02/246, order dated 12 March 2018, which the 2023 Amendment codifies rather than originates.

chronologically, so as to trace the progression from the formative trigger-document and part-consummation cases of the mid-2010s to the information-exchange-centric and green-channel controversies of 2024–26.

A. Trigger Documents and the Reach of Section 6(2)

Section 6(2)(b) of the Act requires that notice be given upon the execution of an agreement or other document contemplated by section 5.[30] In Baxalta Incorporated, the Commission received notice on 30 July 2015 of Baxalta's acquisition of Baxter International's bioscience business; the global agreement had been executed on 30 June 2015, and the notice was filed within thirty days of execution. The Commission nonetheless found that Baxalta and Baxter had already consummated the transaction globally, deferring closing only in a handful of jurisdictions including India, and held that the global agreement, not any India-specific closing document, constituted the trigger document. The Commission rejected the argument that the transaction had, by the time of notification, ceased to be a 'proposed' combination, holding instead that global consummation could not proceed without its approval even where the Indian leg of the transaction was deferred, since the transaction as a whole affected competition in the Indian market.[31]

Baxalta also settled a second, structurally important point that section 43A applies with equal force to failure-to-notify cases and to cases involving consummation before the expiry of the waiting period, so that a party cannot escape substantive liability merely by demonstrating technical compliance with the notification deadline.[32] The Commission's suo motu cognizance of Reliance Jio Infocomm's acquisition of spectrum rights, and the erstwhile Competition Appellate Tribunal's confirmation in SCM Soilfert that section 6(2A) admits of no exception to the

[30] Competition Act 2002, s 6(2)(b) read with s 5.

[31] Baxalta Incorporated, Combination Registration No C-2015/07/297, order of the Competition Commission of India dated 8 March 2016.

[32] ibid, paras 20–24.

requirement that a combination take effect only after the outer deemed-approval period or a section 31 order, whichever is earlier, reinforced this reading.[33]

B. Partial Payment and Partial Consummation

Where parties take steps that integrate their businesses, whether financially or operationally, before formal closing, the Commission has been willing to treat such steps as partial consummation notwithstanding the absence of a completed transfer of control. In Hindustan Colas Private Limited, concerning the acquisition of a bitumen plant from Shell India Markets Pvt Ltd, the Commission found that a part-payment of ₹4 crore made upon signing the share purchase agreement, notwithstanding the acquirer's characterisation of the sum as a refundable good-faith deposit, constituted partial consummation, since such a payment could dampen the target's incentive to compete independently pending approval and thereby create a risk of pre-closing collusion.[34]

In Etihad Airways PJSC, Etihad's acquisition of a twenty-four per cent stake in Jet Airways proceeded through a series of interlinked agreements executed on 24 April 2013, together with a separate transaction for the sale of three of Jet's landing slots at London Heathrow executed on 26 February 2013. Because notice was filed more than thirty days after the Heathrow transaction, and because the Heathrow transaction had already closed, the Commission issued a show-cause notice and, rejecting Etihad's contention that the slot sale was a wholly independent transaction, held that the Heathrow transaction formed part of a single composite combination and that its early closing amounted to gun-jumping.[35] Read together with UltraTech Cement, where the Commission treated the acquirer's provision of a corporate guarantee, repayable irrespective of whether the combination ultimately received approval, as an act of consummation, this line of

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[33]Reliance Jio Infocomm Limited, Combination Registration No C-2017/06/516, order of the Competition Commission of India dated 11 May 2018; SCM Soilfert and Ors v Competition Commission of India (2016) Comp LR 1111 (COMPAT).

[34]Hindustan Colas Private Limited, Combination Registration No C-2015/08/299, order of the Competition Commission of India dated 14 September 2016.

[35]Etihad Airways PJSC, Combination Registration No C-2013/05/122, order of the Competition Commission of India dated 19 December 2013.

authority establishes that the Commission looks to economic substance rather than formal closing mechanics in assessing whether a combination has come into effect.[36]

C. Interim Covenants, Information Exchange, and the Rise of the 'Commercially Sensitive Information' Standard

The most consequential doctrinal shift in the Commission's gun-jumping practice concerns the treatment of interim covenants that grant the acquirer access to, or influence over, the target's commercially sensitive information ('CSI') during the standstill period. In Bharti Airtel, the Commission scrutinised a locked-box mechanism under which the acquirer assumed the economic responsibility for the target's assets and liabilities from a notional date preceding CCI approval, holding that because the notional date preceded approval, the mechanism reduced the target's incentive to compete and permitted the acquirer to influence the target during the interim period, in violation of section 6(2A).[37]

This reasoning was substantially extended in Adani Green Energy Limited, decided together with Tata Power Company Limited, in which the Commission imposed penalties under section 43A notwithstanding the existence of a clean-team arrangement between the parties. The Commission found that the transaction documents permitted the acquirer to interact with the target's suppliers, mandated the transfer of trademark and marketing materials in advance of closing, and restricted the target's promotional spending; because these clauses were broadly worded and capable of being used to exchange CSI between competitors, the Commission held that they amounted to gun-jumping notwithstanding the parties' good-faith attempt at ring-fencing.[38] Commentators have noted that the Adani order is significant not merely for its outcome but for its method: rather than requiring proof that CSI was in fact misused, the Commission inferred a violation from the mere capability of the clauses to be used for improper exchange, giving primacy to the potential effect of the covenant over the parties' demonstrated

[36] UltraTech Cement Limited, Combination Registration No C-2015/02/246, order of the Competition Commission of India dated 12 March 2018.

[37] Bharti Airtel Limited (n 3).

[38] Adani Green Energy Limited, Combination Registration No C-2021/05/837, order of the Competition Commission of India under s 43A dated 9 March 2022.

intent or the mitigating presence of a clean team.[39] In the connected Tata Power proceeding, the Commission rejected the argument that the sectoral regulatory jurisdiction of the Odisha Electricity Regulatory Commission under the Electricity Act 2003 ousted the Commission's jurisdiction to penalise a belated notification, holding that the general principle that a special law prevails over a general law had no application where the two statutes operated in different fields, sectoral regulation of the electricity market, and competition-based merger control.[40]

This CSI-centred approach has intensified markedly in the Commission's decisional practice for the calendar years 2024 to 2026. In August 2024, the Commission penalised India Business Excellence Fund-IV, a Category II Alternative Investment Fund, for incorrectly availing of the Green Channel route in its proposed acquisition of a minority stake in VVDN Technologies Private Limited, on the ground that an undisclosed vertical or complementary supply relationship between the target and a portfolio company of the acquirer disqualified the transaction from Green Channel eligibility; the fact that the relevant supply arrangement had persisted for over two years, generating continuing revenue, defeated the acquirer's contention that the relationship was an ad hoc consequence of the COVID-19 pandemic.[41]

In January 2025, the Commission imposed a penalty on a Category II Alternative Investment Fund and its manager for consummating a transaction without prior approval, holding that a contractual right to receive minutes of the target's board and committee meetings (a 'Minutes Right') constituted access to commercially sensitive information and therefore disqualified the transaction from the 'solely as an investment' exemption under the Competition (Criteria for Exemption of Combinations) Rules 2024, notwithstanding the acquirer's status as a passive financial investor regulated under the SEBI (Alternative Investment Funds) Regulations 2012.[42]

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[39] AZB & Partners, 'Revisiting Gun Jumping: The Adani Decision and Its Impact on Merger Control in India' (azbpartners.com, 2022); Sudhanva Bharadwaj, 'Gun Jumping and Clean Team Agreements: The Adani Green-SoftBank Case' [2022] White Black Legal Law Journal.

[40] Tata Power Company Limited, Combination Registration Nos C-2021/03/824 and connected registrations, order of the Competition Commission of India under s 43A dated 9 March 2022.

[41] AZB & Partners, 'CCI Imposed Penalty on India Business Excellence Fund-IV for Gun Jumping' (azbpartners.com, 16 August 2024).

[42] Nishith Desai Associates (n 20).

Subsequent orders in Matrix Pharmaceuticals Limited and Manipal Health Systems have reinforced this trajectory: in the former, the Commission imposed a penalty under section 43A for consummation prior to approval, while in the latter, concerning the conversion of debentures acquired on a stock exchange into equity shares representing a controlling stake in the target, the Commission clarified that the open-offer carve-out introduced by the 2023 Amendment does not dispense with the requirement to notify and obtain approval before the conversion event that crystallises control.[43] Analysts surveying the Commission's 2025 decisional output have identified a consistent pattern: access to CSI, however customary or commercially unremarkable in the ordinary conduct of due diligence, has become the Commission's primary proxy for material influence, and notification discipline is now enforced even in respect of intermediate steps within a single, interconnected, multi-step transaction.[44]

D. Limitation, Suppression, and the Amazon–Future Coupons Litigation

Section 20(1) of the Act permits the Commission to inquire into whether a combination has caused or is likely to cause an appreciable adverse effect on competition, but only within one year of the combination taking effect.[45] In Intellect Design Arena Limited, the Commission held that this one-year limitation period governs competitive-effects assessments under section 20(1) and does not operate as a bar to the initiation of penalty proceedings under section 43A for failure to notify a notifiable combination prior to its consummation, penalty proceedings for non-notification being, in the Commission's view, analytically distinct from a competitive assessment of the combination itself.[46]

The outer limits of this reasoning were tested, and substantially recalibrated, in the protracted litigation arising from Amazon's 2019 acquisition of a 49 per cent stake in Future Coupons Private Limited, a promoter-group entity holding a 7.3 per cent economic interest in Future

[43]Matrix Pharmaceuticals Limited, Combination Registration No C-2024/04/1139, order of the Competition Commission of India under s 43A dated 7 March 2025; 'Gun-Jumping and M&A: Recent Trends & Takeaways' (Chambers and Partners, 21 April 2026), discussing Manipal Health Systems, Combination Registration No C-2024/05/1142, order dated 31 July 2025.

[44]'Trends in Gun-Jumping' (n 5).

[45]Competition Act 2002, s 20(1).

[46]Intellect Design Arena Limited, Combination Registration No C-2015/12/348, order of the Competition Commission of India dated 7 May 2018.

Retail Limited by way of convertible warrants. Having granted approval to the transaction on 28 November 2019, the Commission, acting on a complaint by Future Retail's independent directors in November 2021 alleging that Amazon had concealed the true scope and strategic purpose of the transaction, suspended its own approval and, by order dated 17 December 2021, imposed a penalty of ₹200 crore for failure to notify the combination in its requisite terms and a further ₹2 crore for suppression of material facts, holding that there existed no mitigating factor and that the contraventions arose from a deliberate design to suppress the actual scope and purpose of the combination.[47] The National Company Law Appellate Tribunal upheld the Commission's order by judgment dated 13 June 2022, sustaining the findings of suppression and false disclosure.

On 27 May 2026, the Supreme Court of India, in *Amazon.com NV Investment Holdings LLC v Competition Commission of India and Ors*, allowed Amazon's appeal and set aside both the Tribunal's judgment and the Commission's underlying order.[48] The Court held, first, that the one-year limitation period under section 20(1) operates as a jurisdictional bar rather than a mere procedural guideline, and that its purpose, to furnish certainty and finality to implemented combinations, precluded the Commission, more than a year after the transaction had taken effect, from directing a fresh Form II filing or conducting a renewed competitive assessment.[49] Second, and of considerable doctrinal significance for the law of gun-jumping and cognate suppression findings, the Court held that the Commission had failed to demonstrate how each statutory ingredient of suppression or misstatement had been satisfied, and had impermissibly equated differences in the characterisation of the transaction, including internal correspondence reflecting commercial, as opposed to regulatory, descriptions of the deal's strategic purpose, with material or wilful suppression of information required to be furnished under the Act.[50] The Court directed the refund of any amount recovered from Amazon within eight weeks, together with simple

[47]Competition Commission of India, order dated 17 December 2021 in the matter of Amazon.com NV Investment Holdings LLC; Bar and Bench, 'Supreme Court Sets Aside CCI's ₹202 Crore Penalty on Amazon in Future Coupons Deal' (27 May 2026).

[48]Amazon.com NV Investment Holdings LLC (n 8); 'Key Takeaways from the Supreme Court's Decision in Amazon.com v CCI' (Legal Era, 11 June 2026).

[49]Business Standard, 'SC Junks ₹202 Crore Penalty on Amazon by CCI in Future Coupons Case' (27 May 2026); Medianama, 'Supreme Court Sets Aside CCI Order Against Amazon Future Coupons Deal' (28 May 2026).

[50]'Supreme Court Sets Aside CCI Penalty Order in Amazon-Future Coupons Case: Clarifies Key Merger Control Principles' (Mondaq, 4 June 2026).

interest at six per cent per annum, escalating to nine per cent per annum in the event of delay beyond that period.[51]

The Amazon judgment does not disturb the substantive standstill obligation under section 6(2A), nor the Commission's power under section 43A to penalise non-notification or premature consummation; the case did not, in the strict sense, concern gun-jumping but rather the separate question of suppression of material facts in a notification that had itself been approved. Its significance for gun-jumping jurisprudence lies instead in the discipline it imposes on the Commission's fact-finding and limitation practice more generally: it signals that findings which effectively reopen, penalise, or unwind an already-implemented and approved combination, whether framed as suppression, as failure to notify, or as gun-jumping, must be anchored in a precise, statutorily particularised showing, and cannot proceed on an inference of impropriety drawn from differences of characterisation between commercial and regulatory documents. Given the increasing willingness of the Commissionto infer gun-jumping from the mere capability of a covenant to permit CSI exchange, the evidentiary rigour that the Supreme Court has now demanded in the suppression context is likely to be invoked by transacting parties resisting gun-jumping findings premised on comparably inferential reasoning, a prediction that the Commission's own subsequent orders have already begun to test.

V. Contemporary Regulatory and Enforcement Developments (2025–2026)

No account of Indian gun-jumping law can now be regarded as complete without separate treatment of the extraordinarily dense run of regulatory and enforcement activity that has unfolded across the eighteen months preceding this article, activity that both confirms and complicates the trajectory traced.

A. The Compressed 150-Day Standstill Regime in Practice

As discussed earlier, CCI (Combinations) Regulations 2024 reduced the outer deemed-approval period governing the standstill obligation from two hundred and ten to one hundred and fifty

[51] India Legal, 'Future Coupons Deal: Supreme Court Sets Aside Rs 202 Crore CCI Penalty on Amazon' (27 May 2026).

calendar days.[52] Practitioner commentary published in the first half of 2026 confirms that this compression has already begun to alter the risk calculus facing transacting parties: because the outer review period is now materially shorter, the commercial incentive to begin integration planning, and in some cases integration itself, before formal clearance has correspondingly increased, even as the Commission's own capacity constraints mean that a meaningful proportion of Phase II matters continue to approach the full one-hundred-and-fifty-day limit in practice.[53] The shortened timeline has not, on the evidence of the Commission's 2025–26 orders, been accompanied by any relaxation of the standstill obligation itself; if anything, the Commission has treated the compressed timeline as a reason for stricter, rather than more lenient, policing of interim conduct, on the reasoning that parties who find the review period burdensome have a shorter, not a longer, incentive to jump the gun.

B. The Manipal–Aakash Order and the Continuing Green Channel and Open-Offer Controversies

The most recent illustration of this stricter posture is the Commission's order dated 20 May 2026, by which it imposed a penalty on Manipal Health Systems Private Limited and Manipal Education and Medical Group India Private Limited for completing the acquisition of a stake in Aakash Educational Services Limited without having first notified the transaction to, and obtained approval from, the Commission.[54] The order is analytically distinct from, though it concerns the same corporate group as, the earlier Manipal Health Systems order of July 2025 discussed in Part IV.C, which concerned a separate conversion of debentures into equity; the recurrence of gun-jumping findings against the same acquirer within a span of ten months illustrates the Commission's evident view that a prior finding of contravention does not, without more, occasion any greater leniency in a subsequent, unrelated transaction by the same party, and arguably counsels the opposite. Read together with the 2024–25 orders surveyed in Part IV.C, the Manipal–Aakash order confirms that acquisitions structured through phased or creeping stake

[52] 'India's Merger Control Regime Gets A Major Overhaul' (Lexology, 10 September 2024).

[53] 'Antitrust and Competition Newsletter | June 2026' (Mondaq, June 2026).

[54] Lexology, 'Supreme Court Sets Aside CCI's Order Against Amazon in Future Coupons Transaction' (10 June 2026), reporting also the Competition Commission of India order dated 20 May 2026 in the matter of Manipal Health Systems Private Limited.

accumulation, whether by direct purchase, debenture conversion, or open-market acquisition, remain a persistent source of gun-jumping exposure, since each incremental step in such a structure is capable of independently crystallising a notification obligation, particularly where, as the codified 'material influence' standard discussed in Part III.E makes clear, the increment in question confers influence over the target's strategic commercial decisions well before it confers formal control.

C. The Corporate Laws (Amendment) Bill, 2026 and the Interface with Company Law Timelines

A further contemporary development of direct relevance to gun-jumping practice, though one that remains at the legislative rather than the enforcement stage as of the date of this article, is the Corporate Laws (Amendment) Bill 2026, which proposes amendments to the Companies Act 2013 and the Limited Liability Partnership Act 2008 bearing on the manner in which amalgamations, demergers, and corporate restructurings interact with National Company Law Tribunal timelines and, by extension, with CCI notification obligations.[55]

Because a scheme of amalgamation or demerger sanctioned by the Tribunal takes effect, as a matter of company law, from the appointed date specified in the scheme, which may antedate both the Tribunal's sanction and any CCI approval, practitioners have long flagged the risk that an NCLT-sanctioned scheme could inadvertently be treated as having 'come into effect', for the purposes of section 6(2A), before the Commission's approval has in fact been obtained. The proposed 2026 Bill does notresolve this tension definitively, but its introduction reflects a growing legislative recognition that the standstill obligation under the Act cannot be considered in isolation from the parallel approval architecture administered by the Tribunal, the Securities and Exchange Board of India, and sectoral regulators, and that misalignment between these regimes is itself a structural source of inadvertent gun-jumping risk, a theme returned to in the reform proposals of Part VIII.

D. Consolidating the 2025–26 Enforcement Pattern

[55] 'Merger Control India' (Global Advisory Experts, 15 May 2026).

Taken as a whole, the enforcement and regulatory activity of 2025–26 confirms three propositions advanced in this article. First, the Commission's CSI-centred method of analysis, inaugurated in Adani Green Energy and consolidated through the 2024–25 orders discussed in Part IV.C, has not been dislodged, and if anything has hardened, notwithstanding the evidentiary discipline the Supreme Court demanded of the Commission in the unrelated Amazon suppression proceeding. Second, the compression of the standstill period to one hundred and fifty days has sharpened, rather than relaxed, the practical stakes of gun-jumping compliance for transacting parties. Third, the interface between merger control and cognate regulatory regimes, company law, securities law, and sector-specific regulation, remains an unresolved and, on the evidence of the pending 2026 Bill, actively contested frontier of the law, a point developed further in the comparative and reform discussion that follows.

VI. Comparative and International Perspectives

Indian gun-jumping doctrine has developed in conscious, if selective, dialogue with more mature merger control regimes, and a comparative examination illuminates both the strengths of the Indian approach, in particular, the numerical certainty of the deal value threshold, and its persisting weaknesses, most notably the absence of a codified standard for when a combination 'comes into effect'.

A. The European Union

The standstill obligation under European Union law is contained in Article 7(1) of the EU Merger Regulation, which prohibits the implementation of a concentration with a Union dimension before it has been notified or before it has been declared compatible with the internal market.[56] The European Commission has, in recent years, pursued an increasingly assertive gun-jumping enforcement policy.

In *Canon v European Commission*, the General Court, in Case T-609/19, upheld the €28 million fine imposed on Canon for implementing its acquisition of Toshiba Medical Systems through a

[56]Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings [2004] OJ L24/1, art 7(1).

two-step 'warehousing' structure designed to allow an interim acquirer to hold the target pending clearance, holding that the structure itself, irrespective of whether Canon obtained decisive influence over the target's day-to-day commercial policy in the interim, amounted to partial implementation.[57] In *Altice v European Commission*, the Court of Justice confirmed, on 9 November 2023, the Commission's power to impose two cumulative fines on Altice, one for failure to notify and a separate fine for breach of the standstill obligation, arising from pre-closing consent rights that gave Altice a decisive influence over the ordinary course of PT Portugal's business, including pricing and commercial strategy, before clearance, while reducing the notification-failure fine on appeal.[58] The doctrinal proximity between Altice's consent-rights analysis and the Commission's own reasoning in Adani Green Energy is notable: both authorities treat contractual rights capable of conferring influence over ordinary-course commercial conduct, rather than proof of their actual exercise, as sufficient to establish a standstill violation.

The most instructive recent episode, however, is the Illumina/GRAIL saga. Having controversially accepted jurisdiction over Illumina's acquisition of GRAIL under the little-used Article 22 referral mechanism, notwithstanding that neither party met the EU's own notification thresholds, the Commission imposed binding interim measures in October 2021, prohibited the transaction on 6 September 2022 on input-foreclosure grounds, and, on 12 July 2023, imposed a fine of €432 million on Illumina, together with a symbolic €1,000 fine on GRAIL, the first occasion on which the Commission fined a non-notifying target company for gun-jumping.[59]

On 3 September 2024, however, the Court of Justice, sitting as the Grand Chamber, annulled the Commission's acceptance of jurisdiction under Article 22, holding that the referral mechanism could not be used to capture concentrations falling outside both the EU's own thresholds and the

[57]Case T-609/19 Canon Inc v European Commission, judgment of the General Court, 18 May 2022, EU:T:2022:299, upholding the European Commission's infringement decision of 27 June 2019 in Case COMP/M.8179 (Canon/Toshiba Medical Systems Corporation).

[58]Case C-746/21 P Altice Group Lux Sarl v European Commission, judgment of the Court of Justice, 9 November 2023, EU:C:2023:836.

[59]European Commission, Decision of 12 July 2023 imposing fines on Illumina Inc and GRAIL LLC for gun jumping under art 4(1) and art 7(1) of Council Regulation (EC) No 139/2004; Davis Polk, 'European Commission Imposes Highest Ever Gun-Jumping Fine' (Client Update, 2023).

national merger control thresholds of the referring member states.[60] Because the Commission's jurisdiction was the foundation of every subsequent enforcement step, the annulment mooted the prohibition decision, the divestment order, and the €432 million gun-jumping fine alike, obliging the Commission formally to withdraw its enforcement decisions on 6 September 2024.[61]

The Illumina/GRAIL sequence offers a cautionary comparative lesson of direct relevance to the Indian position: a punitive gun-jumping sanction, however substantively justified on the facts, cannot outlast a defective jurisdictional foundation, a lesson the Indian Supreme Court has, in substance, now delivered in the Amazon litigation discussed in Part IV.D, albeit in the register of limitation rather than jurisdiction stricto sensu. Where the EU's Article 22 mechanism rests on a discretionary call-in power exercised after the fact, India's deal value threshold offers considerably greater ex ante certainty as to which transactions attract the standstill obligation in the first place, a structural advantage that the 2023 Amendment secures, but one that is undercut, as Part VII develops, by the continuing absence of comparable certainty as to what conduct, once a transaction is notifiable, amounts to giving it effect.

B. The United States

The United States operates a materially different, though functionally analogous, regime. The Hart-Scott-Rodino Antitrust Improvements Act of 1976 mandates pre-merger notification and a statutory waiting period administered jointly by the Federal Trade Commission and the Department of Justice, while the prohibition on premature substantive integration or coordination between merging competitors is enforced independently under section 1 of the Sherman Act, which proscribes concerted action in restraint of trade irrespective of whether a reportable transaction is pending. The bifurcation of the American approach, a discrete notification-and-waiting-period statute on one hand, and general antitrust prohibitions on unlawful coordination on the other, stands in useful contrast to the unified statutory basis on which both procedural and substantive gun-jumping are addressed in India through sections 6(2A) and 43A of the Act, and illustrates that a single, integrated standstill provision is not the only viable regulatory design,

[60]Joined Cases C-611/22 P and C-625/22 P Illumina Inc v European Commission, judgment of the Court of Justice (Grand Chamber), 3 September 2024.

[61]Norton Rose Fulbright, 'Illumina Wins at Top EU Court: The EU Commission Cannot Encourage or Accept Referrals of Concentrations Without an EU or National Dimension' (2024).

even if it remains the design India has chosen to retain and, through the 2023 Amendment, to reinforce.

C. Other Jurisdictions

Comparable fast-track mechanisms have emerged elsewhere among jurisdictions that, like India, combine mandatory notification with an accelerated clearance route for transactions presenting no material overlap. Israel's Economic Competition Law 5748-1988 provides a 'Bright Green' expedited track functionally analogous to India's Green Channel, and the Israel Competition Authority has, in its decisional practice, treated premature integration in terms broadly consistent with the Commission's own approach to partial consummation.[62] The convergence of these fast-track mechanisms across jurisdictions underscores a broader international trend towards calibrating the intensity of merger review, and, correspondingly, the risk of inadvertent gun-jumping, to the competitive risk profile of the transaction, a trend of which India's own Green Channel, now supplemented by the compressed statutory timelines introduced in 2023, forms part.

VII. Doctrinal and Structural Fault Lines

Notwithstanding a decade and a half of decisional practice and the structural reforms of 2023–24, and notwithstanding the further developments surveyed in Part V, Indian gun-jumping law continues to present several unresolved difficulties.

A. The Undefined Threshold of 'Coming into Effect'

The Act nowhere defines the phrase 'comes into effect' in section 6(2A), leaving the Commission to rely on an ad hoc, fact-specific inquiry into whether pre-closing conduct has caused a 'reduction in competitive intensity' or distorted the market, a standard that, as commentators have observed, lacks the predictability that transacting parties require when

[62]Bhatt & Joshi Associates, 'Indian Merger Control Regime Revamped: Comprehensive Analysis of the 2023-24 Competition Law Amendments' (26 March 2025).

structuring interim covenants.[63] The Commission's own practice has oscillated between an intent-based and an effect-based inquiry: whereas earlier orders examined whether the parties intended to confer or exercise influence, the Adani ruling gave clear primacy to effect over intent, penalising a clause found capable of facilitating CSI exchange notwithstanding the parties' demonstrated good-faith attempt, through a clean-team arrangement, to prevent such exchange.[64] This oscillation between standards, rather than any single standard being unduly strict or lenient, is itself the principal source of continuing uncertainty, and the codification of the 'material influence' control standard discussed in Part III.E has, if anything, widened rather than narrowed the zone of interpretive discretion within which the Commission operates.

B. Commercially Sensitive Information as the Dominant, and Potentially Overbroad, Proxy

The Commission's decisional practice in 2024–26 has consolidated around access to CSI as the primary proxy for material influence, extending the inquiry even to information rights, such as the Minutes Right considered in the January 2025 order, that are commercially unremarkable and routinely sought by even the most passive financial investors.[65] While the underlying competition policy concern is legitimate, an approach that treats any access to CSI, however customary or narrowly tailored, as presumptively disqualifying risks conflating routine investor-protection information rights with the kind of operational influence the standstill obligation is designed to prevent, and may deter the legitimate due-diligence and integration-planning activity that the Commission's own 2017 Compliance Manual expressly endorses.[66]

C. Cross-Border Monitoring and the Deal Value Threshold's Extraterritorial Reach

The Baxalta line of authority already demonstrated the practical difficulty the Commission faces in monitoring pre-closing conduct occurring wholly outside India in transactions where only the Indian leg of closing is deferred.[67] The deal value threshold's 'substantial business operations in

[63] 'India's Gun-Jumping Framework: When Does a Combination "Come Into Effect"?' (IndiaCorpLaw, 10 September 2025).

[64] Adani Green Energy Limited (n 26); AZB & Partners (n 27).

[65] Nishith Desai Associates (n 20); SEBI (Alternative Investment Funds) Regulations 2012.

[66] Competition Commission of India, Compliance Manual for Enterprises (2 May 2017); Competition Commission of India, Green Channel FAQs (n 16).

[67] Baxalta Incorporated (n 21).

India' test now extends this difficulty to a considerably larger set of foreign-to-foreign transactions that may never have previously registered on the Commission's radar, placing a premium on cross-border information-sharing arrangements with foreign competition authorities that remain, at present, comparatively underdeveloped.

D. Proportionality and Predictability of Penalties

The quantum of penalties actually imposed for gun-jumping has ranged, within the period surveyed in Parts IV and V, from modest sums levied against inadvertent procedural lapses to as much as ₹202 crore, the latter figure ultimately set aside by the Supreme Court on limitation and evidentiary grounds, without any published methodology explaining how the Commission calibrates penalties between technical, inadvertent procedural lapses and deliberate, substantive violations.[68] The 2023 Amendment's introduction of 'value of transaction' as an alternative penalty base compounds this unpredictability, since parties presently have no guidance as to how the Commission will value a transaction for penalty purposes where the announced consideration is itself contingent, deferred, or subject to post-closing adjustment.

E. Sectoral Regulatory Overlap and the Limits of Special-Law Arguments

The Tata Power proceedings confirm that arguments premised on the exclusive jurisdiction of a sectoral regulator, there, the Odisha Electricity Regulatory Commission, will not, without more, displace the Commission's jurisdiction to penalise gun-jumping.[69] While doctrinally sound, this position leaves regulated entities in sectors such as electricity, telecommunications, insurance, and banking to navigate two, occasionally divergent, regulatory timetables for the same transaction, a friction that the 2023 Amendment does not directly address, and one that the pending Corporate Laws (Amendment) Bill 2026 discussed in Part V.C illustrates is capable of extending into company law as well.

F. Evidentiary Discipline After Amazon

[68]Nishith Desai Associates (n 20); Amazon.com NV Investment Holdings LLC (n 8).

[69]Tata Power Company Limited (n 29).

The Supreme Court's insistence, in the Amazon litigation, that findings of suppression be anchored in a precise showing of each statutory ingredient, rather than inferred from differences in characterisation between commercial and regulatory documents, imposes a discipline that the Commission's gun-jumping orders, several of which, as Part IV.C shows, proceed on inferences drawn from the mere capability of a covenant to facilitate CSI exchange, have not always observed.[70] Reconciling the rigour the Supreme Court has now demanded in the suppression context with the inferential, capability-based reasoning the Commission continues to apply in gun-jumping cases proper, a tension the Manipal–Aakash order of May 2026 discussed in Part V.B suggests has not yet been resolved in the Commission's favour of self-restraint, is likely to be the principal doctrinal battleground of the next several years of merger control litigation in India.

VIII. Towards a Coherent Framework: Recommendations for Reform

The preceding analysis suggests that the next phase in the evolution of Indian gun-jumping law must trade the Commission's presently deterrence-maximising, fact-intensive posture for a more codified, rule-based framework, without sacrificing the substantive rigour that the Commission's recent decisional practice has achieved. Seven specific reforms merit consideration.

First, the Commission should exercise its regulation-making power under section 64 of the Act to issue binding guidance defining, or at minimum illustrating, when a combination 'comes into effect' for the purposes of section 6(2A), ideally by reference to an objective standard, such as the acquisition of decisive influence over the target's commercial policy on a lasting basis, drawing on the European Union's own concept of 'control', supplemented by a tripartite, illustrative classification of pre-closing conduct into clearly permitted activity (such as clean-team-mediated due diligence), clearly prohibited activity (such as the exchange of pricing or discount data outside a clean team), and grey-zone activity requiring case-specific assessment.[71]

Second, the Commission's Compliance Manual recommendations on clean-team composition and protocol, presently non-binding guidance, should be codified into a binding regulatory

[70] Amazon.com NV Investment Holdings LLC (n 8); Mondaq (n 44).

[71] Competition Act 2002, s 64; IndiaCorpLaw (n 51).

instrument specifying that clean teams be composed exclusively of external counsel or personnel with no operational role in pricing, marketing, or sales decisions, with an auditable firewall against the onward transmission of CSI to operational personnel.[72]

Third, a materiality or de minimis threshold should be introduced for CSI-based findings of gun-jumping, so as to distinguish customary information rights sought by passive financial investors, of the kind considered in the January 2025 order, from information rights that confer genuine operational influence, thereby averting the chilling effect that an overbroad CSI standard risks imposing on ordinary investor due diligence.[73]

Fourth, the Commission should publish a transparent, non-exhaustive penalty matrix calibrating the quantum of gun-jumping penalties against the severity and deliberateness of the contravention, and clarifying the methodology by which 'value of transaction' will be computed for penalty purposes under the 2023 Amendment, including in respect of contingent or deferred consideration.

Fifth, the evidentiary discipline articulated by the Supreme Court in the Amazon litigation, requiring precise, statutorily particularised findings rather than inferences drawn from differences in characterisation, should be internalised as a matter of first instance practice in gun-jumping proceedings, rather than awaited as a matter of appellate correction, so as to anchor the finality that CCI approvals are intended to confer.[74]

Sixth, the Commission should invest in structured, bilateral information-sharing arrangements with foreign competition authorities to address the cross-border monitoring difficulty that Baxalta first exposed and that the deal value threshold's extraterritorial reach has since magnified, alongside continued encouragement, through updated FAQs and compliance guidance, of a proactive, rather than reactive, culture of merger control compliance among transacting parties and their advisers.[75]

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[72]Competition Commission of India, Compliance Manual for Enterprises (n 57).

[73]Nishith Desai Associates (n 20).

[74]Amazon.com NV Investment Holdings LLC (n 8).

[75]Baxalta Incorporated (n 21).

Seventh, and finally, in light of the interface difficulties identified in Part V.C, the Commission and the Ministry of Corporate Affairs should coordinate to ensure that any legislative recalibration of NCLT scheme timelines under the Corporate Laws (Amendment) Bill 2026, or its successor enactment, expressly clarifies that an appointed date specified in a scheme of amalgamation or demerger cannot, for the purposes of section 6(2A), be treated as causing a combination to 'come into effect' in advance of actual CCI approval, so as to remove a structural source of inadvertent gun-jumping risk that presently arises from the misalignment between company law and competition law timelines.[76]

IX. Conclusion

The law of gun-jumping under the Competition Act 2002 has traversed, in little more than a decade, three distinct phases: a formative phase concerned principally with the identification of trigger documents and the mechanics of part-consummation, epitomised by Baxalta and Etihad; an information-exchange phase, inaugurated by Adani Green Energy and consolidated through the Commission's 2024–26 decisional output, in which access to commercially sensitive information has displaced the formal act of closing as the primary marker of a standstill violation; and, now, a recalibration phase, in which the deal value threshold and the compressed 150-day standstill period have substantially widened and sharpened the field of notifiable transactions even as the Supreme Court's intervention in the Amazon litigation has imposed a more exacting evidentiary and jurisdictional discipline on the Commission's enforcement practice.

This trajectory broadly vindicates the proposition that the Commission has adopted, and continues to adopt, a stringent approach to gun-jumping, imposing penalties wherever parties' pre-closing conduct is capable of affecting their competitive incentives, a stringency that is both a necessary incident of a mandatory, suspensory merger control regime and, on the evidence surveyed, a continuing source of unpredictability for transacting parties. The comparative experience of the European Union, and in particular the Illumina/GRAIL saga, illustrates vividly that punitive enforcement, however substantively justified, cannot outlast a defective

[76] 'Merger Control India' (n 43).

jurisdictional foundation; the Amazon judgment delivers a structurally similar caution to the Commission in the Indian context, insisting that even well-founded suspicions of impropriety be reduced to a precise, statutorily anchored finding before they may result in the reopening or penalisation of an implemented transaction.

Yet, as the Manipal–Aakash order of May 2026 and the wider enforcement pattern surveyed in Part V demonstrate, the Commission has not read the Amazon judgment as licence for a more permissive posture towards gun-jumping proper, and the two strands of jurisprudence, evidentiary restraint in suppression matters, and continued rigour in standstill enforcement, currently coexist rather than converge.

The task for the next phase of India's merger control jurisprudence, accordingly, is not to relax the substantive stringency the Commission has achieved, but to convert it into a codified, rule-based framework, through binding guidance on when a combination comes into effect, a codified clean-team protocol, a calibrated materiality threshold for CSI-based findings, a transparent penalty matrix, internalised evidentiary discipline, deepened cross-border cooperation, and closer coordination between merger control and company law timelines, capable of furnishing transacting parties with the ex ante certainty that a mature suspensory merger control regime, operating at the scale that the deal value threshold now contemplates and within the compressed timeline that the 150-day standstill period now imposes, must ultimately provide.