

Regulating the Digital Gold Rush: How far can the Amended Competition Act Control Data Driven Acquisition?

Akshat Chaudhary

Advocate, Rajasthan High Court Jaipur
Alumnus Hidayatullah National Law University, Raipur

Abstract

India's 2023 amendments to the Competition Act significantly strengthen the ability to regulate data-driven and high-value digital acquisitions that previously fell outside traditional merger thresholds. The relevance of this strengthened framework was underscored in the Union Budget 2026–27, which highlighted the importance of robust competition oversight in supporting India's expanding digital economy. While the reforms align India with global antitrust trends, their effectiveness will depend on disciplined, evidence-based enforcement. Ultimately, the CCI's evolving role will be central to balancing innovation, investment, and fair competition in India's digital markets.

Keywords: Competition Act amendments 2023, Budget 2026-27, data-driven acquisitions.

1. Introduction

Data has become the new currency of competition, and in India the Competition Commission (CCI) finds itself steering a more turbulent and data-rich landscape than ever before. The latest amendments and proposals to the Competition Act, 2002, arrive not as a mere housekeeping exercise, but as a strategic recalibration designed for a world where data-driven acquisitions can reshape markets overnight.

Modern acquisitions rarely look like the old-fashioned takeovers. They instead come together as a partnership, an investment, a strategic alignment, a scaling opportunity. The press release speaks of innovation and synergies. The founders speak of growth. Investors speak of value creation. Yet in digital markets, acquisitions often carry implications far beyond corporate consolidation. They may determine who controls the data pipelines of millions, who shapes algorithmic visibility, and who sets the architecture within which future competitors must operate.

In the industrial era, mergers were about factories, production lines and price wars. In the digital era, they are about ecosystems. They are about who owns the interface between users and markets, who gathers behavioural information at scale, and who integrates disparate data streams into predictive power. Dominance is no longer built solely through output expansion; it is fortified through data aggregation and network effects.

For India — one of the world’s fastest-growing digital economies — this transformation demanded regulatory introspection. The framework under the Competition Act, 2002 was crafted at a time when tangible assets and turnover were reliable proxies for market significance. But digital markets revealed a structural blind spot: some of the most consequential acquisitions involved targets with negligible revenue but immense strategic value. The Competition (Amendment) Act, 2023 represents India’s attempt to correct this imbalance.

The question, however, is not whether the law has changed. It is whether the change is sufficient — and how effectively the Competition Commission of India (CCI) can deploy its expanded toolkit to regulate acquisitions driven by data, algorithms and ecosystem strategy.

A changing economy, a recalibrated toolkit

Digital platforms today do not compete merely on price or quantities; they compete on data — the raw material that fuels prediction, segmentation, and personalized experiences. Control over data assets, data access rights, and the ability to extract meaningful value from information flows can redefine who can play, who can enter, and who can sustain a competitive edge. In such a setting, traditional competition metrics may miss the subtler forms of market power that data-enabled platforms exert. The amendments to the Competition Act, and the broader policy conversations surrounding them, recognize this shift. They are crafted to broaden the CCI’s purview and sharpen its instrumentarium so that data-centric mergers and data-sharing arrangements do not slip through the cracks.

A central thrust of the reform narrative is to strengthen enforcement while expanding the scope of notifiable combinations. Practitioners have been vocal that the amendments are about a more responsive, more data-aware approach to the entire life cycle of a deal than just heavier penalties. The idea is to ensure that a data-intensive transaction triggers scrutiny not because it looks like a traditional merger on a balance sheet, but because the data assets involved — whether a data pool, a data platform, or a data-exchange arrangement — could reconfigure competitive dynamics. This is not merely about “more power to penalize”; it is about “smarter power to prevent harm at the source.”

Conventional notional thresholds, after all, were devised in an era when data mattered less as a strategic asset than as a backdrop to price and production decisions. The new framework seeks to bring data front and center: the potential foreclosure of rivals through exclusive data access, the risk of data lock-in that discourages entry or expansion, and the challenge of coordinating behavior in markets where data aggregation and interoperability can tilt the field. In short, the reforms acknowledge that the unit of competitive harm in the digital era is often a data asset, a data flow, or an interface, not merely a factory or a storefront.

The Deal-Value Threshold: A Preventive Tool

The introduction of a deal-value threshold (DVT) is the centrepiece of India’s reform. Transactions exceeding ₹2,000 crore must now be notified if the target enterprise has substantial business operations in India, regardless of its turnover or asset base.

This reform signals a conceptual shift. It acknowledges that valuation may be a more accurate indicator of competitive significance in digital markets than revenue. If a dominant platform is willing to pay billions for a company with modest turnover, the transaction likely reflects strategic importance.

The DVT aligns India with international developments. Germany and Austria adopted similar transaction-value thresholds to address technology sector acquisitions. The European Union has gone further through the Digital Markets Act, imposing obligations on designated “gatekeepers.” India’s approach remains rooted in case-by-case assessment, but the threshold ensures that high-value digital transactions no longer escape scrutiny.

Yet the effectiveness of the DVT hinges on interpretation. The phrase “substantial business operations in India” introduces flexibility but also ambiguity. Does it refer to user numbers, data localisation, revenue derived from Indian users, or operational presence? The CCI’s interpretative guidance and subsequent jurisprudence will determine whether the threshold becomes a robust preventive mechanism or a contested compliance exercise.

Nevertheless, the reform marks a decisive break from the past. It closes the most visible gap in India’s merger control architecture — the inability to capture high-value, low-turnover digital acquisitions.

What the amendments are doing, in practice, for data-driven acquisitions

The reform project can be read as three overlapping ambitions: deterrence, precision, and speed. First, deterrence. By elevating penalties and broadening the scope of what constitutes a “combination,” the amendments send a signal that data-centered harms will not just be treated as footnotes in competition analysis. The CCI’s enforcement posture appears intent on signaling that anti-competitive conduct tied to data will be subject to scrutiny with the same seriousness as classic cartel behaviors. The aim is to deter strategic behaviors that rely on exclusive data dominance, discriminatory data access conditions, or data-driven foreclosures that shut out rivals.

Second, precision. The amendments push the CCI to define market power in digital contexts with greater nuance. Market definition in data-rich environments is inherently tricky: multi-sided platforms, network effects, and the possibility of rapid shifts in user bases all complicate traditional economic measurements. In response, the CCI is expected to lean on a more differentiated set of lenses — including data portability, data interoperability, and the potential for data-driven switching costs — to assess how a merger or data-sharing agreement could constrict competition. The emphasis is on understanding not just “how big” a market is, but “how data moves and who can control the data moves” within it.

Third, speed. Digital markets evolve quickly, and interim relief or fast-track remedies become less of a luxury and more of a necessity. The amendments promote more agile tools—interim orders, conditional clearances, settlements, and other flexible relief mechanisms—that allow the CCI to intervene before irreversible competitive harm takes root. In a world where a data asset can change hands in a matter of days, the ability to pause or recalibrate a deal in progress matters as much as the substantive merits of the transaction itself.

From theory to the routine of review: a data-centric playbook for the CCI

In translating reform into daily practice, several themes emerge as likely anchors of the CCI's approach to data-driven acquisitions.

First, the trigger landscape broadens. A deal is no longer merely a transfer of asset value or control over a business unit; it may encode a strategic shift in data access, data pricing, or data interoperability. Transactions that involve data pools, control over data platforms, or the exchange of competitively sensitive information could now fall under scrutiny even if traditional revenue or asset thresholds aren't met. The practical implication for deal teams is to map data assets to competitive risk explicitly in early due diligence, and to consider pre-notification consultations where available to align expectations with the CCI.

Second, the lens for market definition becomes more nuanced. Digital markets defy neat product boundaries; a platform's power may arise as much from data-driven user lock-in and network effects as from price leadership. That means the CCI's assessment will likely explore how data access asymmetries, data interoperability obligations, and data portability could affect competition across time horizons. It also means acknowledging the possibility that new entrants could harness data in novel ways that incumbents may not easily replicate, complicating a purely static assessment of market concentration.

Third, remedies will be more targeted to data realities. Traditional divestitures of physical or financial assets may expand to include data assets, data access rights, and data-processing capabilities. The idea is to restore contestability not just by separating businesses but by ensuring that data remains accessible on fair terms to rivals who need it to compete. Interoperability mandates, non-discriminatory access to essential data interfaces, and consented data-sharing arrangements could become central tools in preserving competitive equilibrium post-merger.

Fourth, post-transaction governance and monitoring may gain prominence. Given the pace at which data ecosystems evolve, ongoing monitoring commitments—reporting obligations, data-usage audits, and performance reviews—could become standard features of merger approvals. The CCI's ability to observe, and if needed adjust, remediation terms over time will be crucial to sustaining competitive balance as market realities shift.

Fifth, the jurisprudential and institutional alignment matters. The Bar & Bench line of analysis on the judiciary's evolving relationship with the CCI highlights a critical governance dimension: the courts' role in shaping the rhetoric, standards, and expectations around CCI reasoning. Courts may demand more transparent articulation of how data-centric harms and remedies are identified and justified, influencing not only outcomes in specific cases but the broader calibration of enforcement practices. A predictable, well-reasoned standard of review helps businesses plan, invest, and compete with greater confidence.

This evolving legal and policy matrix does not unfold in a vacuum. It sits at the intersection of budgetary signals and broader digital governance ambitions. The Union Budget in recent years has consistently underscored the need to empower regulatory bodies to oversee the digital economy, invest in data analytics

capability, and pair competition policy with data protection and consumer welfare objectives. The budgetary emphasis is not merely about funding enforcement; it is a statement about how India intends to shape a competitive, innovative digital ecosystem that benefits a broad spectrum of stakeholders.

A broader, global frame: learning from peers while adapting for India

India's path mirrors a broader global debate: how to regulate platforms and data-driven markets without stifling innovation. The European Union's Digital Markets Act (DMA) and related regulatory initiatives in other jurisdictions illuminate a trend toward proactive designations, interoperability requirements, and non-discriminatory access to essential interfaces and data. The CCI's amendments can be seen as an Indian articulation of similar concerns, tailored to the local market structure, competition landscape, and policy priorities. The aim is to create a regime that does not merely react to anti-competitive behavior but anticipates and curtails upstream risks in data ecosystems.

Practical implications for business leaders

For companies navigating data-centric M&As in India, the reform wave translates into a concrete set of expectations. Notification decisions will increasingly hinge on data considerations alongside traditional financial metrics. Thorough data due diligence becomes a strategic priority: who owns what data, what rights exist to use and transfer data, how data interoperability can be preserved or foreclosed, and what third-party data dependencies may impose constraints. The design of post-merger governance should anticipate CCI oversight, with clear commitments around data access on fair terms, data portability where feasible, and processes for ongoing monitoring.

From a government policy perspective, the reforms signal a deliberate effort to align enforcement with the realities of a data-driven economy. They invite a more collaborative stance with other regulatory domains, including data protection and privacy, to ensure that competition remedies do not inadvertently contravene privacy norms or impede beneficial data collaboration. In practice, this means establishing procedural channels for cross-agency input in complex cases and developing sector-specific guidelines that address the unique competitive dynamics in e-commerce, digital advertising, cloud services, and data analytics.

What remains unsettled, and how to approach it

No reform is without questions. The precise valuation of data assets in a merger assessment, the calibration of new penalties across sectors with very different data dynamics, and the operationalization of data-focused remedies at scale are all complex problems. How the CCI will quantify data-driven foreclosures, measure the impact of data interoperability obligations, and balance the legitimate need for quick intervention with robust due process remains to be seen in practice. The interplay between competition enforcement and privacy law also warrants close attention, particularly in terms of ensuring that remedies do not undermine privacy protections or the broader rights of individuals over their data.

In the meantime, the budgetary and policy signals provide a guiding compass: continue to build capacity, improve evidentiary standards for digital markets, and craft sector-specific guidelines that illuminate how

data assets factor into competitive dynamics. The judiciary's evolving scrutiny, as described in commentary on the CCI's decision-making process, will likely push the CCI toward greater clarity and consistency in its reasoning, which in turn should bolster predictability for businesses and investors.

A path forward for a more contestable data economy

The reform of India's competition regime in the data era is not simply about policing governance. It is about enabling a healthier, more contestable data economy where innovation can flourish without sacrificing consumer welfare. The amendments are a signal that data will be treated not merely as a backdrop to commerce but as a central determinant of market power. Remedies will need to be nimble enough to address data-layer harms while preserving the incentives for data-driven innovation. The CCI's enhanced toolbox — from broadened triggers for notification to more nuanced remedies and timely interim relief — offers a framework to meet these challenges. The judiciary's progressive engagement with the CCI will likely push for sharper analytical clarity, ensuring that decisions are both economically sound and legally robust.

The digital economy rewards foresight. Competition law must do the same. In recognising that value, not revenue, often signals power, India has taken an important step. The task now lies in ensuring that the promise of reform translates into effective governance of the data frontier.

In sum, the path ahead is one of calibrated vigilance and thoughtful governance. India stands at a crossroads where data-driven acquisitions could redefine competitive landscapes in rapid, consequential ways. The amendments to the Competition Act, reinforced by budgetary signals and informed by global practice, aim to equip the CCI with the means to foresee, prevent, and rectify anti-competitive outcomes in a data-centric economy.

If implemented with careful attention to sector-specific dynamics, transparency, and inter-agency collaboration, the reform can help foster a digital market that rewards genuine competition, rewards innovation, and protects consumer welfare without dampening the very data-enabled capabilities that drive growth.