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## **Killer acquisitions are a threat to competitive markets: India's contribution to safeguarding innovation and developing the economy.**

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### **INTRODUCTION**

When the East India Company first came to Indian shores, it did so not as an invader but as a merchant. Gradually, through negotiating, gaining access to domestic supplies, and eliminating competition, it became powerful enough to dominate the subcontinent. Contemporary markets have faced a comparable threat: giant corporations today buy small but innovative businesses not to develop these, but to keep these from ever posing as competition. These “killer acquisitions” have come to mirror an identical model of eradicating future competition at its genesis, and it raises critical questions for India’s guardian regulator. In this article, we will learn what “killer acquisitions” are and read about India’s role in safeguarding small economies from their impact. We shall explore, in the first instance, some practical examples of killer acquisitions to understand how they function in practice, and also take an account of the strengths as well as vulnerabilities of India while considering historical context and the role of the Competition Commission of India (CCI).

### **DEFINING THE TERM "KILLER ACQUISITIONS"**

While the term "killer acquisition" does not have any well-defined, fixed meaning, the phrase itself tends to speak much about it. A killer acquisition occurs when one company acquires another in an effort to kill an innovation disrupting or having the potential to compete in the market. As economists like Colleen Cunningham (2018) have described it, "killer acquisition" refers to a situation where, in the strategy of the acquiring firm, development of

the target's innovation projects is discontinued with the aim of pre-empting future competition<sup>1</sup>. With this, it also kills jobs/employment and consumer choices.

Killer acquisitions may be reflected in Facebook's \$19 billion acquisition of WhatsApp in 2014, Facebook's \$1 billion acquisition of Instagram in 2012, and later, when Zomato acquired UberEats for \$350 million during 2020, a deal below the level set for Competition Commission of India review, but which nonetheless eliminated competition since Zomato and Swiggy were the established food delivery players<sup>2</sup>. Other examples include when Google purchased flight search software company ITA in 2011; the company leveraged this technology post-acquisition to dominate the market of air schedule display within a search engine.

They constitute a threat to competitive markets and innovation. These mergers and acquisitions mean a host of negatives and disadvantages. They halt the process of development of new products with their roots in innovation and may later on top industry behemoths. Lateral tensions are thus caused because huge players swallow the potential competitors, dominance is gained, and competition is distorted by suppressing the entrants and choking nascent firms. Consumers pay dearly with more limited options, greater expenses, and low-quality items. Innovators shy away, and small companies fold because of the deals falling below thresholds, disguising the economic damage. Power gets concentrated in the hands of a few; diversity is lost, barriers mount, and platforms manipulate services.

## **THE ROLE OF DATA IN KILLER ACQUISITIONS**

Killer acquisitions may see a large corporation acquiring the small business to eliminate them, but also make use of their data to increase profits and maintain leadership in the digital domain. When Meta bought WhatsApp and Instagram, the revenues that were derived were close to zero, but these platforms had huge quantities of user engagement data. This made Facebook improve the algorithms and understand the preferences of the users<sup>3</sup>. Facebook strategically acquired its emerging rivals and integrated their data. These types of acquisitions murder innovation, suffocate competition, and, by farming and consolidating data, build

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<sup>1</sup> Colleen Cunningham, Florian Ederer & Song Ma, Killer Acquisitions, 129 J. Pol. Econ. 649, 649–702 (2021).

<sup>2</sup> Organisation for Economic Co-operation and Development, Start-Ups, Killer Acquisitions and Merger Control – Background Note, DAF/COMP(2020)5 (May 12, 2020), [https://one.oecd.org/document/DAF/COMP\(2020\)5/en/pdf](https://one.oecd.org/document/DAF/COMP(2020)5/en/pdf).

<sup>3</sup> TOI Tech Desk, Mark Zuckerberg defends Meta's Instagram and WhatsApp acquisitions in antitrust trial, Times of India (Apr. 15, 2025), [https://timesofindia.indiatimes.com/technology/tech-news/mark-zuckerberg-defends-metas-instagram-and-whatsapp-acquisitions-in-antitrust-trial/amp\\_articles/120304653.cms](https://timesofindia.indiatimes.com/technology/tech-news/mark-zuckerberg-defends-metas-instagram-and-whatsapp-acquisitions-in-antitrust-trial/amp_articles/120304653.cms).

monopolies<sup>4</sup>. In the digital tech sector, acquisitions seem normal. Killer acquisitions facilitate the buying out not just of a competitor but the acquisition of market power at least with respect to the digital domain.

## **HISTORICAL EVOLUTION OF MERGER CONTROL TO COMPETITION ACT IN INDIA**

Specific barriers in Indian competition law were relatively fewer in the case of mergers. Killer acquisitions became a problem only later, so the Competition Act 2002<sup>5</sup> was enacted. Earlier, it was principally governed by the Monopolies and Restrictive Trade Practices Act, 1969<sup>6</sup>, which emphasised more on preventing monopolistic conduct, and the enforcement was largely complaint-driven and remedial. The problem was that acquisitions were reviewed after the harm had already been caused.

These businesses were mostly digital and innovation-driven, often with a huge user base and rich data but relatively low current assets and revenues, hence not falling within the ambit of CCI. These deals would not come under scrutiny. Innovation was throttled and competition subtly killed while the deals seemed legally valid. Issues like these were considered, and the concept of DVT (Deal Value Thresholds) came into being<sup>7</sup>. Coming into force on September 10, 2024, the threshold of DVT expands Competition Commission of India (CCI) review jurisdiction, especially in high-value mergers involving firms with minimal tangible assets, like firms in the digital sector.

DVTs were introduced in India under the Competition Amendment Act, 2023<sup>8</sup>. Competition Commission of India (CCI) review till recently remained confined to mergers involving assets or turnover thresholds. Under DVTs, all mergers involving more than ₹2,000 crore value with an India target with significant business operations must file notification. This provides Competition Commission of India (CCI) with an open avenue to investigate tech and start up deals which it could not have investigated earlier. Realistic example: Meta's

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<sup>4</sup> Mark Glick & Catherine Ruetschlin, Facebook, Acquisitions, and Potential Competition, Inst. for New Econ. Thinking (Oct. 21, 2019), <https://www.ineteconomics.org/perspectives/blog/facebook-acquisitions-and-potential-competition>.

<sup>5</sup> The Competition Act, No. 12 of 2003, § 3 (India), <https://www.indiacode.nic.in/bitstream/123456789/2010/7/A2003-12.pdf>.

<sup>6</sup> Monopolies and Restrictive Trade Practices Act, 1969, § 3, No. 54, Acts of Parliament, 1969 (India). <https://www.indiacode.nic.in/repealedfileopen?filename=A1969-54.pdf>.

<sup>7</sup> Priti Suri & Aastha Mathur, Reforming India's Merger Control Regime, Law.asia (Dec. 16, 2024), <https://law.asia/india-merger-control>.

<sup>8</sup> PRS Legislative Research, The Competition (Amendment) Bill, 2022, PRS India, <https://prsindia.org/billtrack/the-competition-amendment-bill-2022> (last visited Dec. 25, 2025).

acquisition of US customer support company Kustomer approximately ₹7,000 crore could have been instituted under DVT if Kustomer had more than 10% users in India<sup>9</sup>.

However, there are loopholes. Multi-step transactions may not be revealed, and hence gun-jumping provisions do not apply even when transactions are more than ₹2,000 crore. The definition of DVT is wide, which allows structuring of transactions below ₹2,000 crore. The term “substantial business operations” is vague. Entities with back-end or passive presence may fall out of the DVT definition. In foreign transactions where both the firms are foreign but India is indirectly affected, applicability of DVT is not certain.

India's start-up ecosystem is growing. The problem begins when large players acquire smaller firms and hinder their growth. Speedy digitalisation and concentrated digital markets Amazon and Flipkart in goods, MakeMyTrip in hotels, Zomato and Swiggy in food create vulnerability in India. Zomato's \$350-million takeover of UberEats in January 2020 evaded Competition Commission of India notice and is representative of a potential killer acquisition. From FY 2015 through FY 2019, about 582 acquisitions happened inside India's startup ecosystem<sup>10</sup>. Large platforms took acquisitions or investments in about 40 companies, but only three were filed with Competition Commission of India. Historical reliance on turnover thresholds exempted start-ups, creating an "enforcement vacuum". DVT was brought in by the Competition Amendment Act, 2023 to target high-value transactions with low revenue aspiration and avoid probable killer acquisitions.

### **GLOBAL PERSPECTIVE - THESE KILLER ACQUISITIONS HAVE RAISED DEBATE IN THE UNITED STATES, EUROPEAN UNION, AND DEVELOPING ECONOMIES, EACH HAVING ITS OWN WAY OF HANDLING THE MATTER.**

According to the US view, regulators are making life harder for incumbent acquisitions. That is reflected, for instance, in the FTC 2020 orders on GAFAM acquisitions and in Biden's 2021 Executive Order. The US mainly relies on pharmaceutical cases, for example the CEM-study<sup>11</sup>. If talking about the EU perspective, the EU actively fought killer acquisitions, which

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<sup>9</sup> Lakshmikumar & Sridharan, Competition Law in India – Deal Value Threshold and Other Changes Notified, Lakshmikumar & Sridharan (Sept. 12, 2024), <https://www.lakshmisri.com/newsroom/news-briefings/competition-law-in-india-deal-value-threshold-and-other-changes-notified/>.

<sup>10</sup> Mordor Intelligence, India E-Commerce Market Size & Share Analysis — Growth Trends and Forecast (2025-2030), Mordor Intelligence, <https://www.mordorintelligence.com/industry-reports/india-ecommerce-market> (last visited Dec. 25, 2025).

<sup>11</sup> Eleanor M. Fox & Michael A. Salinger, Reexamined: Economic Hyperbole in the Age of Populist Antitrust, 3 U. Chi. Bus. L. Rev. 1 (2021), <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1034&context=ucblr>.

pose a threat to competition and innovation, mainly in digital and biotech markets. In *Illumina/Grail Case T-227/21*<sup>12</sup>, the General Court of the European Union held that the EU had competence to examine acquisitions below the thresholds. Guidance given in 2021 enables National Competition Authorities to notify such transactions. Under the Digital Markets Act, gatekeepers have to notify the Commission of any concentrations. Taken together, what these approaches do suggest is a pattern: developed economies refine existing rules to cover innovation harms, and emerging markets seek preventative tools.

## **CROSS-BORDER KILLER ACQUISITIONS**

Foreign companies eye start-ups in India with unique innovations. Pressures to exit force founders to sell. Example: In 2023, Adobe picked up Rephrase.ai, a Bengalore start-up developing customised synthetic video media<sup>13</sup>. Another example is IBM buying Prescinto, an APM software vendor specializing in renewable energy<sup>14</sup>. Key sectors like AI, fintech, and edtech slip away to foreign hands owing to lacunae in India's competition laws as well as Foreign Direct Investment (FDI) guidelines<sup>15</sup>. This creates a need to devise solutions that would safeguard the national economy and innovation.

What essentially needs to be done is refinement of competition laws in India. Firstly, a wider and clearer sense needs to be given to the (Significant Business Operations test). The definition of SBO must be sharper so that digital enterprises come naturally in its realm. Secondly, there should be mandatory reporting of major tech acquisitions. Acquisitions made by a big company such as Google or Meta of a small company have to be compulsorily notified with the Competition Commission of India. Thirdly, *suo-motu* powers should be conferred upon the Competition Commission of India. SEBI and FDI authorities must coordinate with the Competition Commission of India and also exchange information wherever necessary. Killer acquisitions destroy innovation and small start-ups forever.

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<sup>12</sup> Greenberg Traurig, EU General Court Upholds Commission's Landmark Article 22 EECMR Review in *Illumina/Grail*, Greenberg Traurig (July 13, 2022), <https://www.gtlaw.com/en/insights/2022/7/eu-general-court-upholds-commissions-landmark-article-22-ecmr-review-in-illumina-grail>.

<sup>13</sup> Sudeshna Mitra, *The Big Moves of 2023: A Look Back at the Biggest Acquisitions in the Startup Ecosystem*, Inc42 (Dec. 1, 2023), <https://inc42.com/features/the-big-moves-of-2023-a-look-back-at-the-biggest-acquisitions-in-the-startup-ecosystem/>.

<sup>14</sup> Mark Segal, *IBM Acquires AI-Powered Renewables Asset Performance Management Software Provider Prescinto*, ESG Today (Oct. 15, 2024), <https://www.esgtoday.com/ibm-acquires-ai-powered-renewables-asset-performance-management-software-provider-prescinto/>.

<sup>15</sup> Competition Commission of India, *General Statement — The Competition Commission of India (Combinations) Regulations, 2024* (Sept. 9, 2024), <https://cci.gov.in/images/whatsnew/en/general-statement-combination-regulations1725954145.pdf>

Companies also make a profit from the data. They keep a watch on user engagement and then create monopolies in the digital world.

## **CONCLUSION**

Killer acquisitions establish dominance in the market. Reforms in Indian law from Monopolies and Restrictive Trade Practices Act (MRTP Act), 1969 to Competition Act, 2002 and Competition Amendment Act, 2023 introducing DVT despite their urgency, loopholes persist such as multi-step transactions and broad DVT definition. India thus needs to bring about changes in competition law with a view toward closing loopholes, all while keeping policy measures in mind.