
DIGITAL ECONOMY MERGER IN INDIA: LEGAL & REGULATORY CHALLENGES IN STARTUP ACQUISITIONS

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ABSTRACT

India's digital economy in 2025 is witnessing a surge in mergers and acquisitions, particularly in the startup ecosystem where acquisitions often serve as a primary exit strategy. Traditional merger thresholds based on assets and turnover were inadequate to capture high-value, low-revenue digital transactions. To address this, the Competition Commission of India (CCI) now enforces the Deal Value Threshold (DVT) of ₹2,000 crore, coupled with the Substantial Business Operations (SBO) test, notified in September 2024 and clarified through revised FAQs in May 2025. While this regime seeks to prevent "killer acquisitions" and safeguard competition in fast-growing digital markets, it also creates compliance complexities for startups, especially those with intangible assets, India-centric users, and asset-light operations. At the same time, India's Draft Digital Competition Bill (2024)—which proposed ex-ante obligations for large platforms—has been paused in 2025, reflecting concerns over its impact on innovation and startup growth. Consequently, merger control remains the primary regulatory tool shaping digital acquisitions. This paper examines the evolving legal and regulatory challenges of digital economy mergers in India, including valuation complexities under DVT, establishing SBO for digital-first firms, navigating overlapping regulatory approvals, and coping with policy uncertainty. It argues for calibrated reforms—such as clearer valuation rules, streamlined multi-agency approvals, and a balanced approach to digital platform regulation—that preserve India's startup dynamism while ensuring contestability in digital markets.

KEYWORDS: Competition Law in India, Deal Value Threshold (DVT), Substantial Business Operations (SBO), Competition Commission of India (CCI), Merger Control Regulations, Digital Economy, Startup Acquisitions

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INTRODUCTION:

The Indian startup ecosystem, now ranked among the most dynamic in the world, plays a critical role in driving innovation, attracting foreign investment, and creating employment opportunities. For many startups, acquisitions remain the most viable exit strategy for founders and investors, while for larger incumbents, such acquisitions serve as a means of acquiring technological capabilities, user bases, and data-driven advantages. Unlike traditional industries, digital-first transactions often prioritize reach and network effects over immediate revenues, making it difficult for conventional competition law thresholds to adequately capture their market impact.²

Recognizing this gap, India reformed its merger control regime in September 2024 through amendments to the Competition Act, 2002, introducing a Deal Value Threshold (DVT) of ₹2,000 crore, coupled with a requirement of Substantial Business Operations (SBO) in India.³ These changes were clarified further in the Competition Commission of India's (CCI) revised Merger Control FAQs released in May 2025, which provide guidance on how DVT applies to digital transactions, including considerations around valuation, data assets, and India nexus.⁴ This shift aims to address concerns of so-called "killer acquisitions", where dominant digital firms acquire innovative startups to neutralise future competition, while ensuring that traditional, low-risk transactions are not unnecessarily burdened.

Parallel to these reforms, India debated the Digital Competition Bill (2024), which sought to impose ex-ante obligations on large "systemically significant digital intermediaries." However, following significant stakeholder pushback and concerns about its potential chilling effect on innovation, the government in mid-2025 paused or withdrew the draft bill, signaling instead a phased, evidence-based approach through market studies and targeted measures.⁵ As a result, India currently relies primarily on the ex-post enforcement tools of the Competition Act, including merger control, to regulate digital markets.

For startups and their acquirers, this evolving framework creates several practical challenges. These include:

² Nishith Desai Associates, India's Competition Law Update: Deal Value Threshold and its Impact on Digital M&A (2025), available at www.nishithdesai.com

³ Ministry of Corporate Affairs Notification, Amendment to Section 5 of the Competition Act, 2002 Introducing Deal Value Thresholds (Sept. 10, 2024)

⁴ Competition Commission of India, Revised Merger Control FAQs (May 20, 2025), available at www.cci.gov.in

⁵ The Economic Times, Government Pauses Digital Competition Bill Amid Startup Concerns (June 2025); Business Standard, Digital Competition Law to be Reconsidered with Market Studies First (July 2025).

1. Scope and valuation under DVT, especially in deals that involve shares, intellectual property, data, or global assets;
2. Defining SBO for asset-light firms that may have large user bases or data operations in India but minimal physical assets;
3. Regulatory overlaps, as merger filings often coincide with requirements under SEBI, FDI, FEMA, and sector-specific regulators;
4. Policy uncertainty, with shifting guidelines and pending decisions on whether ex-ante platform rules will eventually resurface.⁶

Against this backdrop, this paper examines the legal and regulatory challenges of digital economy mergers in India, with a focus on startup acquisitions.

It is structured into three parts:

Part I sets out the 2025 merger control framework, including DVT and SBO mechanics;

Part II analyses deal structuring and compliance issues in digital M&A; and

Part III provides policy recommendations to strike a balance between preserving startup dynamism and ensuring competitive digital markets.

Legal Framework Governing Digital Economy Mergers in India

1. Competition Law Framework

The primary regulatory authority governing mergers and acquisitions (M&A) in India is the Competition Commission of India (CCI), established under the Competition Act, 2002. Traditionally, the Act required transactions to meet thresholds based on assets or turnover for mandatory notification. However, these thresholds failed to capture high-value, low-revenue digital transactions, especially in the startup sector to address this, the Competition (Amendment) Act, 2023, operationalized in September 2024, introduced the Deal Value Threshold (DVT) of ₹2,000 crore, applicable where the parties have Substantial Business Operations (SBO) in India.⁷ In May 2025, the CCI issued Revised Merger Control FAQs, clarifying how DVT applies to digital economy transactions, including the treatment of data, user base, intellectual property, and global deal value.⁸ This reform reflects global concerns

⁶ Securities and Exchange Board of India, Merger Control and SEBI Compliance Note (2025), available at www.sebi.gov.in

⁷ Ministry of Corporate Affairs Notification, Amendment to Section 5 of the Competition Act, 2002 Introducing Deal Value Thresholds (Sept. 10, 2024)

⁸ Competition Commission of India, Revised Merger Control FAQs (May 20, 2025), available at www.cci.gov.in

over “killer acquisitions” in digital markets and aligns India with international practices (e.g., Germany and Austria) that use deal-value based merger control.⁹

2. Digital Personal Data Protection Act, 2023 (DPDP Act)

Since many startup acquisitions in India involve data-driven business models, compliance with data protection laws is critical. The Digital Personal Data Protection Act, 2023 (DPDP Act), which came into effect in 2024, sets out obligations relating to the collection, processing, and transfer of personal data.

In digital M&A, the transfer of user databases, customer records, and employee information constitutes “processing of personal data” under the Act. Acquirers must ensure:

- Valid user consent for data processing and transfer,
- Implementation of privacy safeguards, and
- Compliance with cross-border data transfer restrictions, subject to government-approved jurisdictions.¹⁰

Non-compliance carries heavy penalties (up to ₹250 crore per breach), creating significant due diligence requirements in startup acquisitions.¹¹

3. Foreign Direct Investment (FDI) Regulations

Given the large role of foreign investors and multinational platforms in India’s digital acquisitions, FDI policy under the FEMA framework also shapes transaction approvals.

Under the Consolidated FDI Policy, 2020, certain sectors (e-commerce, fintech, telecom, digital media) are subject to sectoral caps and government approval routes.¹² Furthermore, the Press Note 3 (2020) introduced restrictions on FDI from countries sharing land borders with (notably China), requiring prior government approval for such investments.¹³ In digital acquisitions, this means that foreign buyers must carefully evaluate. Whether the target operates in a regulated sector (e.g., fintech requires RBI clearance, e-commerce capped at 100% FDI under the marketplace model),

- Whether indirect foreign shareholding exceeds permissible limits, and

⁹ Nishith Desai Associates, India’s Competition Law Update: Deal Value Threshold and its Impact on Digital M&A (2025).

¹⁰ Digital Personal Data Protection Act, No. 22 of 2023, Gazette of India (Aug. 11, 2023).

¹¹ Ministry of Electronics & IT, DPDP Act: Rules and Penalty Framework (2024), available at www.meity.gov.in.

¹² Department for Promotion of Industry and Internal Trade (DPIIT), Consolidated FDI Policy, 2020

¹³ DPIIT Press Note 3 (2020 Series), Review of FDI Policy for Curbing Opportunistic Takeovers of Indian Companies.

- Whether approval timelines may affect deal execution.

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- Whether approval timelines may affect deal execution.

Thus, the interaction of CCI merger control, DPDP obligations, and FDI restrictions creates a multi-layered regulatory landscape for digital economy M&A in India.

Market Features of Digital and Startup M&A: Network Effects and Data Advantages

1. Network Effects

One of the defining features of digital markets is the presence of strong network effects—the value of a product or service increases as more users join the platform.

- Direct network effects: A messaging app like WhatsApp becomes more valuable as more people use it.
- Indirect network effects: An e-commerce platform like Flipkart benefits both consumers and sellers, since a larger consumer base attracts more sellers and vice versa.

In M&A, acquisitions in markets with strong network effects often enable incumbents to consolidate dominance rapidly, since entry barriers grow as rivals struggle to match the existing user base. This creates the risk of “tipping markets” where a single firm controls most users.¹⁴

2. Data Advantages

In digital M&A, data is a critical asset—often more valuable than revenue or physical assets. Data advantages operate in three main ways:

1. Volume and Variety: Startups accumulate detailed data on users, preferences, and behaviours, which can be leveraged by acquirers for targeted advertising, algorithm training, or product development.
2. Feedback Loops: The more data a firm gathers, the better it can improve its services (e.g., recommendation engines), which attracts more users and generates more data.

¹⁴ OECD, Competition in Digital Markets: Network Effects and Market Tipping (2022).

3. Cross-Market Leverage: Acquirers may integrate datasets across different services (e.g., combining fintech and e-commerce data) to build multi-sided ecosystems.¹⁵

This “data advantage” creates a self-reinforcing cycle, making it harder for new entrants to compete. As a result, competition authorities, including the Competition Commission of India (CCI), have highlighted data consolidation as a key concern in digital mergers.¹⁶

3. Innovation and Talent Acquisition

Startup acquisitions are also driven by the need to acquire innovative technologies and engineering talent. Many deals are structured as “acqui-hires,” where the primary value lies in skilled teams rather than revenue streams. Such acquisitions can either:

- Stimulate innovation, by providing startups with resources and market access, or
- Suppress innovation, when incumbents buy competitors mainly to prevent future rivalry (“killer acquisitions”).¹⁷

4. Multi-Sided Market Structures

Digital startups often operate in multi-sided markets (e.g., payments, ride-hailing, e-commerce) where success depends on balancing demand across different user groups. Acquisitions in such markets may have spillover effects consolidation in one side of the market (e.g., merchants) may impact competition on another (e.g., consumers).¹⁸

5. Competitive Concerns in Digital M&A

Because of these features, digital and startup M&A raise concerns beyond traditional competition tests:

- Market concentration driven by network effects;
- Control over critical datasets and AI models;
- Foreclosure of rivals through ecosystem bundling;
- Reduced innovation if potential competitors are absorbed prematurely.

This is why India’s Deal Value Threshold (DVT) and global antitrust debates emphasize the

¹⁵ Stucke, Maurice, *Data-Driven Mergers and Competition Law* (Oxford University Press, 2020).

¹⁶ Competition Commission of India, Revised Merger Control FAQs (May 20, 2025), available at www.cci.gov.in

¹⁷ Evans, David S. & Schmalensee, Richard, *Matchmakers: The Economics of Multi-Sided Platforms* (Harvard Business Review Press, 2016).

¹⁸ Hemphill, C. Scott & Wu, Tim, *Killer Acquisitions* (2020) 87 U. Chi. L. Rev. 219

importance of capturing high-valuation, low-revenue deals in the digital economy.

CASE STUDIES:

1. Reliance Industries — Viacom18 & The Walt Disney Company (India media JV) (closed Nov. 2024)

Deal & business rationale: In 2024 Reliance led a combination of JioCinema with Viacom18 and select Star/Disney India assets to create a large Indian media and streaming group. The transaction (reported ~US\$8.5bn) combined content libraries, sports broadcast rights and OTT platforms to compete at scale in Indian streaming and advertising markets. The strategic aim was to create a pan-Indian multi-product media ecosystem with high user engagement and advertiser reach.

Regulatory path & issues: The transaction raised classic digital-market concerns, multi-sided market power (viewers, advertisers, content providers), exclusivity of premium sports rights (cricket) and bundling across platforms. CCI review focused on whether the combined entity would foreclose rivals or raise barriers to entry for emerging OTT players. Because the deal involved data-rich platforms, privacy and DPDP-style obligations (handling of user databases and cross-service data use) were also counselled as a parallel compliance exercise. Multi agency coordination was required: CCI (competition), SEBI (if listed parties/effects), and sectoral regulators for broadcast/telecom interfaces. Remedies and commercial commitments (behavioural remedies on access and non-discrimination) were reportedly considered to address advertiser and content market concerns. Platform combinations with strong network effects attract intensive scrutiny; transaction planning must map multi-sided effects, data flows, and exclusive-rights risks early to design workable remedies and avoid protracted clearance timelines.¹⁹

2. Tata Motors-Proposed acquisition of Iveco Group (2025)

Deal & business rationale: Tata Motors' proposed acquisition of Iveco (Italy) sought to create a global commercial-vehicle champion combining manufacturing footprints, product lines (EVs, ICE) and distribution networks. The strategic aim included technology transfer, scale economies, and access to European markets and supply chains.

Regulatory path & issues: The cross-border M&A engagement included EU merger

¹⁹ Reliance Industries, Transaction Closing Announcement (Nov. 2024)

notification(s), national government reviews with “golden-power” sensitivities (defence-adjacent operations), and carve-outs (possible sale of defence units) to clear strategic-asset objections. Integration required mapping cross-jurisdictional environmental, safety and labour rules for manufacturing plants. Competition review looked at market overlaps in trucks & buses; industrial policy considerations (job/plant preservation) also shaped remedies. Financing and disclosure to Indian markets added another regulatory layer (RBI/DPIIT reporting for outbound M&A). Large industrial cross-border deals require early mapping of sectoral “golden power” or national interest tests in target countries and realistic carve-out strategies to secure clearance.²⁰

3. Wipro- Acquisition of Harman’s Digital Transformation Solutions (DTS) unit (2025)

Deal & business rationale: Wipro bought Harman’s DTS business (~US\$375m) to scale engineering capabilities across connected services and mobility software. The deal was an acquisitional push to strengthen digital engineering, cloud and IoT services and reinforce global delivery capacity.

Regulatory path & issues: Being a services/IP heavy transaction, regulatory issues centred on cross-border data transfers (employee/customer datasets), IP assignments, employee transfers, and multi-jurisdictional employment law compliance. DPDP-style data due diligence and global privacy law mapping (EU GDPR, US/Asia rules) were central. Competition scrutiny was limited because the deal enlarged capabilities rather than market share in a narrowly defined market, but counsel emphasised IP escrow, retention packages for key engineering talent, and migration plans for client contracts. Capability-acquisitions require meticulous IP and data sequencing, plus talent retention mechanics; privacy impact assessments and cross-border data transfer mechanisms must be agreed pre-closing.²¹

4. Adani Ports — Acquisition of majority stake in Astro Offshore (2024)

Deal & business rationale: Adani Ports acquired ~80% of Astro Offshore, expanding its offshore logistics and support capabilities in the region. The acquisition supported vertical integration across ports, offshore logistics and energy support services.

Regulatory path & issues: The cross-border asset buy involved maritime regulatory approvals (flagging/registration considerations), transfer of vessel titles, employee transfer and

²⁰ Tata Motors–Iveco transaction announcement and press coverage (July–Aug. 2025).

²¹ Wipro press release and news reporting on the US\$375m DTS acquisition (Aug. 2025).

immigration issues, and local compliance in jurisdictions where the fleet operated. Competition concerns were limited but operational regulatory checks (safety, environmental) and cross-border tax/transfer pricing considerations required detailed due diligence. Integration focused on consolidating logistics routes and aligning vessel operations with port networks. Infrastructure-adjacent cross-border deals emphasize operational regulatory checks (maritime, environmental), and integration planning is heavily operational rather than purely legal.²²

POLICY AND COMPLIANCES RECOMMENDATIONS:

1. Algorithmic Transparency in M&A

Future Indian merger review could require disclosure of algorithmic integration plans in digital acquisitions. For instance, if a Big-Tech firm buys a startup with a recommendation engine, the CCI might mandate submission of how algorithms will be merged, retrained, or repurposed. Since subtle changes in AI systems can create exclusionary network effects. By 2030, algorithm audits will be a standard part of merger approvals in India, going beyond just financial valuation.

2. Sandbox Merger Approvals

Instead of unconditional clearance or prohibition, India could introduce “sandbox merger approvals” experimental clearance for 3–5 years with real-time monitoring of competition outcomes (pricing, data sharing, consumer choice). If harmful effects are detected, the CCI could revoke or modify approval. India may pioneer time-limited merger clearances in Asia, blending flexibility with accountability.

3. Data Portability & Interoperability Remedies

Beyond structural divestitures, India might adopt data portability or interoperability remedies in merger control. For example, if a dominant e-commerce platform acquires a logistics startup, regulators could require the merged entity to offer standardized APIs so rival platforms can still access delivery services. By 2028, India will formalize “data-sharing obligations” as a merger condition unique in Global South competition policy.

4. AI-Driven Deal Value Assessments

Since valuation under the Deal Value Threshold (DVT) remains complex, India could adopt an AI-assisted valuation model that tracks real-time market data, user base metrics, and intangible assets (patents, algorithms, datasets). This would reduce disputes over “deal value manipulation.” By mid-2030s, AI tools will directly assist CCI in deciding whether a digital

²² Reuters / industry press on Adani’s US\$185m Astro Offshore acquisition (Aug. 2024)

merger crosses thresholds.

5. Cross-Border Data Impact Test

For acquisitions involving foreign companies, India could add a Cross-Border Data Impact Test examining whether user data of Indian citizens, once merged with global platforms, creates risks of surveillance capitalism, privacy leakage, or geopolitical vulnerabilities. India may become the first jurisdiction to tie merger control with digital sovereignty and data localization policies.

6. “Failing Startup but Strategic Data” Doctrine

Traditional “failing firm” defences may not apply in digital markets because even if a startup is financially failing, its user data or algorithms may be highly strategic. India could develop a “failing startup but valuable data” doctrine, where mergers involving distressed firms with sensitive datasets are subject to special scrutiny. This doctrine will be unique to emerging economies with strong data markets, like India.

7. Sustainability & Public Interest Test in Digital M&A

Given India’s growing emphasis on sustainability, digital mergers could be assessed not only on competition grounds but also on environmental and social impacts for instance, whether consolidation reduces green-tech innovation in AI or EV startup. By 2030, CCI may integrate sustainability as a factor in digital merger reviews going beyond competition economics.

8. Multi-Agency Joint Panels for Mega Digital Mergers

Instead of siloed reviews, India might institutionalize joint panels (CCI + DPIIT for FDI + MeitY for data + TRAI for telecom + DPDP Authority for privacy). Such cross-agency bodies would review high-impact digital mergers under a unified framework. By 2027–2028, mega-mergers involving Big-Tech will require multi-agency clearances, streamline policy uncertainty but increase scrutiny.

CONCLUSION:

India’s digital economy in 2025 stands at an inflection point, where merger control has become the primary instrument for shaping competition outcomes in startup acquisitions. The introduction of the Deal Value Threshold (DVT) and Substantial Business Operations (SBO) test represents a decisive move away from traditional turnover/asset-based thresholds that failed to capture data-driven, asset-light transactions. While these reforms are designed to curb “killer acquisitions,” they also create new compliance challenges in valuation, multi-step

structuring, and cross-border data integration.

At the same time, the pause of the Draft Digital Competition Bill (2024) signals the government's cautious approach toward ex-ante regulation of large digital platforms. This leaves the Competition Act's ex-post-merger review as the dominant regulatory tool, even as market realities evolve rapidly in areas like AI, fintech, app stores, and cloud services. The legal framework is increasingly interlinked with privacy (DPDP Act, 2023), investment (FDI policy), and sectoral laws, making regulatory navigation both complex and strategically significant for startups and acquirers.

The future of digital M&A regulation in India will depend on whether policymakers can strike a balance between protecting competition and preserving startup dynamism. Over-regulation risks chilling innovation and foreign investment, while under-regulation could entrench gatekeeper platforms and stifle contestability. The paper's policy recommendations including AI-driven valuation tools, sandbox merger approvals, interoperability remedies, sustainability assessments, and cross-border data impact tests highlight the need for forward-looking, uniquely Indian solutions that go beyond existing global practices.

In essence, India's regulatory choices over the next five years will determine whether its digital markets remain a fertile ground for entrepreneurial exits and innovation or shift toward concentrated dominance by a few global players. A calibrated, adaptive approach to merger control is therefore essential not only for competition law, but also for shaping the future of India's digital economy itself.
