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Mergers and Acquisitions in India: An In-depth Analysis of Indian Companies and the Legal Environment

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ABSTRACT

The most significant event in an organization's life is a merger or acquisition, which has a big influence on its operations and activities. Mergers and Acquisitions (M&A) include the transfer or combination of ownership of businesses, other business entities, or operating divisions. Mergers and acquisitions, as a facet of strategic management, allow companies to grow, downsize, or shift their market position and operational framework.

This research paper explores the legal environment surrounding M&A in India, with a particular emphasis on the regulatory frameworks established by the Competition Act 2002, the Companies Act 2013, SEBI, Insolvency and Bankruptcy Code 2016 and other relevant legislations. Regulatory authorities like the Competition Commission of India (CCI), the Securities and Exchange Board of India (SEBI), and the National Company Law Tribunal (NCLT) are instrumental in maintaining transparency, fairness, and competitive balance in M&A transactions. Their regulatory frameworks have played a pivotal role in shaping the mergers and acquisitions environment by promoting openness, safeguarding fair competition, and mitigating anti-competitive risks.

This dissertation combines theoretical insights with empirical analysis to assess the role of legal and regulatory bodies, such as the Competition Commission of India and the Securities and Exchange Board of India (SEBI), in overseeing M&A activities. Case studies of some M&A transactions are utilized to identify key factors influencing the outcomes of these deals and to analyze how Indian companies navigate the legal frameworks and market conditions.

Keywords: Mergers & Acquisitions, Legal Framework, Domestic mergers & Cross-border mergers.

1. INTRODUCTION

In India, mergers and acquisitions were not widely accepted until 1988. A very small portion of the nation's companies used to band together during that time, usually in a cordial purchase with a negotiated agreement. The MRTP Act of 1969's prohibitive and regulatory measures were the main reason why fewer corporations participated in the merger. This Act requires a company or firm to go through an onerous process in order to obtain clearance for mergers and acquisitions. The year 1988 marked a significant, though unsuccessful, attempt at a hostile takeover in India when Swaraj Paul sought control over DCM

Ltd. and Escorts Ltd. This effort, despite its failure, encouraged further interest among non-resident Indians, who explored acquiring stakes in Indian companies via stock market investments. However, such ambitions were largely limited by India's closed economic structure prior to the liberalization reforms of 1991. Establishing an industry needs a variety of permits and registrations under different laws. There was very little room for reorganization because of the stringent regulations and restricted government policies.

After 1991, however, the Industrial Policy's primary focus was on easing restrictions on foreign investments, industrial licensing, technological transfers, etc. Economic liberalization, globalization, and market opening prompted the Indian corporate sector to restructure companies to adapt to new challenges and seize emerging opportunities.

M&A is widely recognized as the primary method for corporate restructuring and business consolidation, significantly influencing the structure and competitiveness of the modern economy. As discussed by Anthony (2019) and Sahu & Agarwal (2017), mergers and acquisitions are strategic initiatives that support improved financial outcomes and long-term business expansion.

2. MERGER

It is the legal consolidation of two organizations into one. This can happen through absorption, amalgamation, or the creation of a new business. It involves two companies coming together to form one new company, where the original identity of one or both is no longer retained.

Some recent examples of merger are:

- PVR and Inox
- JIO and Hotstar

Types of Mergers

The following are the main types of Mergers:

1. Horizontal Merger- It occurs when two businesses that provide comparable goods in the same market and are directly competing with one another combine, sharing product lines and marketplaces. It makes the market less competitive. Benefiting from economies of scale, lowering competition, obtaining monopoly status, and controlling the market are the primary goals of horizontal mergers.
   Examples- PVR and Inox

2. Vertical Merger: It is done between organizations which belong from different product lines as well as different nature of an industry. Companies in the same industry but at different phases of the production process can unite through a vertical merger. To put it another way, it happens when two businesses buy or sell something to or from one another. It aids in decreasing inventory costs.

   Examples- Reliance with FLAG Telecom Group, Microsoft Corporations with Nokia Corporations, etc.

3. Conglomerate Merger- In this, two businesses that do not share any business domains are merging. It describes the merger of two businesses that are in different industries. The target company's operations are completely distinct from those of the purchasing company.
   Examples- L&T with Voltas Limited.

4. Congeneric Merger: It can be done between an organization that belongs to the same nature of the business but does not deal in the same products. By this, an organization can easily capture a larger number of customers as well as also sharing technology secrets.
   Example- Prudential with Bache & Company etc.

3. ACQUISITION

When one organization purchases stock, equity interests, or other assets from another, this is known as acquisition. It occurs when a business buys a majority stake in the stock of another business that already exists. Companies maintain their distinct legal identities even after the takeover, even while the management of both businesses' changes. The only thing that has changed is who controls the businesses; they are still autonomous and distinct.

Recent examples:

- Flipkart and Myntra ($89300-330 million)
- Ola and Taxi for Sure ($200 million)

Types Of Acquisition

1. Direct Acquisition- In this case the acquirer directly acquires shares or voting rights or control over the target company.

2. Indirect Acquisition- Regulation 5(1) of the Takeover Code defines **indirect acquisition** as a transaction where shares, voting rights, or control in a company or entity are acquired in such a manner that the acquirer, directly or indirectly, gains control over the target company. If the acquisition normally require a public open offer under SEBI regulations, it is considered an indirect acquisition.

4. LITERATURE REVIEW:

The book Merger Control in India: Law and Practice by Tarun Mathur effectively outlines the key concepts and legal principles related to mergers and acquisitions, as well as the relevant regulatory framework in India.

Similarly, the Review Committee on Competition Law Report offers an in-depth examination of competition law and proposes several reforms aimed at improving both the law and the Competition Commission.

Similarly, studies by Jain and Kumar (2015) and Singh and Bansal (2018) have explored the implications of the different amendments on M&A transactions, emphasizing the need for compliance and due diligence.

Cross-border M&A transactions and their regulatory implications have been a subject of interest in literature, reflecting the growing trend of globalization. Researchers like Kapoor and Agrawal (2016) have examined the opportunities and difficulties of cross-border M&A deals in India, stressing the significance of negotiating cultural and legal differences.

5. RESEARCH METHODOLOGY

This dissertation employs the legal doctrinal method of research, relying extensively on secondary sources. In the course of the study, statutes, case laws, legal journals, and reviews have been thoroughly examined. A judicious blend of these materials has been utilized to explore the concept of mergers and acquisitions, and to map out its various dimensions. The study also incorporates specific case analyses to evaluate the influence of key legislative frameworks.

6. OBJECTIVES

To study merger and acquisition law structure of India.
To study significant mergers and acquisitions of Indian businesses.
To study domestic and international mergers and compare the difficulties associated with each.

7. LEGAL MECHANISMS REGULATING M&A IN INDIA

Legal environment in India which is surrounding M&A is intricate and involves various laws, rules, and regulatory authorities. This framework aims to ensure that mergers and acquisitions are carried in a fair and transparent manner, and are in line with the nation's broader economic objectives and regulatory policies.

Following are the legal provisions and regulatory components dealing with the Mergers and Acquisitions transactions in India.

Companies Act,2013

It serves as the primary legislation regulating corporate operations in India. Sections 230 to 240 of the Act encompass the statutory provisions related to M&A transactions, addressing schemes of arrangement between companies, their shareholders, and creditors. The National Company Law Tribunal (NCLT), established under this Act, plays a central role in overseeing and approving merger and amalgamation proposals.

Section 230- "Right to undertake Arrangements or Settlements with Creditors and Shareholders":

It empowers a company to enter into a compromise or arrangement with its creditors and/or members, generally in situations involving restructuring, debt settlement, or reorganization. This power is subject to judicial oversight and creditor/member approval.

Section 231- "Power of NCLT"

NCLT must issue an order approving the plan after it has been approved by the stakeholders and creditors.

Section 232-Merger and Amalgamation of Companies:

It covers the procedure for mergers and amalgamations of companies (both public and private). The scheme must be approved by:

- Special resolution accepted by the companies shareholders at their general meetings;
- The BOD of the concerned companies;
- Once scheme received the required approvals from creditors and shareholders, it must be submitted to the NCLT for approval.

After verifying that the legal procedure has been followed, the NCLT may grant the plan final approval.

Section 233-“Fast Track Mergers”:

This section allows for fast-track mergers and demergers between certain classes of companies (e.g., holding, and subsidiary companies, or between small companies). If the companies meet the eligibility criteria, the process is simplified and does not require NCLT approval (which otherwise would be mandatory). It requires permission of the BOD and creditors, but not the general meeting of stakeholders. Compared to the typical merger process, the approval process is less formal and faster.

Section 234 – “Merger or Amalgamation with Foreign Companies”:

Combinations between Indian and foreign companies are permitted under this section. However, these transactions must comply with FEMA regulations and the FDI Policy. Approvals from the RBI and potentially the Government of India may also be necessary.

Section 235- “Central Govt. may Acquire Shares of Shareholders”:

It empowers the central govt to interfere in cases where a merger or acquisition scheme entails the compulsory acquisition of shares held by minority shareholders. Such intervention becomes particularly relevant in takeover scenarios where minority shareholders are either unwilling or unable to accept the terms of the offer.

Section 236- “Acquisition of Shares Belonging to Dissenting Minority Shareholders”:

The acquiring company can compel the buyout of shares held by shareholders who oppose the merger, as long as fair value is offered. This serves to ensure that the restructuring process remains balanced and equitable for minority shareholders.

Section 240-“Power to Make Rules”;

It gives the MCA, the authority to create rules and regulations concerning mergers, demergers, and related matters. These rules include details on the procedure to be followed and documentation required for seeking approval from the NCLT.

Competition Act 2002

The inclusion of the merger and acquisition provisions within the Act was intended to maintain a delicate balance between encouraging economic development through corporate restructuring and safeguarding competitive market conditions. The Act established the (CCI) as the regulatory authority responsible for scrutinizing and approving such combinations.

Threshold Limit For Combination

Under Section 5, entities engaging in a merger, acquisition, or amalgamation must notify the CCI when the transaction meets or exceeds the prescribed asset or turnover thresholds.

TYPE	**APPLICABLE TO**		**ASSETS**	TURNOVER
Direct Acquisition	Individual	India	Rs 1000 crore	Rs 3000 crore
		In and outside India	US $ 500 million (500 cr in India)	US $ 1500 million (1500 cr in India)
	Group	India	Rs 4000 crore	Rs 1200 crore
		In and outside India	US $ 2 billion (500cr in India)	US $ 6 billion (1500 cr in India)
Indirect Acquisition	Individual	India	Rs 1000 crore	Rs 3000 crore
		In and outside India	US $ 500 million (500 cr in India)	US $ 1500 million (1500 cr in India)
	Group	India	Rs 4000 crore	Rs 1200 crore
		In and outside India	US $ 2 billion (500 cr in India)	US $ 6 billion (1500 cr in India)
Mergers and Amalgamation	Individual	India	Rs 1000 crore	Rs 3000 crore
		In and outside India	US $ 500 million (500 cr in India)	US $ 1500 million (1500 cr in India)
	Group	India	Rs 4000 crore	Rs 12000 crore

		In and outside India	US $ 2 billion (500 cr in India)	US $ 6 billion (1500 cr in India)

Procedure Under Indian Competition Regime

Step 1: To notify- As per Section 6(2), parties must notify the CCI within 30 days of either the board's approval or the execution of the relevant transaction documents. The transaction, however, cannot be implemented until the earlier of 210 days from the date of notification or the Commission's decision under Section 31.

The CCI mandates this notification to evaluate whether the proposed combination could result in (AAEC) in the relevant market. In evaluating a proposed combination, the Commission relies on factors laid out in Section 20(4) of the Act. These include the level of current and potential competition, the role of import competition, entry barriers for new firms, and the concentration level within the market.

Additionally, the 2016 Amendment Regulations introduced procedural refinements to the assessment of combinations, making it obligatory for new business arrangements recognized by the CCI to comply with the requirements of Section 6(2) of the Act.

Step 2: Inspection of the notice- Section 29 and the enacted Regulations outline the inquiry process that the Commission will pursue following notice.

(i) **Examination of notice:** After receiving the combination receipt, the Commission initiates a preliminary scrutiny as its first procedural step.
(ii) **Prima facie opinion:** In accordance Section 29(1), the Commission is obligated to form a prima facie opinion within thirty days of receiving the combination notice. Should the Commission form the prima facie view that the proposed combination may cause an appreciable adverse effect on competition (AAEC), it may proceed with a detailed investigation in accordance with the procedure set out under Section 29, as given under Section 31(1) of the Act.

a) **Notice of show cause:** As per Section 29(1), the Commission must give a notice to show cause, requesting that they reply within thirty days of receiving it.

b) **Submissions of the parties**

c) **Option to ask the DG for a report**: As per Section 29(1A), the Commission may seek a report from the Director General, who must provide it within the period set by the Commission.
d) **Directing the parties -** The Commission may order the parties to the combination in question to publish the combination's details within ten working days of receiving the directive. The time provided for issuing this direction is 7 days from the date of receipt of response from parties. [Section 29(2)].

e) **Inviting objections -**The Commission can ask the public or any person concerned to share their objections if they feel affected by the proposed merger—within fifteen working days after the deal details are made public. [Section 29(3)].

f) **Seeking further details from the parties.** - The Commission may request further information from the parties within 15 days of the time frame outlined in section 29(3).

g) **Proceed to issue the final decision -** After receiving all required information and the 45-day period under sub-section (5) has expired, the Commission will act in accordance with Section 31(1) or 31(2).

However, in certain situations, the Commission may believe that such a negative effect can be avoided by making the right changes to the combination, and it may suggest such changes to the parties [Section 31(3)].

Securities Law

SEBI (SAST)) Regulations, 2011:

SEBI established the Takeover Code in 2011, formally known as the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, to regulate share acquisitions and takeovers involving listed companies in India. The framework promotes fair practices, transparency, and protects shareholder interests.

A takeover involves an acquirer gaining substantial shareholding and control of a target company, either alone or with persons acting in concert, to pursue business growth or diversification via inorganic expansion.

The Company making the bids known as “acquirer” in the acquisition process.

Open Offer Obligations- Making a "open offer" to shareholders is the most important duty under the Code. It provides an exit opportunity to the public/minority shareholders of a company in instances where there is any substantial change in shareholding or change in the control of the company.

It is mainly of two kinds :-

A. Mandatory
B. Voluntary

Mandatory open offer gets triggered in the following cases:-

I. **Initial Threshold Limit:** Regulation 3(1)
An acquirer, along with (PACs), is permitted to acquire up to 24.99% of the shares or voting rights in a listed Indian company. Once an acquirer crosses 25% of voting rights in a company, they are legally required to make a public open offer to buy at least 26% more shares from public investors, as per the Code.

II. **Creeping Acquisition:** Regulation 3(2)
It allows an acquirer already holding between 25% and 75% of shares or voting rights in a target company to increase their stake by up to 5% of the total voting rights in any financial year ending on March 31. This incremental acquisition, commonly referred to as “Creeping Acquisition.”

III. **Acquisition of Control:**
An acquisition resulting in the acquirer obtaining "control" over a target company, irrespective of the shareholding or voting rights percentage, constitutes a triggering event under the Takeover Code, thereby invoking mandatory disclosure and regulatory compliance requirement.

In cases where a mandatory open offer is triggered, the acquirer must, in line with the provisions of the Code, extend an offer to public shareholders to acquire 26% of the total shareholding in the target company.

Open Offer Process

As per Regulation 12, a public announcement of a share acquisition must be issued via a SEBI-registered merchant banker and submitted to all stock exchanges where the target company is listed.

1.Triggering Event

- It arises when an acquirer exceeds specified thresholds such as acquiring 25% or more of the voting rights in a listed company, or when an existing shareholder holding between 25% and 75% acquires an additional 5% or more within a 12-month period.

2. Public Announcement (As per Reg. 13)

- The acquirer must publicly announce the open offer within four working days of triggering the obligation.

3. Opening Bank Account & Depositing Funds

- In accordance with Regulation 17 , the acquirer is required to open an escrow account and deposit at least 25% of the total consideration for the open offer within two working days of making the public announcement.

4. DPS

- Following the public announcement, Regulation 14 mandates that the acquirer publish DPS within 5 working days.

5. Draft Letter of Offer with SEBI

- The acquirer is required to submit a DLOF to SEBI within 5 working days of publishing the DPS. This document must contain key details about the open offer, including the offer price, shareholding pattern, and other relevant information. SEBI will review the DLOF and may provide comments or request modifications as necessary

6. Expiry of Competing Offer Period

- After the DPS publication date, the acquirer who made the first public notice has 15 working days to submit a competing offer.
(Regulation 20)

7. SEBI comments on DLOF

- After reviewing the (DLOF), SEBI provides its comments and approval. The acquirer must address any queries or amendments suggested by SEBI before proceeding with the next steps.

8. Dispatching LOF to Shareholders

- Once SEBI gives approval, the acquirer must dispatch the LOF to the shareholders within a specified period.

9. Tendering Period

- It refers to the period when shareholders can tender their shares to the acquirer. This period must be open for **10-15 working days** and provides shareholders with the opportunity to accept or reject the offer.

10. Closure of Tendering Period

- The tendering period closes after 10-15 working days of being open. No shares can be tendered after the closure of this period.

11. Payment to Shareholders

- After the tendering period ends, the acquirer has 10 working days to pay shareholders whose shares were accepted in the open offer.

8. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations)

Regulation 37 of the SEBI LODR outlines the essential conditions designed to ensure transparency and safeguard the interests of all shareholders, especially minority shareholders, throughout the restructuring process.

Key Conditions for Listed Companies Under Regulation 37:

1. **Pre-Filing with Stock Exchanges-** Before submitting an application to the NCLT, companies must submit their draft plan of arrangement to the stock markets**.**
2. **Stock Exchange Review-** Stock Exchange review the scheme for compliance and fairness. They can approve, suggest changes, or raise objections.
3. **SEBI Filing-** If listed entities are involved, the scheme must also be filed with SEBI for review and approval.
   SEBI can approve, reject, or recommend modifications.
4. **Shareholder & Creditor Approval-** Approval must be obtained as per Section 230-232 of the Companies Act, 2013, via meetings or voting.
5. **Independent Valuation-** An independent valuer or merchant banker must provide a **fairness opinion and valuation report** on the scheme.

6. **Disclosures**- Full and transparent disclosures must be made to shareholders and the public, including rationale, financials, and material information.
7. **Regulatory Approvals**- All required regulatory clearances (e.g., from RBI, CCI) must be obtained, and conditions reflected in the final scheme.
8. **Post-Approval Filing with NCLT**- Once shareholder and creditor approvals are secured, the scheme is filed with the **NCLT** for final approval.
9. **Timely Execution & Compliance**- The scheme must be implemented as per timelines under the law.
   Any delays or non-compliance must be reported to SEBI and the stock exchanges.

Income Tax Act, 1961

Capital Gains Tax

It considers any transfer of capital assets during mergers or acquisitions as a taxable event. The applicable tax treatment includes:

- **STCG** under Section 111A: Taxed at 15% for listed equity sold within a year.
- **LTCG** under Section 112A: Taxed at 10% on gains exceeding ₹1 lakh for holdings above 12 months.

Section 47 provides that no capital gains tax is levied if the transfer is in consideration of shares in the resulting company and other prescribed conditions are fulfilled.

Section 72A of Act allows the amalgamated company to carry forward and set off the unabsorbed losses and depreciation of the amalgamating company, provided certain specified conditions are met.

Tax Policy Reforms Influencing Mergers and Acquisitions in 2024

- The M&A tax environment in 2024 has been impacted by a number of recent reforms in India:
- Corporate Tax Rate Reduction: The govt. has revised the corporate tax structure, reducing the rate to 22% for domestic companies and 15% for newly established manufacturing firms. This strategic move aims to stimulate investment and attract foreign capital, thereby positioning India as a more favorable destination for mergers and acquisitions.
- Details Regarding Indirect Transfers: The Indian tax authorities have issued more explanations on the taxation of indirect transfers, which occur when foreign corporations use offshore transactions to transfer ownership of Indian assets.
- Equalization Levy The Equalization Levy, introduced by India to tax digital transactions, has become an important factor in these kinds of deals involving tech and digital companies. It affects how these transactions are structured and priced.

Foreign Exchange Management Act,1999

FEMA deals with the idea of cross-border mergers. It refers to any agreement, merger, or combination between Indian and foreign businesses. According to FEMA regulations, any cross-border transaction must be completed through the RBI in accordance with the 25th rule of the CAA Rules, 2016.

It can be divided into two types:

1. Inbound Merger- It occurs when a foreign company joins forces with an Indian Business. As a result, the Indian company receives all of the assets and liabilities.

   Example- Daiichi acquired Ranbaxy

2. Outbound Merger- It occurs when an Indian company joins forces with a foreign company, all of the assets and liabilities are transferred to the foreign company. This is known as an outbound merger. Example- Tata steel acquired Corus.

Cross-Border M&A and Jurisdictional Issues

This adds complexity because of disparate legal systems, regulatory frameworks, and cultural factors. Problems with jurisdiction can lead to difficulties with enforcement, compliance, and litigation.

Regulatory and Compliance Challenges:

- **Approval from Multiple Authorities:** A cross-border M&A transaction often requires approval from regulatory bodies in multiple jurisdictions. For instance, the European Commission oversees such deals in the EU, while in the U.S., approval may be required from the FTC or the DOJ. This can lead to delays, additional conditions, or even complete blockage of the transaction.
- **National Security Concerns:** Certain cross-border transactions may trigger national security considerations, particularly when foreign investors seek to acquire ownership of strategically sensitive domestic assets. In the United States, such transactions are subject to review by the **(CFIUS)**, which evaluates whether the proposed investment poses any risks to national security.
- **Currency and Exchange Regulations:** Cross-border M&A deals often involve multiple currencies, which can complicate the structuring of the deal and create potential issues related to exchange rates, capital controls, and tax implications. In certain jurisdictions, governments may impose restrictions on the transfer of money, requiring careful planning.

Intellectual Property (IP) Issues:

- **IP Transfer and Ownership:** In many M&A transactions, IP is one of the most valuable assets being transferred. Legal disputes can arise if the target company has complex IP ownership arrangements, such as joint ventures or licensing agreements. It is essential to establish clear ownership of all IP assets.
- **IP Valuation:** Determining the value of IP Can be challenging, particularly for intangible assets such as software, patents, or proprietary technologies. IP can significantly impact the purchase price, and disagreements over its valuation can lead to post-closing disputes.

Labor and Employment Law Issues:

- **Employee Contracts and Liabilities:** When one company acquires another, it may inherit existing employment contracts, including those with unionized workers, which may contain terms regarding benefits, severance, or pensions. Any pre-existing labor disputes or contractual obligations must be carefully managed to avoid triggering costly legal claims.
- **Worker Protections and Layoffs:** Different jurisdictions have varying labor laws, especially regarding worker protections and rights in the event of layoffs or workforce changes. For example, the European Union mandates specific procedures for worker consultation and protection during M&A transactions, which can lead to delays or additional costs for the buyer.

Tax Implications:

- **Transfer Pricing:** In cross-border M&A transactions, transfer pricing rules come into play. These rules govern how prices are set for goods, services, or intellectual property transferred between subsidiaries in different tax jurisdictions. M&A deals may trigger scrutiny from tax authorities, especially if the pricing arrangements appear to be structured in a way that minimizes tax liabilities.
- **Capital Gains and Withholding Taxes:** Capital gains taxes may apply to the sale of shares or assets in an M&A transaction. In cross-border deals, withholding taxes on dividends, interest, or royalty payments may be an issue. Understanding the tax treaties between jurisdictions is crucial to minimizing withholding taxes and avoiding double taxation.

9. IMPACT OF LEGAL REGULATIONS ON M&A ACTIVITIES

Null Hypothesis (H_0): The existing legal framework regulating mergers and acquisitions in India does not contribute to enhanced business outcomes or market position.

Alternative Hypothesis (H_1): The legal framework for M&A in India positively contributes to business success, improved financial performance, and greater market competitiveness.

IBC, 2016

The IBC came into effect on May 28, 2016. During the years 2018 and 2019, more than a dozen cases were successfully closed, resulting in an aggregate recovery value of over USD 10 billion—reflecting the growing efficacy of the IBC framework.

An amendment to the IBC, 2016 clarified that resolution plans could include restructuring mechanisms such as M&A and demergers of the corporate debtor's organization. Notably, even prior to this amendment, the judiciary and the spirit of the Code had already supported such transactions, as evidenced by successful cases like the merger of Synergies Casting Limited with Synergies Dooray Automotive Limited.

According to the 2019 M&A Report by Bain & Company in partnership with the (CII), M&A activity in India rose by 70% in 2018, primarily due to a rise in distressed transactions under the (CIRP). The report underscores the transformative role of the IBC in reshaping investor perception, offering a streamlined route for distressed asset acquisition. Approximately two-thirds of these were direct M&A deals involving the acquisition of the distressed entity itself, while the remaining one-third were indirect, stemming from distress in parent firms. The efficiency of the IBC regime has been significantly bolstered by consistent support from the judiciary and the government.

Competition Act 2002

The government and CCI have continuously simplified and clarified the exemptions that are available, including those for intragroup transactions and minor target financial investments.

The CCI has shown commendable adaptability in procedural matters, taking proactive steps to address stakeholder concerns. These measures include revising filing forms, issuing comprehensive guidance notes, and offering informal consultations on both procedural and substantive issues. To minimize uncertainty during merger reviews, the Commission now strongly advocates pre-filing consultations. As a result of these initiatives, CCI stands out as one of the most engaged and progressive merger control authorities worldwide.

Green Channel (Deemed Approvals)-

By amending the Existing Combination Regulations on August 13, 2019, a new Regulation 5A was added, codifying the green channel. For specific combinations in which there are no commercial overlaps of any kind horizontal, vertical, or complementary between the parties to the merger, the green channel approach is a fast-track procedure of presumed CCI clearance. Under Indian merger control, the Green Channel applies to purchases (perhaps even 100% acquisitions) of a target that have no complimentary, vertical, or horizontal linkages to the acquirer's firm. Such a notification may be authorized instantly or on the scene thanks to CCI. Parties may discuss the proposed Green Channel notice with the Commission using the informal advice procedure for five to ten days. Because the Green Channel significantly shortens deal deadlines (by over two months), the corporate community has embraced it.

Companies Act, 2013

The introduction of this act marked a transformative shift in the framework governing corporate regulation in India. MCA notified 90 sections of the Act. Among these were the crucial provision contained in Chapter XV (Sections 230 to 240). Complementing these statutory provisions, various rules were also notified.

Impact of M&A Provisions under Companies Act 2013

1.Simplified & Time-Bound Merger Process

- M&A approvals shifted from High Courts to NCLT, significantly reducing delays and transaction costs.
- Reduced cost and procedural delays, increasing deal feasibility.

2.Introduction of the Fast- Track Mergers

- Section 233 enabled small companies and wholly owned subsidiaries to merge without NCLT approval.
- Decreased transaction time to as low as 3–4 months.

Example: Mergers of internal group subsidiaries (e.g., Tata Group, Mahindra Group) used fast-track provisions to streamline internal restructuring.

3. Cross-Border Mergers Enabled (Section 234)

- For the first time, outbound cross-border mergers were permitted under Section 234 with RBI approval, fostering global integration.
- Now, both inbound and outbound mergers are allowed with RBI permission.

Example: Siemens India merged its Indian and global business arms under a unified structure post this amendment.

4. Increased Transparency & Disclosure

- Mandatory valuation reports, auditor certificates, and creditor NOCs improved due diligence.
- Helped in gaining investor confidence, especially in listed company mergers.

5. Minority Shareholder Protection

- Sections 235 and 236 provided robust mechanisms for minority buyouts and increased disclosure norms, enhancing investor confidence and transparency.
- Strengthened corporate governance and reduced post-merger litigation.

6. Alignment with SEBI & CCI Frameworks

- Ensured synchronization of approvals from NCLT, SEBI, and CCI in large mergers.
- Enabled faster clearance of big-ticket mergers like HDFC Ltd–HDFC Bank.

10. INDIAN M&A LANDSCAPE: CASE STUDIES

Resolution Through Acquisition

The 2018 acquisition of Bhushan Steel Ltd. by Tata Steel Ltd. is widely regarded as a landmark case demonstrating the effective implementation of the IBC, 2016. Following the acquisition, (TBSL) was constituted, which was later merged with Tata Steel in 2019.

According to findings by the Serious Fraud Investigation Office (SFIO), BSL's insolvency stemmed from significant financial mismanagement, including the misappropriation of funds by its promoters. The company was burdened with outstanding debts amounting to ₹56,000 crore at the time of insolvency.

Timeline: -

DATES	EVENTS
July 26, 2017	CIRP process was initiated under IBC Code 2016.
March 22, 2018	The COC voted TSL as the successful resolution applicant.
May 15, 2018	NCLT approved TSL's resolution plan.
May 18,2018	Tata Steel's fully owned subsidiary (BNPL) purchased a 72.65% controlling interest in the business.
November 27, 2018	The Indian government's Ministry of Corporate Affairs formally approved this.

Post-Merger

Tata Bhushan Steel Ltd. (TBSL) functioned as the acquirer in the acquisition structure. Bhushan Steel Ltd. (BSL) acquired 72.65% of TBSL's equity for a consideration of ₹158.89 crore. An additional infusion of ₹35,073.69 crore was made in the form of debt and convertible debt instruments. The balance 27.35% equity in TBSL was allocated to existing shareholders and financial creditors, who received shares in lieu of the debt owed to them.

The transaction was funded through a combination of ₹16,500 crore of debt raised via Bamnipal Steel Ltd., a wholly owned subsidiary of Tata Steel, and approximately ₹18,000 crore from Tata Steel's internal accruals and capital reserves.

A post-merger analysis revealed statistically significant improvements in key financial metrics such as Sales, Profit After Tax (PAT), and EBITDA. The share price of Bhushan Steel appreciated from ₹27 on May 18, 2018 (resolution date) to ₹52 by May 31, 2021 marking a 48% increase in shareholder wealth. Both companies experienced positive stock price movements upon the merger announcement, indicating favorable market and investor sentiment.

INOX and PVR

INOX Leisure and PVR Limited is an India-based multiplex cinema chain operator. The PVR-INOX Merger is one of the biggest mergers in the entertainment and media industry.

Timeline: -

DATES	EVENTS
March 27, 2022	Both the companies issued a press release of their merger.
June 20, 2022	The companies were given an observation letter by the BSE.
June 21, 2022	The NSE sent the companies an observation letter stating that there were no issues with their individual NSE filings.
January 12, 2023	Approval by NCLT.
February 2023	PVR and its competitor, INOX Leisure, amalgamated.

Post-Merger

The combined company is called PVR-INOX. Earlier PVR runed 871 screens on 181 locations in 73 different cities. INOX, on the other hand, runed 675 screens in 72 cities across 160 properties. With 341 sites spread across 109 cities, the combined company will have 1,546 screens.

PARTICULARS	DETAILS
Share Swap Ratio	INOX shareholders receive 3 PVR shares (₹10 each) for every 10 INOX shares (₹10 each) held.
Board of Directors of the Resultant Company.	The promotor families of PVR and Inox would each have equal representation on the board, with two (two) seats, for a total of ten (10) members.
Promoter Shareholding (Before Merger)	INOX Promoters: 44.04% in INOX PVR Promoters: 17% in PVR
Promoter Shareholding (After Merger)	INOX Promoters: 16.66% in PVR INOX Limited PVR Promoters: 10.62% in PVR INOX Limited

The parties were exempt from notifying the CCI because their turnover figures did not exceed the threshold limits prescribed under the relevant notification issued by the MCA.

Reliance – Disney Merger

The Walt Disney Company and Reliance Industries merged their Indian media holdings for a total of $8.5 billion. The result of this strategic partnership is JioHotstar, a single streaming service that combines the advantages of Jio Cinema and Disney+ Hotstar.

Timeline

DATES	EVENTS
May 7, 2024	NCLT admits participants into the scheme following their respective companies' boards of directors' permission.
May 24, 2024	In order to get the Deal approved, the parties submitted a combination notification to the CCI.
August 28, 2024	CCI approved the combination with changes.
August 30, 2024	NCLT granted its approval for the resolution plan, followed by the issuance and publication of the Final Order.
September 27, 2024	The Ministry of Information and Broadcasting (MIB) approved the transfer of Viacom18's television channel licenses (excluding news and current affairs) to SIPL.
November 2024	Disney and Reliance Industries merged their media assets for $8.5 billion.
December 2024	Reliance Industries acquired the domain jiohotstar.com.
February 14, 2025	The Disney+ Hotstar app was rebranded as JioHotstar and upgraded across many platforms in India.

Post- Merger

Reliance Industries Limited (RIL) holds 16.34% of the combined entity, Viacom18 owns approximately 46.82% and The Walt Disney Company retains 36.84% . The total valuation of the transaction exceeds INR 711,370,000,000.
The merger between Disney and Reliance underwent intense antitrust scrutiny by CCI which issued around 100 detailed queries focusing on market dominance, advertising control, and cricket broadcasting rights. Both companies submitted comprehensive filings, including Form 2, to address competitive concerns. The CCI approved the deal with certain changes.

11. FINDINGS

- The CA, 2013 and the IBC of 2016 have simplified M&A procedures in India, increasing the success rate of distressed asset purchases.
- By stopping anti-competitive behavior, the CCI regulatory actions impact the quantity and kind of M&A transactions and promote a more equitable market environment.
- Faster debt acquisition and resolution were made possible by the simplified IBC procedure. The transaction was successful because the legal structure made it easier to sell troubled assets.
- By shortening the timeframe and raising the success rate of distressed M&A transactions, the IBC increased deal completion efficiency.
- Financial and operational integration was regulated by the RBI rules and the CA ,2013.
- The legal structure made it possible to execute deals smoothly by offering a clear compliance roadmap.
- The Companies Act of 2013's increased transparency boosted shareholder confidence and increased the dependability of transactions.

12. CONCLUSION

Mergers and acquisitions (M&A) in Indian market is nevertheless vibrant and changing, with significant deals and new laws showcasing the industry's tenacity in the face of a difficult international climate. Even though there were fewer transactions in 2023 than the year before, notable agreements nevertheless shaped the market and strengthened India's standing as a desirable place to invest. On the other hand, there was a rebound by November 2024, with deal values rising 43.2% to $36.14 billion from $25.24 billion in 2023. In 2024, deal volumes increased by 24.4% as well.

The nation's progressive approach to improving its regulatory system and making it more transparent and investor-friendly is reflected in these reforms. The government's emphasis on improving the legal environment for business transactions, especially those of a substantial magnitude, is further evidenced by the passage of the Competition (Amendment) Act, 2023, which incorporates a "deal value threshold" for M&A approvals.

The timely adoption of changes to the legal framework regulating corporate restructuring is just as important to the future of M&A in India as the ongoing regulatory improvements. Proposals like recognizing "contractual mergers" and limiting challenges to merger and acquisition plans to significant stakeholders might greatly speed up deal closings and promote a more effective M&A environment. As suggested by the JJ Irani Report, these adjustments would aid in removing administrative obstacles, opening the door for more deal-making activity and more seamless transactions.

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