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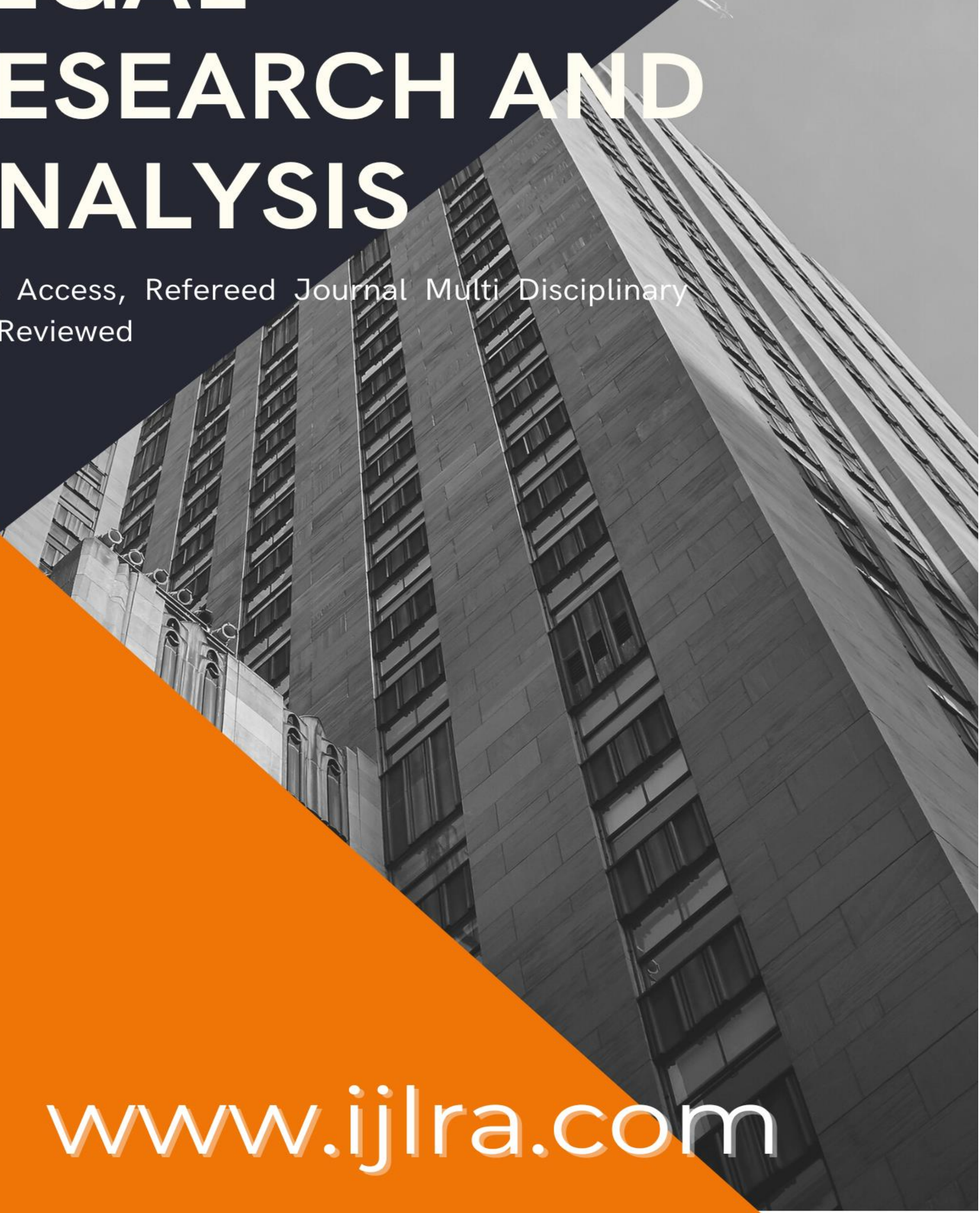

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FINALITY OR FLEXIBILITY? THE AMAZON–FUTURE COUPONS RULING AND THE LIMITS OF THE CCI'S POST-APPROVAL POWERS

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ABSTRACT

The Supreme Court's decision in Amazon.com *NV Investment Holdings LLC v Competition Commission of India and Others is a major recent decision in Indian competition law. The case arose from Amazon's 2019 investment in Future Coupons Private Limited. The Competition Commission of India (CCI) had approved the transaction in November 2019. In December 2021, however, the CCI suspended its earlier approval, required Amazon to file a fresh and detailed notice, and imposed a penalty of approximately Rs 202 crore. The CCI alleged that Amazon had not fully disclosed the purpose and interconnected parts of the transaction.*

In May 2026, the Supreme Court set aside the CCI's order and the National Company Law Appellate Tribunal's decision affirming it. The Court held that the CCI had no inherent or statutory power to keep a concluded approval under section 31(1) of the Competition Act 2002 in abeyance, suspend it, or require a fresh Form II notice for an already approved and completed transaction. The Court further held that the one-year limit under the proviso to section 20(1) is a jurisdictional limit. It also explained that a transaction which was notified, examined, and approved cannot later be treated as a failure to notify under section 43A merely because the CCI takes a different view of the commercial character of the disclosed material.
This paper argues that the ruling protects an essential value in merger control: regulatory finality. Merger review must be strict, especially where parties make incomplete or misleading disclosures. Yet investors must also be able to rely on a final approval. The judgment does not remove the CCI's power to investigate misrepresentation or impose penalties where the statutory requirements are proved. It requires the CCI to use only those powers that the Competition Act clearly provides, within the time limits and procedural safeguards created by Parliament.

Keywords: Competition Commission of India, Amazon, Future Coupons, merger control, combinations, section 20, section 31, section 43A, gun jumping, regulatory finality.

I. INTRODUCTION

Competition law controls conduct that harms competition in the market. It also regulates mergers, acquisitions, and joint ventures that may substantially reduce competition. In India, this second function is called merger control or combination regulation. A transaction crossing the statutory thresholds must normally be notified to the Competition Commission of India (CCI) before it is completed. The CCI then examines whether the transaction is likely to cause an appreciable adverse effect on competition in India.[1]

Merger control is forward-looking. The purpose is to examine a transaction before its market effects become difficult to reverse. The system depends upon complete disclosure by the parties and careful scrutiny by the regulator. If parties hide material arrangements, the CCI may be unable to understand the true transaction. If the CCI can reopen an approved transaction without clear statutory power or after the limitation period, investors may lose confidence in the finality of regulatory approvals.

The recent Supreme Court decision in *Amazon.com NV Investment Holdings LLC v Competition Commission of India and Others* ("*Amazon*") sits at this point of tension.[2] It concerns Amazon's 2019 investment in Future Coupons Private Limited (FCPL), a company associated with the Future Group. The transaction involved several agreements and was commercially connected to Future Retail Limited (FRL), a major Indian retailer. The dispute later became linked to the wider conflict between Amazon, Future Group, and Reliance Retail, but the Supreme Court's 2026 ruling focused on the limits of the CCI's merger-control powers.

The CCI approved Amazon's proposed investment on 28 November 2019. In December 2021, the CCI held that Amazon had suppressed material facts and had not disclosed the complete purpose and true scope of the transaction. It imposed a penalty of approximately Rs 202 crore, placed the 2019 approval in abeyance, and required Amazon to make a fresh notification in

[1] Competition Act 2002, ss 5–6.
[2] *Amazon.com NV Investment Holdings LLC v Competition Commission of India and others* 2026 INSC 576, Civil Appeal No 4974 of 2022.

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Form II.[3] The National Company Law Appellate Tribunal (NCLAT) upheld the CCI's decision in 2022.

On 27 May 2026, the Supreme Court set aside both decisions. It held that the CCI could not suspend or keep its approval in abeyance after a combination had been approved under section 31(1). It further held that the proviso to section 20(1), which bars the CCI from initiating an inquiry into a combination after one year from the date the combination takes effect, is a jurisdictional bar.

This paper studies the judgment as a case about regulatory finality. It argues that the Court correctly distinguished between strict disclosure obligations and a regulator's power to reopen a concluded approval. Parties to a transaction must make full, accurate, and non-misleading disclosures. But the CCI must identify a statutory source for every serious consequence it imposes. A regulator cannot create an implied power to suspend an approval merely because it believes that a different form of review should have been used.

The paper explains the facts and legal framework, analyses the Court's reasoning, and considers the consequences for future merger notifications. It concludes that the ruling makes Indian merger control more predictable, but it also places greater responsibility on the CCI to obtain complete information during the original review period.

II. FACTS AND PROCEDURAL HISTORY

A. The Amazon–Future Coupons transaction

Amazon.com NV Investment Holdings LLC proposed to acquire a 49 per cent shareholding in Future Coupons Private Limited. FCPL was a promoter-group company connected with Future Retail Limited. Through this investment, Amazon obtained certain contractual rights and commercial protections connected with Future Retail's business.

The transaction involved more than a simple share purchase. It included a Shareholders' Agreement relating to FCPL, a Share Subscription Agreement, agreements between FCPL and Future Retail, and business-commercial arrangements. These arrangements were commercially significant because they gave Amazon rights connected to the Future Group's retail business,

[3] Competition Commission of India, In re Amazon.com NV Investment Holdings LLC (Order under ss 44, 45 and 43A, 17 December 2021).

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including rights affecting the transfer of certain Future Retail assets to specified "restricted persons".[4]

Amazon notified the transaction to the CCI in Form I under section 6(2) of the Competition Act. Form I is the shorter notification form generally used for combinations that do not raise significant competition concerns. The CCI examined the notice, sought clarifications, and granted approval on 28 November 2019 under section 31(1).

At the time of approval, the CCI did not consider that the combination was likely to cause an appreciable adverse effect on competition in India. The approval allowed the transaction to proceed.

B. The later dispute

A later commercial dispute developed after Future Retail entered into arrangements with Reliance Retail. Amazon objected, relying on contractual rights arising from the FCPL transaction. During this wider dispute, questions were raised about the purpose of Amazon's investment and whether the CCI had been given a complete picture of the transaction.

In 2021, the CCI initiated proceedings against Amazon. The CCI concluded that Amazon's notification had not fully and truthfully disclosed the purpose of the transaction and the interconnected agreements. It considered that the investment in FCPL was strategically linked to Future Retail and that Amazon had not sufficiently disclosed this aspect in its Form I notice. By an order dated 17 December 2021, the CCI imposed a penalty of Rs 202 crore. It also ordered that the 2019 approval would remain in abeyance, directed Amazon to give fresh notice in Form II, and imposed additional penalties under sections 44 and 45 of the Competition Act.

C. NCLAT's decision

Amazon appealed to NCLAT. The NCLAT upheld the CCI's essential findings. It agreed that Amazon had not disclosed the full scope and purpose of the combination. It also upheld the direction requiring a fresh notification and the CCI's decision to keep the earlier approval in abeyance.[5]

The result was unusual. A transaction that had been notified and approved in 2019 was effectively put back into the merger-control process in 2021. The CCI's order created uncertainty not only for Amazon but also for the broader principle of whether a concluded

[4] Competition Commission of India, Amazon.com NV Investment Holdings LLC/ Future Coupons Private Limited (Combination Registration No C-2019/09/688, order under s 31(1), 28 November 2019).

[5] Amazon.com NV Investment Holdings LLC v Competition Commission of India (2022) NCLAT, Company Appeal (AT) No 15 of 2022

combination approval could be reopened after the statutory review process had ended.

D. Supreme Court appeal

Amazon appealed to the Supreme Court under section 53T of the Competition Act. The Court considered whether the CCI had authority to keep its own approval in abeyance, require a fresh Form II filing, treat the transaction as a failure to notify under section 43A, and impose penalties under sections 44 and 45.

The Supreme Court allowed the appeal. It set aside the NCLAT judgment of 13 June 2022 and the CCI order of 17 December 2021 in their entirety. It directed that any money deposited or recovered from Amazon under those orders be refunded within eight weeks, with simple interest at 6 per cent per year from the date of payment or recovery.

III. THE MERGER-CONTROL FRAMEWORK

A. Combinations under the Competition Act

Sections 5 and 6 of the Competition Act regulate "combinations". A combination broadly includes acquisitions, mergers, and amalgamations that meet the statutory financial thresholds. Section 6(1) prohibits combinations that cause or are likely to cause an appreciable adverse effect on competition within the relevant market in India.[6]

Section 6(2) requires parties to notify the CCI of a proposed combination in the prescribed form and with the prescribed fee. The notice should give the Commission sufficient information to understand the transaction, identify connected steps, define relevant markets where necessary, and assess potential competition effects.

The system depends on disclosure. A transaction is not always confined to one share-purchase agreement. It may include options, shareholder rights, commercial agreements, call rights, non-compete clauses, financing arrangements, and other connected steps. If these steps are inter-connected and form part of a single commercial transaction, the CCI must be given a clear picture of them.

B. Section 20 and the one-year limit

Section 20 gives the CCI power to inquire into whether a combination has caused or is likely to cause an appreciable adverse effect on competition. The proviso to section 20(1) states that the Commission shall not initiate an inquiry after the expiry of one year from the date on which

[6] Competition Act 2002, ss 5–6.

the combination has taken effect.[7]

This proviso has a clear purpose. Merger control is meant to be timely. It should not leave a complete transaction under permanent threat of being reopened. A one-year cut-off encourages the CCI to act promptly and gives the parties a measure of legal certainty once the period has passed.

The dispute in *Amazon* was therefore not only about a penalty. It was about whether the CCI could do indirectly what section 20(1) prevented it from doing directly. If the Commission could suspend approval and require a fresh notice after the limitation period, the statutory one-year limit could lose practical meaning.

C. Section 31 and approval of a combination

After reviewing a notified transaction, the CCI may approve it under section 31(1) if it does not cause or is not likely to cause an appreciable adverse effect on competition. It may approve the transaction with modifications under section 31(3), or it may prohibit the combination under section 31(2).[8]

Section 31 is important because it establishes the final outcome of merger review. An approval under section 31(1) is not simply an informal administrative letter. It is the statutory result of the Commission's review of the notified transaction.

The main question in *Amazon* was whether section 31 includes an implied power to keep an approval in abeyance. The CCI argued that it could protect the merger-control system by suspending an approval obtained through incomplete disclosure. Amazon argued that the Act did not give the CCI such a power.

D. Sections 43A, 44 and 45

Section 43A permits the CCI to impose a penalty where a person or enterprise fails to give notice to the Commission under section 6(2). This is often referred to as a gun-jumping or failure-to-notify penalty.[9] The provision is intended to ensure that parties notify combinations before they take effect.

Section 44 deals with penalties for making false statements or omitting material information in relation to a combination. Section 45 deals with penalties for making false statements or omitting material information in proceedings before the Commission.[10] These provisions are

[7] Competition Act 2002, s 20(1) proviso.
[8] Competition Act 2002, s 31.
[9] Competition Act 2002, s 43A.
[10] Competition Act 2002, ss 44–45.

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important because they show that Parliament has specifically addressed inaccurate or incomplete disclosure.

The presence of these provisions matters. If the CCI believes a party gave false information or omitted a material fact, it must apply sections 44 or 45 according to their wording and safeguards. It cannot automatically convert an approved notification into a complete failure to notify under section 43A merely because it later disagrees with the party's description of the transaction.

IV. THE SUPREME COURT'S REASONING

A. No power to suspend a concluded approval

The Supreme Court held that the CCI does not have inherent or statutory power to keep a concluded approval under section 31(1) in abeyance, suspend it, or compel a fresh Form II notification for a transaction that has already been approved and completed.[11]

The Court treated the Competition Act as a complete statutory framework. A regulatory authority must act within the powers granted by Parliament. The fact that the CCI may find a later commercial dispute or a new interpretation of the transaction troubling does not create a new power to suspend an approval.

This is a significant point of administrative law. Regulatory bodies often have broad functions, but they do not possess every power that may appear useful. Where an action affects a final approval, imposes major financial consequences, or requires the parties to restart a regulatory process, the legal source of the power must be clear.

The Court rejected the idea that the power to keep an approval in abeyance could be derived from section 45(2), regulation 5(5), or an approval condition.[12] These provisions could not be stretched to create a broad post-approval suspension power.

B. The one-year limit is jurisdictional

The Court held that the proviso to section 20(1) is a jurisdictional limitation. Once one year has passed from the date the combination takes effect, the CCI cannot initiate an inquiry that, in substance, reopens the combination for a fresh merits review.[13]

This conclusion protects the finality of merger control. The CCI must conduct its review and use its statutory powers within the period set by Parliament. It cannot avoid the limitation by

[11] Amazon (n 2).
[12] ibid.
[13] ibid.

changing the label of the proceeding. A proceeding described as a penalty inquiry cannot, in substance, operate as a fresh review of an already approved transaction after the limitation period.

The Court's approach is especially important in complex transactions. Businesses make long-term decisions based on merger approvals. They may invest money, restructure operations, enter supply contracts, and make public commitments. A regulator's ability to reopen a transaction years later would make those decisions unstable.

The Court did not say that the CCI is powerless after approval in every situation. It said that the CCI must rely on the specific powers and remedies available under the Act. It cannot reopen a combination beyond the one-year statutory limit by relying on an implied power that the Act does not provide.

C. An approved notice is not non-notification

The Supreme Court also held that where a party filed a notice under section 6(2), provided the relevant transaction documents, responded to clarifications, and received approval, the case cannot later be treated as a failure to notify the combination under section 43A merely because the CCI adopts a different view of the commercial significance of the disclosed material.[14]

This is not a licence for incomplete disclosure. If documents are concealed, or if material information is false, sections 44 and 45 may apply. But a difference in the later legal or economic characterisation of disclosed information is not the same as non-notification.

The Court found that Amazon had placed before the CCI the key inter-connected agreements and had responded to requests for information. The Commission had approved the transaction after considering the record.[15] Therefore, the CCI could not later say that Amazon had failed to notify the entire transaction under section 43A.

D. Penalties require specific findings

The Court held that penalties under sections 44 and 45 require specific findings concerning the materiality of the alleged false statement or omission and the necessary legal basis for penalty. A broad inference that a party lacked candour is not enough.[16]

This part of the decision is important because penalties for non-disclosure can be substantial. A finding of misleading disclosure can also harm a company's regulatory reputation. The CCI

[14] ibid.
[15] ibid.
[16] ibid.

must identify exactly what was not disclosed, why it was material, how it affected the assessment, and which statutory provision is attracted.

The Court's insistence on specificity does not weaken competition enforcement. It improves it. A carefully reasoned penalty order is more likely to survive appeal and more likely to guide future parties on what disclosure is required.

E. Natural justice and fair process

The Supreme Court further held that the proceedings were affected by a breach of natural justice. A party facing serious consequences must receive clear notice of the case against it and a real opportunity to respond. The Commission cannot impose a punishment based on grounds that were not properly put to the party.

Merger-control proceedings are often highly technical. They involve multiple agreements, internal documents, market definitions, control rights, and commercial strategy. This makes fair procedure particularly important. Parties must know whether they are accused of non-notification, misrepresentation, omission, gun jumping, or another statutory violation.

V. SIGNIFICANCE OF THE DECISION

A. Regulatory finality

The greatest contribution of the decision is that it restores finality to merger approvals. A section 31(1) approval should mean that the notified transaction has passed the CCI's merger-control review, subject to the specific remedies clearly provided by law.

This does not make the CCI weak. The Commission retains wide powers to seek information during review, ask detailed questions, require a Form II notice where appropriate, impose conditions, approve with modifications, prohibit harmful combinations, and penalise legally established false statements or omissions. The decision simply requires those powers to be used at the correct time and under the correct statutory provision.

The Supreme Court's direction that Amazon's deposited or recovered money be refunded with interest also shows the seriousness of the error. The Court ordered refund within eight weeks with 6 per cent simple annual interest, rising to 9 per cent if payment was delayed after the stipulated period.

B. Importance of the initial notification stage

The decision places greater pressure on the initial review process. The CCI must ask the right questions early. If a transaction has multiple steps, the Commission should require the parties to explain the commercial purpose of each step, the relationship between agreements, and the ultimate strategic objective.

This is particularly relevant for minority acquisitions. A transaction may involve a minority shareholding but still give the acquirer important rights through options, vetoes, commercial agreements, information access, or future acquisition rights. The CCI must assess the transaction in substance, not merely by looking at the percentage of shares acquired.

At the same time, the CCI must not assume that every strategic investment is a hidden acquisition. It should identify the actual rights, analyse whether they confer control or material influence, and explain why the information provided is insufficient.

C. Impact on businesses

For businesses, the case is a warning and a reassurance. The warning is that merger notifications must be comprehensive. Parties should not describe only the immediate share purchase while treating connected agreements as secondary or unrelated. The entire commercial arrangement should be disclosed clearly.

The reassurance is that parties can rely on a final approval if they have made genuine and complete disclosure. A change in the regulator's later understanding of the commercial strategy should not by itself expose an approved transaction to a fresh merger review years later.

D. Impact on the CCI

The decision may lead the CCI to use Form II more often in complex transactions. Form II requires more detailed information and is appropriate where a transaction may create competition concerns or where the structure is difficult to understand through a short-form notice.

The CCI may also strengthen its information requests, improve its internal review of inter-connected transactions, and record more clearly why a particular form of notice is accepted. These would be positive developments. Stronger original review is preferable to uncertain post-approval reopening.

VI. CRITICAL ANALYSIS

The Supreme Court's decision is persuasive because it is grounded in the structure of the Competition Act. The Act gives the CCI considerable power, but it also fixes timelines, defines penalties, and provides specific forms of order. Courts should not create an implied power that allows the Commission to suspend a final approval when Parliament has not clearly granted that power.

The one-year limitation in section 20(1) would become ineffective if the CCI could reopen a completed combination by calling the proceeding an inquiry into disclosure or by directing a fresh notification. The Court correctly looked at the substance of the action, not merely its label.

The ruling also supports India's investment environment. Large transactions are planned over months or years. Investors need to know that an approval granted after disclosure and review will not be withdrawn through an undefined power. Predictability does not mean leniency. It means that enforcement occurs under known rules.

However, the judgment creates a practical challenge. Some complex transactions are designed in ways that make their commercial purpose difficult to identify from formal documents. Parties may disclose agreements but describe them selectively. A short Form I notice may not always reveal the strategic importance of interconnected arrangements.

The answer is not to create a broad power of reopening. The better answer is to improve the original review process. The CCI should ask targeted questions about the purpose of the transaction, rights relating to downstream entities, future acquisition options, restrictions on third-party transactions, and all agreements forming part of the commercial understanding.

The ruling should also not be read too broadly. If a party truly conceals a material agreement, submits a false document, or obtains approval through fraud, the CCI may still use the statutory remedies available to it. The exact remedy will depend on the Act, the timing, and the evidence. The Court did not create a safe harbour for dishonesty. It required the Commission to establish the correct statutory violation with precision.

A good merger-control system needs both finality and accuracy. Finality protects parties who comply with the notification process. Accuracy protects markets and consumers from transactions that might harm competition. *Amazon* does not require India to choose one over the other. It requires the CCI to achieve accuracy through timely, careful, and lawful review.

VII. CONCLUSION

The Supreme Court's decision in *Amazon.com NV Investment Holdings LLC v Competition Commission of India and Others* is a landmark ruling on the limits of the CCI's post-approval powers. It holds that the CCI cannot suspend or keep a concluded section 31(1) approval in abeyance, require a fresh Form II notification for an approved and completed transaction, or reopen the combination after the one-year statutory limit in section 20(1).

The decision also clarifies that an approved notification cannot later be treated as a complete failure to notify under section 43A merely because the Commission changes its view of the commercial meaning of disclosed agreements. Penalties under sections 44 and 45 require specific, material, and legally supported findings.

The ruling strengthens regulatory finality, which is essential for investment and business certainty. Yet it also sends a message to transaction parties: disclosure must be complete, accurate, and commercially meaningful. Parties must disclose the entire arrangement, not only the most convenient part of it.

For the CCI, the practical lesson is to improve front-end scrutiny. It should seek detailed explanations at the notification stage, require Form II where needed, and use its statutory powers within the time limits provided by Parliament. For businesses, the lesson is to prepare a full transaction map and ensure that every connected agreement is presented clearly.

The broader principle is simple. Competition regulation must be strong, but it must also be lawful, time-bound, and predictable. A final merger approval cannot remain permanently provisional.