

# **INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]**

ISSN: 2584-1513 (Online)

Volume 3 | Issue 3 [2025] | Page 532 – 543

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# **PROTECTION OF CONSUMERS UNDER COMPETITION COMMISSION OF INDIA: IN LIGHT WITH ACQUISITION AND MERGER IN AVIATION SECTOR**

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## **ABSTRACT**

By replacing the monopolies and restrictive trade protective act 1969 the competition act 2002 paved a new role in the world of business with its moto of creating healthy competition among the various competitors in the market along with protecting the rights and interests of the ultimate consumers the following paper mainly focuses the importance of competition act in protecting consumers rights in light with merger and acquisition in aviation sector as center. The following paper discusses about merger and acquisition in competition law and also various regulations laid by the act. The paper talks about the advantages and disadvantages of merger and acquisition in aviation sector in taking consumers as main point of discussion. Role of competition commission of India which is an important part of competition law into consideration in protecting the consumers along with a recent land mark case of Vistara- air India merger and obligations given by CCI

The research made in this paper is collected through various online journals, articles, newspapers and legal websites. The research is fully doctrinal.

The conclusion of this paper says about the how CCI played an important part in creating a better market for a healthy competition among the competitors and also some important steps in making it even better for fair trade and protection of consumers.

## **Keywords**

Acquisition, Merger, competition act. Competition commission of India, aviation sector, consumers

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<sup>1</sup> Completed LLM in 2025

# 1. INTRODUCTION

A consumer is someone who uses a product or service, plain and simple. Anyhow of whether they are the ones who bought it or not, consumers are the end druggies, they get their hands on what has been offered in the request. It's about the experience, the functionality, and the satisfaction deduced from using a particular point. Take a boy playing with a toy, the parent might be the client who bought it, but the child is the consumer, enjoying and interacting with the toy. Consumers are not just buyers; they are the individualities or realities getting value from what is been bought. Their preferences and pleasure are pivotal because, in the end, a product's success is determined by how well it meets consumer requirements and prospects<sup>2</sup>. Thus, protection of consumers is very important part of any business and giving them an anti-defective product with reasonable cost is the duty and responsibility of every business.

The protection of consumers is an important subject not only for any single firm but also the government so various laws are created by the government keeping this point in view such as consumer protection act, competition act 2002

## 2. COMPETITION ACT 2002-SAILENT FEATURES

Unlike other act which provides compensations after the effect or damaged caused the competition act is a unique law which gives regulations to the producers in making better market place rather than making a better product. Competition act protects the consumers by creating an environment where their needs are meet with making them exploited.

These are some of the salient features owned by competition law which not only says about consumer protection but also how this law controls the competition in market place.

- Prohibition of anti-competitive agreements: The act prohibits any agreement between enterprises that causes or is likely to cause an adverse effect on competition.<sup>3</sup>
- Regulation of combinations: The act regulates any combinations of enterprises if they affect in or are likely to affect in a perceptible adverse effect on competition.
- Consumer protection: The act prioritizes consumer protection and considers its impact on all competition- related opinions.<sup>4</sup>

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<sup>2</sup> What is consumer behavior? Definition , importance, types and stages, geek tonight

<https://www.geektonight.com/consumer-behaviour-definition-importance-types/> (10 august 2023)

<sup>3</sup> Suyash Khanna salient features of competition act 2002, tax guru, <https://taxguru.in/corporate-law/salient-features-competition-act-2002.html> ,(30 may 2023)

<sup>4</sup> Competition Act, 2002: Meaning, Objectives, Features and Regulatory Framework, geeks for geeks, <https://www.geeksforgeeks.org/competition-act-2002-meaning-objectives-features-and-regulatory-framework/> (6 march 2024)

- Establishment of Competition Commission of India (CCI): The act establishes the CCI as an independent statutory body which prohibits any unwanted competition practices followed by the enterprises <sup>5</sup>
- Appeal process: The act provides for an appeal process to the Competition Appellate Tribunal for enterprises that are displeased with the CCI's opinions.
- Competition advocacy: The CCI has the accreditation to promote and endorse for competition in the request, including through education and outreach programs.<sup>6</sup>

## 2.1. IMPORTANCE OF PROTECTION OF CONSUMERS

- In this competitive world a business can achieve success and earn gains only when it designs the products as per the taste and preferences of the consumers and satisfies them. Businesses that ignore the conditions of consumers lose their consumers and goodwill in the request. thus, it's essential for businesses to keep their consumers interests in mind and satisfy them with a product or service consequently.<sup>7</sup>
- The businessmen are responsible for furnishing good quality goods at a reasonable price. Consumer protection helps businessmen by guiding them towards the provision of social responsibility.
- There are number of products in the marketplace which are dangerous to the health of the consumer, contamination, false weights, monopoly and illegal trade practice are some of the issues that need to be addressed to cover the consumer against it<sup>8</sup>

## 2.2. IMPACT OF COMPETITION LAW ON CONSUMERS

Even though competition law was created mainly for controlling the domination of enterprise and promote healthy competition among them protecting the consumers from the unfair trade practices is also one of the most important features of this act the following are some impacts of this law on consumers.

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<sup>5</sup> Competition act, 2002, Byjus , <https://byjus.com/free-ias-prep/competition-act-2002-india/> ,

<sup>6</sup> Salient Features of Competition Act, lawaimers, <https://lawaimers.com/salient-features-of-competition-act/> (3 may 2023)

<sup>7</sup> Consumer Protection: Meaning, Importance and Means, geeks for geeks <https://www.geeksforgeeks.org/consumer-protection-meaning-importance-and-means/> (6 April 2023)

<sup>8</sup> Intro and Importance of Consumer Protection, toppr <https://www.toppr.com/guides/business-studies/consumer-protection/intro-and-importance-of-consumer-protection/>

- By creating a better market place for healthy by competition this law helps the consumers get a better product for lower prices.<sup>9</sup>
- This law promotes open market transactions so that there is no single enterprise which can have impact on market and this will not create any shortage of product in market and the needs of the consumers are also met.
- By creating various market barriers in regarding the prices of the product this law creates a wider choice for the consumers in purchasing the products and also forcing the enterprises in increasing their product quality as price does not come in competition in attracting their consumers.<sup>10</sup>
- Special sections such as Section 3 of the Act prohibits all such agreements in respect of goods and services which are likely to cause an appreciable adverse effect on competition within India, Section 4 of the Act prohibits the abuse of its dominant position by any enterprise or any group are acting as protection for consumers by controlling the enterprise.<sup>11</sup>

### 3. ACQUISITION AND MERGER- DEFINITION

Acquisition-An accession is when one company or person buys another company or it means. This can include copying stocks, property, or other liabilities. The thing is generally to grow the business or gain new capabilities.<sup>12</sup>

In others words to acquire a company means to take control of it by copying a large part of its shares or means. This allows the acquiring company to manage the acquired company and integrate it into its operations.

Merger- A merger is a predefined agreement between two body corporates to unite into one new legal reality. In others words It's an emulsion of two businesses registered as different legal entities are coming together and forming into a single legal enterprise where all their stocks, properties

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<sup>9</sup>Himmanshu Yadav, *The Impact Of Competition Law On Consumer Welfare In India* [https://www.ijllr.com/post/tbe-impact-of-competition-law-on-consumer-welfare-in-india#:~:text=Through%20case%20studies%20and%20analysis%2C%20t\(10 nov 2024\)](https://www.ijllr.com/post/tbe-impact-of-competition-law-on-consumer-welfare-in-india#:~:text=Through%20case%20studies%20and%20analysis%2C%20t(10%20nov%202024))

<sup>10</sup> E Rajitha, INTERFACE BETWEEN COMPETITION AND CONSUMER PROTECTION LAW IN INDIA, <https://thelawbrigade.com/wp-content/uploads/2021/11/E-Rajitha-APLPR.pdf>,

<sup>11</sup> Sanjutat das, Convergence of Competition & Consumer Protection Laws: National & International Perspective , tax guru, <https://taxguru.in/corporate-law/convergence-competition-consumer-protection-laws-national-international-perspectives.html> ( 12 may 2024)

<sup>12</sup> acquisition - Meaning in Law and Legal Documents, Examples and FAQs, legal brief ai, <https://www.legalbriefai.com/legal-terms/acquisition>,

weather tangible or intangible along with their intellectual properties are combined together and formed into a single firm.<sup>13</sup>

In this competitive world, large realities have to work inclusively to gain request share, to become a consumer magnet, investors' magnet, expand the geographical scale of their businesses, lower down functional costs, etc. To gain similar benefits, realities decide to work with each other. This results into increase stakeholder gains, better profit results, growing earnings is one of the main reasons why companies opt for merger.

### **3.1. ACQUISITION AND MERGER IN COMPETITION LAW**

The words acquisition and merger are not mentioned in competition act but the words combinations are mentioned which are called as combinations under sec 5 of competition act.

Combination under Competition Act

Section 5 of the Competition Act, 2002 lay out the delineation of the term combination. A Combination is an accession of one or further enterprises by one or further persons, merged or amalgamation of enterprises, if it meets the prescribed financial thresholds and involve<sup>14</sup>

- Any acquisition of control, shares, advancing rights or means of any venture.
- Any acquisition of control by a person over a company, where such a person formerly has direct/ circular control over another company in an analogous business.
- Any merger or acquisition of one further venture.

## **4. ACQUISITION AND MERGER IN AVIATION SECTOR- ADVANTAGE TO CONSUMERS**

### **4.1. GIVES BETTER SERVICE**

The merger and acquisition show a great impact on all the aspects of the entity in different way such as decreasing labour cost to operational cost which will surely be an advantage to the customers as this gives a chance to the company to provide better service to the customer if it is taken as the main priority by the business.<sup>15</sup>

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<sup>13</sup> Marshal Hargrave, Merger: Definition, How It Works With Types and Example, investopida , <https://www.investopedia.com/terms/m/merger.asp> ( 12 june 2024)

<sup>14</sup> Rohit chowarya, Competition Law: Mergers And Acquisition Estate planning services, legal service India, <https://www.legalserviceindia.com/legal/article-8282-competition-law-mergers-and-acquisition.html> ,

<sup>15</sup> Rico merkert and peter s morlle, Mergers and acquisitions in aviation – Management and economic perspectives on the size of airlines, science direct,

By a drastic decrease in the other costs of the company finally the merger airlines can provide better services to their customers which is the main priority to the enterprise.

## **4.2. LOWER COSTS**

The main aim of any merger is to increase the profit by gains or by cutting of costs which is mostly possible in combinations thus as the costs are decreased drastically there is a higher chance of the airline to lowering the tickets costs which helps even the normal common person to buy the airline tickets in a country where aviation is always treated as luxury.<sup>16</sup>

## **4.3. BETTER QUALITY**

During the process of combinations not only the stocks but also the properties of both the companies are also merged into one single firm so when a small company is merged with a large company the aircrafts and the furniture along with the other things such as engines, accessories are also taken into one which helps to small airline to provide better quality of products to the consumers making them more comfortable in the plane.<sup>17</sup>

## **4.4. BETTER AVIATION ROUTE FOR BETTER TIME MANAGEMENT**

The aviation service is mainly used for better time management transportation services for its customers if two or more aviation are merger into single firm its can surely decrease the distance for certain places from one hand and on another hand it can create new routes for the airline so that the costumer need not change the airlines time to time.<sup>18</sup>

Sometime when a national airline is merged with another national airline it makes international travel very easy for the costumer. This not only creates better airline routes but also helps in saving the time of customer also.

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[https://www.sciencedirect.com/science/article/pii/S1366554512000178#:~:text=A%20key%20outcome%20of%20the%20deregulation%20of%20the,merging%20,\(July 2012\)](https://www.sciencedirect.com/science/article/pii/S1366554512000178#:~:text=A%20key%20outcome%20of%20the%20deregulation%20of%20the,merging%20,(July%202012))

<sup>16</sup> esha tyagi , Mergers & Acquisitions in Aviation Sector, legal services India . com,  
<https://www.legalservicesindia.com/article/748/Mergers-&Acquisitions-in-Aviation-Sector.html>

<sup>17</sup> Sourav Sharama, MERGERS AND ACQUISTIONS IN AVIATION INDUSTRY-INDIA, A ,  
[https://www.academia.edu/37748455/MERGERS\\_AND\\_ACQUISTIONS\\_IN\\_AVIATION\\_INDIA](https://www.academia.edu/37748455/MERGERS_AND_ACQUISTIONS_IN_AVIATION_INDIA)  
A (july 2024)

<sup>18</sup> ibid

## **5. ACQUISITION AND MERGER IN AVIATION SECTOR- DISADVANTAGES TO CONSUMERS**

The acquisition and merger in aviation is an inorganic way where a company growth is accelerated by giving the company an immense power to control its consumers the following are few disadvantages the consumers may suffer if they are not controlled by law.

### **5.1. CENTRALIZATION OF PRICES**

The most important thing of concern during a merger and acquisition in aviation sector is fixing of price as there are very few competitors in aviation sector if there is any big combination that happens here then there is a very chance of domination of market portions by that single firm only will be the biggest disadvantage to the consumer.<sup>19</sup>

### **5.2. DECREASING CONSUMERS CHOICES**

In a country like India where the sector of aviation have very few competitors the merger or acquisition in that particular sector will not only create domination in market but also drastically decreases the minimum number of choices which are left in the hands of consumer, this not only effects the choices of consumers but also may show an impact on the quality of services which rendered by the merged company as it takes or limits the freedom of the consumers in making any decision on aviation transport.

### **5.3. HIDDEN PRICING**

Ultramodern dynamic pricing is seen more frequently with tickets and passes, which are currently nearly entirely digital. Companies do not need to physically produce any published documents and can change their listed prices instantaneously on websites and apps. They can engage in price discrimination by charging different consumers more or less amount, and will charge advanced prices when they suppose consumers are willing to pay more.<sup>20</sup>

This type of hidden pricing will increase when there is a powerful merger happening in the aviation sector forcing the consumer pay the amount demanded by the airline creating an extra layer of profit to the enterprise.

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<sup>19</sup> MIKE TRETHEWAY, THE COMPETITION EFFECTS OF AIRLINE MERGERS AND ALLIANCES: THE ROLE OF PRICE DISCRIMINATION, <https://www.iata.org/en/iata-repository/publications/economic-reports/the-competition-effects-of-airline-mergers-and-alliances---by-mike-tretheway> , ( April 2008)

<sup>20</sup> Chris Leadley, 12 Disadvantages of Mergers and Acquisitions, Forbes, <https://www.forbes.com/insights/12-disadvantages-of-mergers-and-acquisitions>



## **5.4. UNFAIR TRADE PRACTICES**

When the power is consolidated in the hands of single enterprises then the rules are created by that firm the merged airline may create many unwanted or extra rules and impose them on their consumer to earn more profit such as delaying of the necessary refund amount, marking paid on every seat even after booking tickets and demanding extra money by declaring the booking counter is over, some airline also stopped the boarding even after confirming the tickets and some airline even don't provide basic essential like water to their consumers during journey.<sup>21</sup>

## **6. ROLE OF COMPETITION COMMISSION OF INDIA IN PROTECTING CONSUMERS**

Competition commission of India which is an important part of competition law plays important role in protecting the consumers which are clearly mentioned below.

### **6.1. ENSURING FAIR PRICING IN THE ENSURING**

The competition commission may not control the pricing of the consumers directly by indirectly it controls the market by stopping domination or over powering of a single firm so that the price discrimination is always present in the market and ensuring that there is fair price in the market. This not only gives the consumer to buy products and services for lower cost but also gives them a wide range market place to explore.<sup>22</sup>

### **6.2. CREATING RESTRICTIONS ON COMBINATIONS**

Another way of competition commission of India protecting consumers is by creating restriction on combinations which show adverse effects on market and this also creates a concentration of power of controlling of the consumers in single firm. The commission also makes a clear that any combination which is formed above the recommend threshold limit should take the permission of the CCI before taking any steps for making a combination.<sup>23</sup>

### **6.3. PENALIZES AND INVESTIGATION RIGHTS**

The CCI has been using heavy penalties to control the anti – competition laws on the entities and combinations which are not following the regulations of the act. The commission also has the

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<sup>21</sup> ibid

<sup>22</sup> Competition Commission of India, drishtiias , <https://www.drishtiias.com/important-institutions/drishti-specials-important-institutions-national-institutions/competition-commission-of-india> ( 27 August 2019)

<sup>23</sup> Tript mallu, Competition Commission of India (CCI): Duties, Powers and Functions, tax guru, <https://taxguru.in/corporate-law/competition-commission-of-india-cci-duties-powers-functions.html> ,(21 April 2024)

right to investigate the firm if it thinks there are any unfair competition practices or steps taken by the firm in any means.<sup>24</sup>

The commission may appoint professional accountants or managers to take an internal inspection of the trade practices of the combinations.

#### **6.4. PROVIDES RIGHTS TO CONSUMERS**

Unlike the consumer law which provides rights to a single consumer which is mainly based on the after effect of buying the product and also the quality or quantity the competition commission entertains all type of cases which the consumers are being effected by the competition in the market, the consumer can approach the commission if they feel that there is a problem in prices or any effect on them in regarding any type of market competition.<sup>25</sup>

### **7. VISTARA- AIR INDIA MERGER: A LANDMARK CASE IN PROTECTING CONSUMER BY CCI**

The largest merger in Indian aviation sector Vistara – Air India merger has received all the permissions from all the different departments from national to international permissions was given a stay by the CCI as it is showing adverse effect on the aviation market by creating more domination on consumers the following are few impacts of this merger on the consumers.<sup>26</sup>

- As there are very few competitors in the market the first point of concern of CCI is that the sector would be completely dominated by this single firm and this make the firm stronger in controlling the prices of the services on one hand and they may also render poor services to the consumers on another hand.
- The merger is one of the prestigious merger happened in recent time and the amount of share which is occupied in total aviation sector is very high compared to the shares of other

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<sup>24</sup> Competition Commission of India (CCI): Duties, Powers & Functions, text book, <https://testbook.com/ias-preparation/competition-commission-of-india-upsc-notes>

<sup>25</sup> COMPETITION COMMISSION OF INDIA; A KEY PLAYER FOR CONSUMERS WELFARE, Indian bar association, <https://indianbarassociation.org/wp-content/uploads/2013/02/CCI-A-key-player-for-consumer-welfare.pdf>

<sup>26</sup> VISTARA- AIR INDIA MERGER- A COMPETITION LAW STUDY, the competition and commercial law review, <https://www.tcclr.com/post/vistara-air-india-merger-a-competition-law-study#:~:text=The%20Tata%20Group%20has%20approached%20India> (June 2023)

airline which is crossing the threshold limit prescribed by the CCI has also become a point of concern.<sup>27</sup>

- Apart from air service the cargo services provided by this merger share value is equal to the cargo services provided by other airline this gives a chance to this airline to increase cargo charges then compared to other airlines.<sup>28</sup>

## **8. REGULATIONS LAID BY THE CCI ON VISTARA- AIR INDIA CASE**

The CCI approves the combinations of Vistara- Air India after the declaration of tata group that they won't disobey the laws of the land which creates an adverse effect on the market.

The Tata SIA Airlines into Air India and the acquisition of certain shareholdings in Air India by Singapore Airlines, contingent upon compliance with the voluntary commitments offered by the involved parties. Both Vistara and Air India are full-service carriers affiliated with the Tata Group, with Singapore Airlines holding a 49 per cent stake in Vistara. This request was submitted by the parties involved in acquisition which are Tata Sons Pvt Ltd (TSPL), Air India Ltd, Tata SIA Airlines Ltd (TSAL), and Singapore Airlines Ltd to the CCI which after this paved a green wave to this combination making it's the largest international airline in the country and second domestic airline carries. The merger also announced that they would provide best services to their consumer along with low costs.<sup>29</sup>

## **9. CONCLUSION**

From the following research says how the competition act has various role to play in protecting the consumers may be not directly but in indirect means by controlling the competition in market, putting threshold limits on combinations, controlling adverse effect of competition on market especially controlling the domination position of single enterprise which is giving a wider scope for the consumer to explore the market with limited cost.

The following combination of Vistara- Air India says how the regulatory body functions even in the toughest times without compressing the rights of the consumers.

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<sup>27</sup> Competition Concerns of the Air India-Vistara Merger in the Aviation Industry, the competition and commercial law review, <https://www.tcclr.com/post/competition-concerns-of-the-air-india-vistara-merger-in-the-aviation-industry> ( 14 April 2024)

<sup>28</sup> ibid

<sup>29</sup> Air India-Vistara Merger: Navigating the CCP's Approval, bar association llp, <https://bnblegal.com/article/air-india-vistara-merger-navigating-the-ccis-approval/> ,

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