ECOWAS position on competition in the Pharma Market

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The pharmaceutical sector in the ECOWAS region occupies a central role in the protection of public health and consumer welfare. It is a market in constant demand, given that the consumption of medicines is largely price inelastic, yet its structure reflects systemic weaknesses and persistent barriers to competition. Local production capacity remains limited and fragile. This has led to overwhelming dependence on imports, often exceeding ninety percent of national supply. This dependence, combined with fragmented legal regimes, the coexistence of national and regional competition rules, and the persistence of informal trade, creates a sector where compliance with regulation is both indispensable and complex.

The ECOWAS Regional Competition Authority (ERCA), established by Supplementary Acts adopted in December 2008, has a mandate to oversee the application of community competition rules. At the same time, national competition authorities and health regulators exercise parallel jurisdiction, leading to overlaps with regional frameworks, particularly in countries that are also members of West African Economic and Monetary Union (WAEMU), where competition matters fall under the exclusive jurisdiction of the WAEMU Commission. For operators, the result is a layered and occasionally conflicting regulatory environment in which compliance requires careful coordination between national, regional and sector-specific authorities.

Legal and institutional framework

The regulatory framework for pharmaceuticals across ECOWAS is built on a combination of national competition laws, consumer protection laws, and specific health regulations governing the production, importation and distribution of medicines.

Côte d'Ivoire, for instance, has restructured its competition law since 2019 to strengthen oversight of pricing in essential consumer goods, including pharmaceuticals. Senegal has modernized its legislation through Law 2021/25, which prohibits abusive practices such as counterfeiting and reinforces consumer protection. Nigeria has established the Federal Competition and Consumer Protection Commission under the FCCPA 2019, with explicit powers to regulate restrictive trade practices and abuse of dominance, while also protecting consumer interests in access to medicines.

At the sectoral level, most ECOWAS member states maintain public health agencies or pharmaceutical regulatory authorities with wide-ranging powers. In Benin, the Agence Béninoise de Régulation Pharmaceutique (ABRP) oversees quality control, funding and procurement processes for public contracts. In Niger, the Office National des Produits Pharmaceutiques et Chimiques (ONPPC) historically held monopoly powers before reforms opened the market to private wholesalers. In Senegal, the Directorate of Pharmacy and Medicines (DPM) supervises both pricing and authorizations under the Inter-ministerial Order of 2003, while in Cape Verde, EMPROFAC and INPHARMA operate under a legal regime that grants them de jure or de facto monopoly rights.

At the regional level, WAEMU competition law, dating from 2002, grants the Commission exclusive competence in matters of cartels, abuses of dominance and merger control within the WAEMU zone. This limits the role of national authorities in countries such as Senegal, Côte d'Ivoire, and Mali. In parallel, the ECOWAS Supplementary Act of 2008 on competition rules provides for cooperation between ERCA and national regulators, but practical implementations of these provisions remain uneven. This complex distribution of competences requires companies to ensure that their operations are simultaneously aligned with national, WAEMU and ECOWAS obligations, depending on the jurisdiction in which they operate.

Regulatory barriers and compliance risks

The pharmaceutical sector in the ECOWAS presents multiple regulatory barriers that directly affect competition and compliance obligations. In Cape Verde, the exclusive concession granted to EMPROFAC for importation and distribution creates a monopoly that effectively bars entry for competing firms. While this arrangement is justified by the authorities as a mechanism to guarantee access and affordability, it distorts competition and raises compliance risks for foreign suppliers who must negotiate exclusively through state channels.

In Côte d'Ivoire, the concentration of production and wholesale distribution has produced an oligopolistic structure, which under both national and regional law could be subject to scrutiny for abuse of dominance. Operators in this market must carefully monitor pricing practices, discount schemes and distribution agreements to avoid potential infringements. In Senegal, compliance risks arise in relation to price controls and marketing authorizations. The DPM's authority to regulate prices under the 2003 Order means that firms have limited flexibility in commercial policy, while delays in the issuance of authorizations, often exceeding two years, can create significant costs for operators awaiting entry into the market. In Mali and Guinea, where the informal market for medicines is pervasive, compliance risks are twofold. Formal distributors must demonstrate adherence to quality and distribution regulations but face unfair competition from unlicensed operators. This raises the prospect of reputational risks if consumers conflate formal and informal products, and regulatory risks if authorities perceive private distributors as complicit in the proliferation of illicit markets.

The broader regional framework compounds these challenges. For companies operating across multiple ECOWAS countries, divergences in national price regulation, authorizations, and enforcement capacity create a patchwork of obligations. While ERCA's mandate is to harmonize and oversee competition rules at the community level, its enforcement capacity remains limited, and national authorities continue to exercise wide discretion in their domestic markets.

Strategic considerations

For companies considering entry or expansion in the ECOWAS pharmaceutical sector, compliance is not a secondary matter but a fundamental determinant of market access. The sector is subject to direct government intervention through monopolies, exclusive concessions, price regulation, and licensing requirements. Entry strategies must therefore anticipate interactions not only with competition authorities, but also with ministries of health, national procurement agencies, and regional regulators.

Opportunities do exist, particularly in Senegal and Nigeria, where governments have sought to liberalize distribution and encourage private participation. Yet, the dominance of a few wholesalers and the reliance on imports mean that compliance with import controls, quality standards, and pricing rules remains central. In countries where state monopolies persist, such as Cape Verde, operators must navigate exclusive distribution rights through contractual arrangements with public entities.

The compliance risks linked to parallel trade and counterfeit medicines are particularly significant. Companies must develop monitoring mechanisms and cooperate with regulators to differentiate their products from illicit ones, thereby protecting both consumer trust and market reputation. At the same time, given the overlapping jurisdictions of national authorities, WAEMU institutions, and ERCA, companies operating regionally must ensure alignment of their contractual and pricing policies with both domestic and community-level obligations. The pharmaceutical market in ECOWAS combines

structural demand with a layered and complex regulatory environment.

While demand ensures long-term opportunities, the sector is heavily shaped by state intervention, monopolistic concessions, and high levels of concentration.

Compliance with national, regional and sector-specific regulations is indispensable, particularly as enforcement mechanisms strengthen in the context of consumer protection and competition law reforms.

For companies, the challenge is twofold: to secure reliable access to markets through adherence to procurement, authorization and pricing rules, and to ensure that their competitive strategies are aligned with the expectations of both national regulators and regional authorities. In the absence of such compliance, the risks of exclusion from procurement channels, exposure to sanctions for restrictive practices, and reputational harm from association with parallel trade remain considerable. The ECOWAS pharmaceutical sector is therefore both an opportunity and a regulatory test, requiring a strategy that integrates market positioning with rigorous legal and institutional compliance.

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