



Using competition law to promote access to health technologies:

A supplement to the Guidebook for
low- and middle-income countries

United Nations Development Programme



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Abbreviations and acronyms

ANDA	Abbreviated New Drug Application (FDA, USA)
API	Active pharmaceutical ingredient
ATC	Anatomical Therapeutic Chemical (classification system)
CADE	Conselho Administrativo de Defesa Econômica (Administrative Council for Economic Defense, Brazil)
CJEU	Court of Justice of the European Union
CMA	Competition and Markets Authority (UK)
COVID-19	Coronavirus disease 2019
EFTA	European Free Trade Association
EU	European Union
FDA	Food and Drug Administration (USA)
FTA	Free trade agreement
FTC	Federal Trade Commission (USA)
HIC	High-income country
IPR	Intellectual property rights
LLC	Limited liability company
LMIC	Low- and middle-income countries
NCA	National competition authority
OTC	Over the counter
PLC/plc	Public limited company
R&D	Research and development
RTA	Regional trade agreement
SAMR	State Administration for Market Regulation (China)
TFEU	Treaty on the Functioning of the European Union
TIA	Trade and Investment Agreements
TRIPS	Trade Related Aspects of Intellectual Property Rights
UNDP	United Nations Development Programme
WTO	World Trade Organization

Coronavirus disease 2019 (COVID-19) has demonstrated the strong and reciprocal relationship between health and sustainable development. The COVID-19 pandemic is an unprecedented health and development crisis; as of January 2022, it has killed over 5.5 million people and infected over 328 million. It has unleashed profound socio-economic impacts and is derailing hard-won progress towards the achievement of the Sustainable Development Goals (SDGs), triggering the first decline in human development in 30 years.

The challenge before us is to ensure that the pandemic responses, recovery efforts and future pandemic preparedness benefit and are inclusive of all countries and peoples, consistent with the 2030 Agenda for Sustainable Development and the pledge to leave no one behind. Closing the vaccine equity gap and efforts to build forward better must ensure equitable and affordable access to health technologies for all. Such access is vital for realizing the right to health and the achievement of universal health coverage, and, in turn, eradicating poverty and reducing inequalities. With access to essential medicines, diagnostics and vaccines now regarded as a critical component of the right to health, countries are increasingly focusing on enabling laws and policies to promote equitable access to health technologies and achieve the right to health.

The United Nations Development Programme (UNDP) first drew attention to the utility of competition law in health care as a tool to facilitate and promote access to health technologies in 2014. It published 'Using Competition Law to Promote Access to Health Technologies: A guidebook for low- and middle-income countries' (the Guidebook), with the aim of promoting greater understanding of competition law and providing practical guidance on its use to increase access to affordable health technologies in low- and middle-income countries (LMICs).

It is worth noting that the Guidebook drew on the experience of the AIDS pandemic. It is now well accepted that generic competition for antiretroviral medicines has been an indispensable part of the success in expanding access to life-saving HIV treatment. It is hoped that this publication, 'Using Competition Law to Promote Access to Health Technologies: A supplement to the Guidebook for low- and middle-income countries' (the Supplement), provides further guidance on using competition law and policy as a tool to increase equitable access to affordable health technologies in LMICs, which, in turn, can contribute to improving health, well-being and inclusive economic growth.

The main objective of this Supplement is to provide information on competition law and related developments since the publication of the Guidebook in 2014. While the Guidebook introduced the policies and approaches that inform competition law, the Supplement describes how competition law and policy have been used to improve access to health technologies, particularly through recent examples of the use of competition law.

The Supplement has benefited from the experience and insights from a range of experts drawn from competition authorities, academia and multilateral organizations with relevant expertise across a range of development settings. We are deeply grateful to all who have contributed.

We hope the Supplement will be a useful tool for governments, civil society and all other partners wishing to explore a range of strategies and tools to increase equitable access to health technologies for better health and development outcomes consistent with our common agenda to eradicate poverty and inequalities and deliver on the promise of the SDGs and the pledge to leave no one behind.

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