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Counterfeiting and the potential for our healthcare sector

Drug counterfeiting and counterfeiting in general is only attractive to the counterfeiter as a result of the lack of effective enforcement, minimal deterrence, and weak regulatory and judicial framework. Counterfeiters are also likely to take advantage of the current astronomical increase in the prices of imported medicines (like the CAC 1000gm I bought last week), to introduce sub-standard and fake medicines into the Nigerian market. These counterfeits will likely be introduced as “Nigerian made/locally made” and un-suspecting individuals will fall prey in the bid to staying healthy and well.

In fact, whilst the menace of counterfeiting cannot be eradicated in one fell swoop, the problem can however be contained and counterfeiting will become less attractive when the consequences for counterfeiters is set at the highest limit. It is instructive to mention that whilst the National Agency for Food and Drug Administration and Control (NAFDAC) takes the lead in the fight against counterfeiting, the Nigerian Custom Service (NCS) must work as an indispensable partner.

Cases of counterfeiting may need to be handled by specialized courts or given further priority as this malaise directly affects our economy, lives and livelihood.

Although Nigeria does not currently have a specific legal framework for anti-counterfeiting, there are several laws that provide for anti-counterfeiting measures, and enforceable by their respective regulatory agencies. NAFDAC, Standard Organization of Nigeria (SON) and the Federal Competition and Consumer Protection Commission (FCCPC) are some of these agencies.

While working with the government to fix the issues that could deter the existence of a viable pharmaceutical manufacturing industry, it will remain the responsibility of the brand owners to protect their respective brands against counterfeiters. A brand owner and in this instance, the pharmaceutical company must take the lead in coming up with suitable and sustainable anti-counterfeiting strategies for its business. The brand owner should seek advice, work with Intellectual Property (IP) practitioners and reliable investigators to come up with strategies for protecting its brands against counterfeiters. Local manufacturers must not rest on their oars either, as they must apply caution when engaging distributors. They will also need to conduct market surveys from time to time and set up “watch notices” for their trademarks among others.

In recent times, the collaboration between the NAFDAC and the NCS has been effective in arresting and deterring counterfeiters. However, a lot more can be done by stakeholders to assist the efforts of these two agencies. These can be in the form of capacity building, training, workshops and providing reliable intelligence.

The initiative by the government through the CBN is laudable and would go a long way to ramp up local pharmaceutical production in Nigeria. Already we can all see the different variants of alcohol-based hand sanitizers since the Minister for Works’ public statement a while ago. With proper follow through, we can push the dealers of counterfeit drugs out of business, whilst meeting local, regional and continental demand for healthcare products. Additionally, a well-articulated and enforced policy protecting the pharmaceutical industry can help Nigeria cover the shortfall in importation which the “COVID-19 pandemic” and its attendant lockdown may have brought. I finally called that which should not be named. We are very creative people and my belief is that, moving on from a resource-based economy to a knowledge/talent based one, we can truly make this country great again – not in the Donald Trump sense of course.

¹ According to the World Health Organization (WHO), one in 10 medications sold in Africa are either fake or substandard.

The entire world is now in what I call the “now normal”. We all appear to have moved from having the fear of our lives in March this year (thinking it was Armageddon) to wearing masks, face shields, constantly hand-washing, using hand sanitizers and of course maintaining social distance (2 metres initially, likely to reduce to 1metre). Almost everyone has heard of one elixir or the other – turmeric, ginger, lemon – brought to a boil. I think the lesson we have all learnt and are learning is that life must continue – lives and livelihoods matter.

In moving beyond this pandemic, it has truly become expedient for all of us to boost our immune systems and take all precautionary measures to prevent getting the dreaded virus (I will try as much as possible not to write its name). So, like a lot of people, I have my own routine and protocols and I am constantly trying to boost my immune system. 1000mg of Vitamin C has always been one of my “go to” for enhancing my immune system.

Just before a meeting with my partners last Saturday, I stopped by at the local pharmacy near our office, to pick up a bottle of CAC 1000. Can you imagine I was asked to pay ₦4000 for something I bought a few months ago for less than ₦1000? – of course, this was before this pandemic. This kind of price hike tells me one thing, that the pandemic presents a unique opportunity for our local pharmaceutical manufacturers. Vitamin C, as common as it is, made from simple basics like corn starch, corn sugar or rice starch can be produced by our local manufacturers at more competitive prices. Beyond production, the size of the Nigerian market, as well as export opportunities within ECOWAS and the rest of Africa, when the African Continental Free Trade Area (AfCFTA) comes into force, shows the viability of local production of pharmaceuticals in Nigeria.

Everyone is trying to keep safe and there seems to be a better understanding of the constant need to boost our immune systems as a precaution to avoid getting infected. This also means inventors in the pharmaceutical space will be looking for the magical elixir, the cure to this dreaded disease, whether from local herbs (like in the case of Madagascar) or scientific chemical combinations. As the whole world is looking for a vaccine, I believe our Nigerian inventors are most likely doing the same. From my experience in protecting intellectual property rights, I know the pharmaceutical manufacturing sector faces its own unique challenges. These start from low production capacity, to a huge systemic reliance on importation of drugs to meet local consumption (over 60%), to power and the logistics nightmare. This industry will also have to fight its main foe, counterfeiting. The manufacture, sale and distribution of fake/counterfeit medicines is a gargantuan problem for Nigeria and Africa.¹

Apart from the opportunities open to our pharmaceutical companies in revamping the Nigerian economy, the current health crisis the world is experiencing has exposed the deplorable state of our healthcare sector. It has also shown us areas of tremendous opportunity to grow the economy. Whilst we may have some of the best brains in the medical sector (and I am proud to repeat that from the 97 medical doctors who graduated from Howard University a few weeks ago, 46 of them are Nigerians), we lack the medical infrastructure, supplies and medicines to sustain a viable healthcare sector. Like most people, I am scared of going to a hospital for fear of exposure to the virus. But surely, we can turn around the deplorable state of our medical sector. Countries that have succeeded in this are no better than us. Our Nigerian trained doctors and nurses leave the country in droves every year, thriving in their new host countries. If we can only get our acts together with the healthcare sector, our medics are more likely to thrive, plying their skills here. The issue of brain-drain is story for another day. For today, my focus is counterfeiting and the potential for our healthcare sector.

In reviving the Nigerian economy, it is critical to address issues of funding, the implementation of sound economic and social policies, and the menace of counterfeiting and fake drugs. I make bold to say again that the healthcare sector has the potential to revive our economy. It is on record that Nigeria was once a destination for medical tourism and proudly received Saudi Royals in the 1960’s as medical tourist to our University College Hospital, Ibadan for treatment.

There is no gainsaying, the healthcare sector has the potential to assist in reviving the Nigerian economy. In particular, the local manufacturing of drugs and medical supplies has the potential of reversing the adverse effect this pandemic has had on the Nigerian economy. A lot of us are focusing on the price of oil now, but when the dust settles, we are all likely to realize that one of the best cards up our sleeves in the immediate future is the local manufacturing of pharmaceuticals.

It appears this government has recognized the potential of the healthcare sector, and that may be the reason it introduced the ₦100 Billion credit support intervention for the sector through the Central Bank of Nigeria (CBN). This fund is apparently meant to assist local pharmaceutical companies ramp up capacity in manufacturing drugs and other medical supplies. If effectively implemented, Nigeria has the potential of becoming a manufacturing hub for drugs and medical supplies in Africa, particularly when the AfCFTA comes into force. While the intention and proposed policy is great, it will only remain a dream if the issue of counterfeiting and fakes is not addressed.

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Counterfeit drugs are not only manufactured in Nigeria, sometimes it is more cost effective to manufacture them outside the country and smuggle them in – like rice. The NCS must put measures in place to effectively man all our borders to ensure that these counterfeit drugs are not imported into the Nigerian market, while NAFDAC takes charge of home-grown counterfeiters.

Consequently, a strong collaboration and network between the regulatory agencies and law enforcement authorities is crucial. In addition, the judicial framework for dealing with

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