

STRATEGIES FOR MULTINATIONAL COMPANIES TO MEET ANTI-CORRUPTION REQUIREMENTS IN CHINA'S MEDICAL AND PHARMACEUTICAL INDUSTRIES



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In recent years, the medical and pharmaceutical industries have grown rapidly, and China's anti-corruption regulations have become increasingly stringent. Multinational companies in China need to be aware of anti-corruption laws and ensure compliance while remaining flexible to the changing legal environment. This dual pressure requires companies to follow strict anti-corruption policies in their internal management and external cooperation and to establish a comprehensive compliance system.

This article will discuss the current laws and regulations in China's healthcare and pharmaceutical industries and explore strategies and approaches for companies to respond to anti-corruption requirements. Multinational companies operating in China must comply with local anti-corruption laws while addressing global regulatory challenges. In recent years, anti-corruption regulations have been frequently updated, penalties have increased, and the focus of regulation has been progressively concentrated on key positions and critical processes. The Chinese government has continued to introduce new anti-corruption policies and strengthened regulation of the healthcare sector. For example, the recently introduced "two-invoice system" policy requires medicine to go through only two invoices from production to hospitals in order to reduce corruption in the distribution process. As the policy has

been strengthened, the penalties faced by non-compliant companies have become harsher, including not only financial fines but also business restrictions and administrative penalties, which have had a significant impact on market operations. Regulators have paid particular attention to key positions such as senior hospital managers and procurement officials, as well as key aspects of medicine procurement, pricing and project applications.

LAWS, REGULATIONS AND POLICIES IN CHINA ON COMMERCIAL BRIBERY IN THE MEDICAL INDUSTRY

In China, the anti-corruption regulations in the medical and pharmaceutical industries are becoming increasingly strict. The government has implemented a comprehensive framework of laws and regulations designed to combat commercial bribery and ensure fair market competition, as well as to protect public health safety. Key legislation, such as the Anti-Unfair Competition Law and specific provisions within the Criminal Law, have been put in place to address and penalize corrupt practices within these sectors.

If a company is found to have bribed hospital staff or engaged in unfair competition in medicine procurement, the consequences can be severe. Economic penalties are substantial, including hefty fines that can significantly impact a company's financial standing. These penalties are often

accompanied by contract losses, where companies may lose lucrative contracts or be disqualified from future procurement opportunities. This not only affects the immediate revenue but also damages the company's long-term business prospects.

Additionally, companies may face administrative punishments for engaging in commercial bribery. Such administrative actions can include the confiscation of illegal gains, which strips the company of any profits made through corrupt means. Fines imposed in these cases can be considerable, further straining the company's resources. In extreme cases where the violations are particularly egregious, the company's business license may be revoked, effectively barring it from operating within the market. This represents a significant risk, as it can lead to the company's permanent exit from the industry.

Moreover, individual accountability is also a critical component of China's anti-corruption measures. If a company is found to have bribed government officials or hospital staff, the individuals responsible for these actions may face severe criminal penalties. These penalties include substantial fines and, in serious cases, imprisonment. Such criminal charges can result in long-term imprisonment, severely affecting the individuals' lives and careers. The prospect of criminal charges serves as a powerful deterrent, emphasizing the serious personal risks involved in engaging in corrupt activities.

THE TWO-INVOICE SYSTEM

The tightening of anti-corruption measures is a direct response to widespread concerns about unethical practices in the industry. Historically, the medical and pharmaceutical sectors have been bothered by issues such as kickbacks, under-the-table deals, and other forms of bribery. These practices not only undermine the integrity of the healthcare system but also put patient safety at risk by potentially prioritizing profit over care quality. By enacting stringent anti-corruption regulations, the Chinese government aims to establish a more transparent and fair environment that promotes healthy competition and ensures that patient care remains the top priority.

One significant example of these stringent regulations is the "two-invoices system" policy, which aims to simplify the pharmaceutical supply chain. The two-invoice system refers to the fact that medicines can only be invoiced twice from the pharmaceutical company to the hospital. This means that only one invoice is issued from the pharmaceutical manufacturer to the distributor, and only one invoice is issued from the distributor to the hospital, and no other invoices are allowed in the process. The "two-invoice system" will reduce the intermediate links in the circulation of medicines, lower distribution costs and significantly reduce the price of medicines.

By reducing the number of transactions, the policy seeks to minimize opportunities for corruption and make the entire process more transparent. This policy is particularly important because it directly addresses one of the critical areas where corruption has been most rampant – the distribution of medicine. With fewer steps involved, it becomes easier to trace the path of medicine from pharmaceutical companies to hospitals, thereby reducing the likelihood of illicit activities.

HOW MNCS CONTROL AND MINIMIZE COMMERCIAL BRIBERY RISKS

For multinational companies operating in China, understanding and adapting to these local regulations is crucial. These companies often face additional challenges due to the need to comply with both local and international anti-corruption laws. This dual compliance requirement can be complex, but it is essential for maintaining good standing in all markets where the company operates.

(1) Strategies for Effective Compliance Construction

To effectively address anti-corruption challenges, multinational companies can engage in compliance construction to meet the requirements of the non-prosecution compliance system. First, admitting guilt

and accepting punishment is a prerequisite for applying the non-prosecution compliance system. Multinational companies need to confront their violations of laws and regulations, actively admit mistakes, and accept corresponding penalties. This is not only a legal requirement but also an important reflection of the company's commitment to honest operations. Second, the company must be in normal production and operation status. This means that the company's operations should comply with relevant laws and regulations, with no major violations, and should be able to perform its business functions normally. This condition ensures that during compliance construction, the company can maintain stable business activities without being affected by compliance issues.

Additionally, voluntarily applying for a third-party compliance supervision mechanism is also a key aspect of compliance construction. A third-party mechanism can provide objective and fair supervision and guidance for a company's compliance construction, helping to identify and resolve compliance risks and ensuring the effectiveness and transparency of compliance construction. Multinational companies need to proactively apply for and accept third-party supervision to enhance external trust in their compliance construction. The government encourages companies to voluntarily apply for third-party compliance supervision mechanisms. These mechanisms provide objective and fair oversight, helping companies identify and resolve compliance risks. By embracing third-party supervision, companies can enhance the transparency and effectiveness of their compliance programs, thereby building greater trust with regulators and the public.

Finally, companies must have sufficient funds for compliance construction. Compliance construction is a long-term task that requires significant resource investment, including formulating and implementing compliance policies, training employees, and monitoring and evaluating compliance status. Therefore, multinational companies need to ensure they have enough financial resources to support these activities, achieve compliance goals, and continuously improve compliance levels.

(2) Investing in Human Resources and Technology for Enhanced Compliance

Moreover, companies should invest in human resources to build a strong compliance team. This team should be equipped with the knowledge and skills necessary to navigate the complex regulatory landscape. Regular training sessions and workshops can help employees at all levels understand

the importance of compliance and the specific requirements they need to meet. A well-informed workforce is crucial for the effective implementation of compliance policies and procedures. Also, leveraging technology can significantly enhance compliance efforts. Advanced software solutions can help monitor transactions, flag suspicious activities, and ensure that all processes adhere to regulatory standards. By integrating technology into their compliance strategies, companies can streamline their operations and reduce the risk of human error. This not only improves efficiency but also provides a robust framework for continuous monitoring and improvement.

In conclusion, anti-corruption in China's medical and pharmaceutical industries is not only a legal requirement but also an important guarantee for maintaining market competitiveness and corporate reputation. Multinational companies need to deeply understand Chinese laws and regulations, establish a sound compliance system, and ensure the transparency and legality of business operations. Through these measures, companies can effectively control and reduce business risks and safeguard their long-term development.

Ultimately, the goal of anti-corruption efforts is to create a fair and ethical business environment that benefits all stakeholders, from patients and healthcare providers to pharmaceutical companies and regulators. By committing to high standards of integrity and compliance, companies can build trust with their partners and customers, ensuring sustainable growth and success in the long run. As the regulatory landscape continues to evolve, staying proactive and adaptive will be key to navigating the challenges and seizing the opportunities that lie ahead.



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