

E-commerce and online pharmacy/ beauty stores in the UAE: Questions of licences and locations

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Moving from traditional to online pharmacy in the UAE

E-commerce and online pharmacy

In 2020, most potential customers have access to a smart phone or a personal computer laptop through which they can buy products and services. Market researchers anticipate an annual increase in sales of 20 per cent over the next five years, and suggest that gross revenues from online pharmacy will exceed US\$131 billion in 2025. The drivers of the expansion include increased per capita incomes in emerging markets, greater self-medication by patients and aggressive sales promotions by manufacturers and distributors.¹ The COVID-19 pandemic may have provided an additional boost, given that it encourages people to shop online rather than at traditional shops. Hence, online pharmacy is a large commercial opportunity, both in the United Arab Emirates ('UAE') and globally. This is partly because of the huge variety of products that are typically offered by both traditional 'bricks and mortar' and online pharmacies. Customers may buy prescription medicines, over-the-counter medicines, alternative medicines, cosmetics, beauty and personal care products and often much else. All this begs the question: what are the official licences that are needed to offer products via an online pharmacy or beauty stores to customers in the UAE?

Relevant regime in the UAE

Registered pharmacy or beauty store players

For a traditional pharmacy or chain of pharmacies that are already registered in mainland UAE, the move into online business is a relatively straightforward process. This is on the basis that they are already subject to the rules and requirements of two regulatory bodies. One is the Ministry of Health and Prevention ('MOHAP') and/ or healthcare regulator of the Emirate in question (e.g. Abu Dhabi's Department of Health or the Dubai Health Authority). The other is the relevant body that has issued the company's commercial trade licence (e.g. the Department of Economic Development in Abu Dhabi or Dubai).

In addition to the above mentioned licenses, an established pharmacy (or chain) that wishes to move into online pharmacy needs to apply to DHA for tele-pharmacy services.

To obtain the required commercial licence it may be necessary to also obtain a no objection letter ('NOC') from the Telecommunications Regulatory Authority ('TRA') to declare that the TRA has no concerns about the e-commerce activity. Such a NOC can be applied for online from the TRA however, the exact status of the NOC and when it is needed is not completely clear.

As an alternative to setting up its own online presence, an established pharmacy or beauty store may choose to distribute through an established e-commerce aggregator. This is explained below in terms of what licenses and approvals would be required.

Third party aggregator e-commerce platform players

A third party e-commerce aggregator platform or website can create a marketplace for the sale of healthcare and beauty products online, but the key issue is that the pharmacies or beauty stores that participate in the marketplace for supplying the products are properly licensed by the relevant health regulators in the UAE. In this case, assuming that the participant pharmacies are already registered with DHA for tele-pharmacy services, the e-commerce aggregator itself will not require a licence from the relevant healthcare regulator and would only need to apply for a commercial trade licence from the relevant Department of Economic Development of the emirate in question or from a free zone authority.

The aggregator may also need to obtain a NOC from the TRA for selling products online. Further, if the e-commerce aggregator is creating a marketplace for the sale of products of third party pharmacies and beauty stores in the UAE, it will likely also need to apply to the National Media Council ('NMC') for an e-media permit. The remit of the NMC under the 2018 Electronic Media Regulation Resolution (the 'E-Media Law') is broad and vague, but includes the licensing of "specialised websites (e-ads, news sites, ... etc.)". Anecdotally, we know this to mean the provision of services aligned with 'classified advertising', whereby a publisher or platform takes money from a third party to include their products in their listings.

In both instances of registered pharmacies or beauty stores and a third party e-commerce aggregator, the website owners or administrators must ensure that their websites comply with all federal and local regulations related to health advertisement and advertising on social media as well as the internet access guidelines in the UAE in order to avoid regulatory breaches and potential blocking of a page or the platform itself.

Jurisdictional choices

The e-commerce aggregator will have the option of setting up a presence either 'onshore'² or in one of the available 'free zones' that have been established throughout the UAE and would not be subject to the mainland trading restrictions that the free zone companies face. This is on the basis that the participants in their marketplace should already have the necessary commercial trading licenses onshore.

On the other hand, for pharmacies or beauty stores that intend to sell their products online through their websites, it is necessary to have a presence onshore. For an onshore presence, foreign investors must partner with a UAE national (either an individual or a company wholly owned by UAE nationals). The UAE partner must hold at least 51 per cent of the shares in the onshore company.

By contrast, setting up in a free zone offers 100 per cent ownership to foreign investors, which provides for a more attractive environment for many businesses. To conclude, the nature of licenses/ approvals that need to be obtained and the jurisdiction in which the corporate entity needs to be set up will depend on whether the online sale is being contemplated by an already registered pharmacy or beauty store in the UAE or through third-party e-commerce aggregators.

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