Capsulas

Breaking the habit of confusing value and price

Public procurement influences access to medicinal products, continuity of supply and the resilience of the healthcare system; and it can be optimised

Possibly the main aspiration shared by the various stakeholders in the sector is that patients have the medicinal products they need when they need them. Increasingly, debates on biomedical innovation, early access, strategic autonomy or the resilience of the healthcare system revolve around this objective. Alongside these broad concepts, interest is beginning to emerge in a less visible yet decisive element: the direct influence of public procurement on the availability of medicinal products, market structure and security of supply.

Medicines for Europe recently published very specific figures in this regard: up to 84% of public procurement procedures use price as the sole award criterion; and up to 74% of Member States use single-supplier procedures. Although Directive 2014/24/EU advocated for the use of 'MEAT' (Most Economically Advantageous Tender) criteria, it is common for the prevalence of low price to overshadow a genuine balancing exercise aimed at selecting, as Article 145 of the Spanish Law on Public Sector Contracts establishes, "the best price-quality ratio".

Review of the 2014 Directives: an upcoming opportunity

Brussels is considering whether the design of the 2014 Directives has helped to shift contracting authorities towards a value-based approach; and the institutional response to this question leans more towards the negative. This was reflected in October 2025, when the European Commission published the evaluation of the 2014 Directives package as a first step towards its revision, and the Commission itself announced plans to present a new revised framework in the second quarter of 2026.

The new legal framework will aim to (i) increase the efficiency of public investment; (ii) design tools to strengthen economic security and sovereignty (which is relevant in relation to 'Made in Europe' related commitments); and (iii) align public procurement policy with the EU's strategic policies and objectives. In the field of medicinal products, all this raises a particularly relevant question: can and should public procurement safeguard continuity of supply, resilience of the production chain and sustainable competition, without being reduced to a purely budgetary approach?

For its part, the European Parliament, in its Resolution of 9 September 2025 on public procurement (2024/2103(INI)), insists that the future framework should simplify rules, promote genuine competition and allow for a more effective use of strategic criteria other than price. The resolution expressly links procurement to objectives of resilience, sustainability, economic security and European competitiveness. Public procurement also serves as a lever for industrial policy. It further adds a particularly telling statistic: in 2023, twenty Member States awarded more than 50% of their tenders based solely on price, and ten of them exceeded 80%. In the pharmaceutical sector, the message is clear: the future revision of the Directives is relevant not so much for the procedural reform itself, but for the possibility of finally recognising that, in the public procurement of medicinal products, the value of a tender is not limited to its price.

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The situation in Spain

Although the new Law on Medicinal Products and Medical Devices will have to wait, it is worth noting that its April 2025 Draft Law is of particular interest because it also anticipates these issues. The text submitted for public consultation includes references to moving beyond "the traditional customer-supplier model" and recognising the role of institutions throughout the entire medicinal product value chain, from innovation to production and strategic autonomy. The text is also part of a policy expressly aimed at strengthening the supply chain and preventing shortages.

From the perspective of public procurement, the most significant contribution of the Draft Law lies in its fourth final provision, which amends Law 9/2017. Specifically, it proposes introducing special rules for the procurement of medicinal products, medical devices and healthcare services. Among other matters, it provides for joint framework agreements and dynamic purchasing systems; as well as joint procurement at national or European level where this is preferable to decentralised purchasing.

In our view, the key innovation is the provision that, in public procurement procedures for hospitals, it must be justified that the award criteria ensure the best value in terms of cost-effectiveness and strategic autonomy. In addition, price may not account for more than 20% of the award criteria, unless duly justified in the procurement file.

Also noteworthy are the provisions allowing the use of the negotiated procedure without prior publication for medicinal products protected by exclusive rights where no therapeutic alternative exists. This entails a certain simplification of current procedures, but it does not fully address the fundamental concern of those marketing exclusive medicinal products, namely the absence of any requirement to undergo a public procurement procedure. What is relevant is that an underlying logic of supply, agility and strategic management of healthcare procurement is beginning to emerge.

From the cheapest bid to the bid with the greatest value

The relationship between price and value is misrepresented when presented as a mutually exclusive alternative. The conflict arises when price is treated as the primary element when it comes to public interest in a sector where quality of care, health outcomes, incremental innovation, continuity of supply, organisational impact and, increasingly, industrial resilience, constitute the real value of the service. In healthcare, the cheapest offer is not always the most economical and probably will become less so over time.

At the same time, the transition towards value-based procurement should not be idealised either. The more the weight of price is reduced, the greater the need to objectify and justify the other criteria. The shift towards sustainability, resilience or strategic autonomy will only be legally robust if these concepts are translated into verifiable parameters, linked to the subject matter of the contract and applied with sufficient transparency so as not to undermine equal treatment or unduly expand administrative discretion.