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# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6276

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March 5, 2001

The Honorable John Ashcroft  
Attorney General  
United States of America  
Washington, D.C. 20530

Dear Attorney General Ashcroft:

I have an ongoing concern about what appears to be a lack of healthy competition in the medicinal needles and syringes sector of our health care industry. I have expressed my concern about this issue to the Department of Justice in the past and I want to call this matter to your attention now that a recent news story has raised additional points.

Group Purchasing Organizations (GPOs) purchase products for hospitals, health care systems and other members of their networks at costs below what these institutions could secure on their own. While one goal of GPOs is to provide consumers with lower-priced products and services, these purchasing arrangements in fact may be hindering competition in the health care marketplace through exclusionary contracts and unfair trade restrictions regarding safe needles.

In the past, I have heard concerns that Becton Dickinson (BD), the largest manufacturer of syringes, may be engaged in practices that have the effect of greatly limiting competition in the market for "safe" needles. Brokerage reports show that BD controls 70 percent of the U.S. market for syringes and needles and 90 percent for blood collection needles. These percentages raise questions about the possibility that products manufactured by smaller suppliers are being shutout of the health care market.

These statistics are especially troublesome because some of BD's so-called "safe" needles have not been shown to be any safer than regular needles in surveys. In fact, Business Week published a two-page report on this issue in March 1998, entitled "Locked Out of the Hospital" (copy attached). BD's large share of the market and close ties with GPOs appear to result in preventing other companies, which offer safer needles, from being able to compete against BD's products. This matter raises a number of serious competition and safety issues, including those affecting medical practitioners who may be needlessly placed at risk.

The February 25, 2001 segment of the CBS news program "60 Minutes" raised concerns about BD's strong presence in the needles and syringes sector of the health care industry, similar to concerns that I raised with the Department of Justice last fall in a September 28, 2000 letter. In a

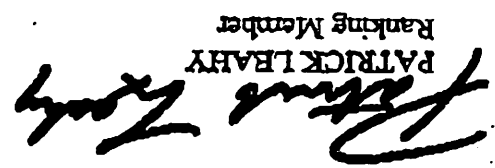
December 8, 2000 letter from the Department replying to my concerns, I was informed that an investigation had occurred during 1998 and 1999 and that the Antitrust Division concluded that GPO contracting practices were not a "substantial barrier" to hospitals' purchasing safer products if they so chose.

My wife is a nurse, and I am especially aware of the risk that she and other healthcare providers face when handling unsafe needles. Each year, health care workers in the United States report more than 800,000 needlestick injuries. The American Nurses Association has stated its belief that 80 percent of the needlestick injuries could be prevented with already safe needle devices currently available on the market, made by several competitors of BD. We know that needlestick injuries carry high risks of infection from HIV, Hepatitis C and some drug-resistant forms of tuberculosis, and I can sympathize with the health care workers and their families who may be needlessly exposed to added risk. I know that I would be devastated if my wife were ever struck with a contaminated needle. Keeping safe needles off the market can be a deadly risk.

In light of the concerns I have outlined here and in the past, as well as the focus of the recent "60 Minutes" segment on this subject, I ask the Department once again to conduct a thorough and immediate examination of this aspect of the health care marketplace in order to determine if there have been violations of our antitrust laws.

It is vitally important that we promptly address this potentially deadly situation.

Sincerely,

  
PATRICK LEAHY  
Ranking Member

Enclosure