United States Senate

WASHINGTON, DC 20510

August 11, 2009

Via Electronic Transmission

W. Darrel Weatherford
President & Chief Operating Officer
Consorta, Inc.
Schaumburg Corporate Center
1475 E. Woodfield Road, Suite 400
Schaumburg, IL 60173

Dear Mr. Weatherford:

We write from the Senate Committee on Finance (Finance Committee), Senate Subcommittee on Antitrust, Competition Policy, and Consumer Rights (Antitrust Subcommittee), and the Special Committee on Aging to seek additional information regarding the functioning of Group Purchasing Organizations (GPOs). The Finance Committee has jurisdiction over, among other things, the Medicare and Medicaid programs. The Finance Committee has a responsibility to the more than 100 million beneficiaries who receive health care coverage under the Medicare and Medicaid programs to oversee the proper administration of these programs and ensure that taxpayer dollars are spent on drugs and devices for beneficiaries in an effective and efficient manner. The Antitrust Subcommittee has jurisdiction over antitrust and competition law and policy, and has long been involved in oversight over hospital purchasing of medical devices to ensure that this industry is fully competitive and that patients have access to the best medical devices at the lowest prices. These issues are of central concern to the Special Committee on Aging as well, which also shares oversight responsibilities and appropriate jurisdiction in these critical public health policy areas.

Group purchasing organizations (GPO) play a role in the cost and availability of drugs, medical devices and supplies sold to hospitals and other health care providers by acting as purchasing intermediaries in the marketplace. GPOs are often funded through fees from manufacturers and other vendors and suppliers rather than from owner or member hospitals or other health care providers and enjoy a statutory safe harbor under the Anti-kickback Statute, 42 U.S.C. 1320a-7b, in order to operate under such an arrangement.

In June, representatives of the Health Industry Group Purchasing Association, Premier, Inc., and VHA, Inc. met with Finance Committee staff regarding their concerns that any adjustments or modifications to the safe harbor provision would, in their opinion, limit the important services that GPOs currently offer to their members, beyond the negotiation of better prices for drugs, devices and medical supplies. As we understand it, such activities could include quality of care and patient safety initiatives. However, there appears to be limited public information about the additional services and activities performed by GPOs and how they are paid for. In addition, there is little information about other fees or payments that GPOs may

secure from manufacturers, other vendors and suppliers, and distributors in connection with and outside of group purchasing activities, such as product marketing.

Accordingly, we would appreciate your assistance in detailing the different relationships that exist between and among Consorta, Inc. (Consorta) and its clients[1] (including hospitals, academic medical centers, pharmacies, physician practices, home health agencies, and nursing homes), distributors, manufacturers and other vendors and suppliers. In addition, please provide a response to the following questions and requests for information. The requests cover the period of January 1, 2005 through the date of this letter. In responding to this letter, please repeat the enumerated question and follow with the appropriate response and documentation.

1) Please describe in detail the functions and activities that Consorta performs on behalf of its clients that are related to negotiating and administering group purchasing agreements/contracts.

2) Please describe in detail the activities and/or services that Consorta offers to its clients beyond activities related to negotiating and administering group purchasing agreements/contracts.

3) For each activity and service described in your response to questions 1 and 2, please identify the source(s) of funding, including to what extent the activity or service is paid for by administrative or other fees collected from manufacturers, other vendors and suppliers, and distributors in connection with group purchasing functions and activities.

4) Please describe all types of payments received by Consorta from manufacturers, other vendors and suppliers, and distributors, and the purpose for which Consorta receives each type of payment. In addition, please provide copies of sample contracts or agreements outlining such payments.

5) Does Consorta receive any payments from its clients? If so, please describe the types of payments and the purpose for which Consorta receives each type of payment. In addition, please provide copies of sample contracts or agreements outlining such payments.

6) Does Consorta negotiate sole-source contracts? If yes, please describe the circumstances under which sole-source contracts are awarded and identify any such sole source contract(s).

7) What are the specific criteria (*i.e.*, volume purchases, size of company) with which Consorta makes purchasing selections of medical device products?

8) If a client decides to go off a sole-source contract or its purchase volume fails to meet the percentage specified in a purchasing contract, what is the impact on fees collected by Consorta for the purchases made by that client?

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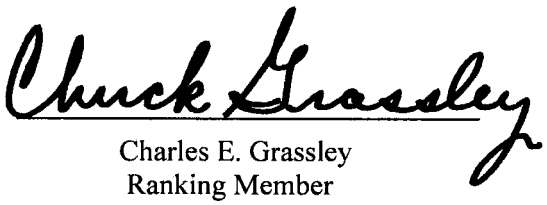
[1] The terms "client" and "clients" include members, affiliates, partners and shareholders.

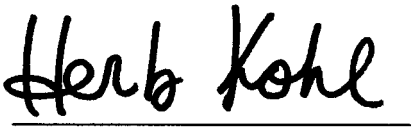
9) Does Consorta negotiate "bundled" discounts for its clients, which provide additional price concessions to the buyer when certain products or services are purchased together? If so, please provide copies of sample contracts outlining the price concessions, including any tiered discounts for reaching specific volume targets.

Thank you in advance for your cooperation. Please provide the requested documents and responses by no later than September 8, 2009. All documents responsive to this request should be sent electronically in searchable PDF format to Brian_Downey@finance-rep.senate.gov. Should you have any questions or concerns regarding this letter, please contact Angela Choy of Senator Grassley's staff at (202) 224-4515, Seth Bloom of Senator Kohl's staff at (202) 224-0789, or Madeline Otto of Senator Nelson's staff at (202) 224-5274.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance



Herb Kohl
Chairman
Subcommitte on Antitrust, Competition Policy, and Consumer Rights
U.S. Senate Special Committee on Aging

Bill Nelson
Member
Committee on Finance
U.S. Senate Special Committee on Aging