

Brodies Funeral Services Ltd

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Response to the Competition and Markets Authority Interim Report

Qualification regarding the proposal to make a Markets Investigation Reference, (MIR)

1. Do you consider that the CMA's analysis is correct with respect to the suspected features of concern in the supply of services by funeral directors at the point of need (see paragraph 8.31)?

In its analysis, the CMA set out six features of the at-need funeral market that it reasonably suspects to prevent, restrict or distort competition; those features are:

1. Customers' vulnerability and difficulty in engaging at the point of need.

This unqualified and poorly substantiated statement that consumers are all vulnerable and have difficulty engaging is ridiculous. That the majority of clients are upset and suffering from various stages of bereavement is obvious, but many clients are relieved the pain and suffering is no more or they know exactly what the deceased wished for their funeral, especially in our case as they are aware of our costs before engagement. Therefore vulnerable is not a suitable word to describe the client, just like customers isn't. They don't choose to or ever wish to arrange a funeral but they are called to do so by societal pressure and a desire to honour the life of their loved one. Thus clients are most likely to be inexperienced and not at their best but are rarely vulnerable. When they are it is obvious to an experienced funeral director and the arrangement interview adjusted to suit each disparate client.

2. Customers' unresponsiveness to measures of price: they largely choose a funeral director on the basis of recommendation on personal experience.

The fact that price isn't such a market driver for this sector is obvious. The client isn't purchasing an item or service or a widget which they can purchase at any store. For them it is an emotional purchase made when they rely heavily on the trust for the person or persons to whom they place the care of their loved one. There are areas where competition is fierce and yet prices are remarkably similar and other areas where little competition exists and prices vary more so.

The reasoning the CMA has used for their conclusions is very limited and appears to be a case of making evidence fit a desired outcome.

3. Customers' inability to assess certain aspects of quality and the value for money of all options offered given funerals are an infrequent purchase and customers are often inexperienced.

This point seems to rely more so on the CMA's fascination with the corporates and their loud claims of enhanced quality determining the vastly higher fees charged. Whereas in reality the corporates are the sector stripping as much out of those areas as possible to maintain higher and higher margins to satisfy shareholders insatiable greed. The firms with the greater ratio of expensive facilities, staff and fleet aren't corporates but independents who, by modern business standards, reinvest a great deal more to improve and advance their service. Much of it is good old fashioned see what I've done, but much more is because the independent family owned and run firm is here for the long term, not to increase volume and sell out to the highest bidder, knowing their clients will pay more and get less. They are truly vocational firms who enjoy their standing in the community and treat that trust as paramount. Profits are only a necessity to sustain that level of service, not the actual goal.

The main reasoning isn't the competition for clients but the aspirational appeal of the individual funeral firm. A firm with 100 year history and state of the art facilities and prestige fleet may well charge more than a new start around the corner with limited investment of facilities and fleet, but the choice is for the client not for the Government to dictate. Otherwise why is there no MIR into a Rolls Royce or Bentley costing 10 to 30 times the price of a Mini? They are after all just cars.

4. Lack of transparency: reluctance of firms to publish/disclose clear prices (including online), or to provide comprehensive information on quality and range.

These are not altogether connected.

Lack of transparency has been an issue for many years. Many firms have been bought over with the purchaser usually paying a lot of money for the 'name'. Therefore it is an oxymoron that we as independents complain when a competitor is bought out and the name kept, when we eventually could take the same path. However, it is disingenuous for a firm to open with a name with no connection to the ultimate owner or management. An example would be Barclays Funeral Services, owned, started and operated by Dignity to appear like a local family run independent firm, the ownership is declared, just not very much. Completely legal and well within all marketing agreements, we also have a company named within companies house as The Independent Family Funeral Directors Ltd, who went into partnership

with a previously independent family owned and run firm but appear to be actually owned by a Venture Capital investment company, again completely legal but is this deliberate camouflaging of ownership transparent?

As for transparency, in our own case we publish full prices on line and likewise our quality and range is clearly visible.

5. Point-of-sale advantage: ability of suppliers to largely control the decision-making process leading to the sale and its outcome.

In our own case this is complete rubbish. We arrange 75% of services within the clients own home. We know that clear and full disclosure of all the facts and choices available is the only way to deliver the trust which our clients rely on. Our reputation to guarantee this service and level of care is what we thrive on. Directed selling or steering towards favourable outcomes to the funeral firm are short lived and the public are quick to catch onto this type of business. Again vocational versus marketing.

6. Ineffective self-regulation in respect of information transparency: no mandatory publication of online prices, absence of publication of inspection reports.

In this there is little to disagree with. I have been at many executive Trade Association meetings where my arguments for higher mandatory standards, sanctions on those who regularly fall below performance expectations and higher entry standards have fallen on deaf ears. True as voluntary associations the membership can just leave if they disagree and a balance has to be reached between a carrot and a stick. However after 10 years of trying to get mandatory refrigeration as a minimum criteria, all I had to do was mention that the Scottish Government would make it statutory and now all Scottish Saif members have it. They also all can't believe how they managed without it. I have long campaigned for online prices and open descriptions, but I can say that I disagree with blanket publication of inspection reports. The reason is that like an MOT for a car anything can go wrong on a certain day and a clean bill of health on a Monday doesn't guarantee likewise on a Wednesday. As public perception is so very sensitive in this sector and our press love to sensationalise, I would agree that publication of inspection reports was right, only after all the factors have been taken into consideration and an opportunity for remedial action allowed. I have discussed this subject at length with the Scottish Government and we have agreement that the assumption of innocence until, until proven guilty, must be cherished in this sector as premature action could erroneously destroy a firm by hearsay and gossip in the court of public opinion.

Conclusions.

I intend to keep this submission relatively succinct and to the point as there will be numerous long winded and procrastinated responses.

As the MD of Brodies Funeral Services Ltd, a 90 odd year old family owned and run business serving the communities of West Lothian and North Lanarkshire since 1921, combined with prolonged involvement, in an advisory capacity towards the regulation of Funeral Directors in Scotland as the Scottish SAIF (ScotSaif) Government liaison representative, this response is both my personal and professional observations of the interim report from the CMA concerning its inaccuracies and opportunities missed. It is my belief that the sooner a full MIR into the four sectors of the profession is completed the better.

I say four sectors as the Funeral market has four distinct and different parts.

1. The independent family owned and run funeral provider, from a one person firm focussing on service and quality to the marketing and sales oriented models, old and new, accomplishing 75% of all funerals in the U.K.

2. The corporate funeral providers, Dignity and Cooperative as the big two, who were so shamed by the CMA interim report, yet continue to bring the sector into disrepute by attempting to deflect responsibility. There are also various other corporates, who to a greater or lesser degree, anecdotally appear to behave in similar fashion with profit generation being the major driver. I have nothing against a sustainable profit as without that, development and investment is strangled and any business will stagnate. The explosion in funeral director numbers can largely be attributed to the low moral, pay and conditions of many corporate staff, watching simple services being invoiced for many thousands of pounds and yet they were paid poorly. With no barrier to entry and even 10-15 funerals a year they could earn more than they were and be their own boss. Thus the corporates brought about their own spiral of failure. Cut costs for profit, lose demoralised staff, who in turn remove volume and reduce profits as there are only a finite and fairly static amount of funerals. A very simple question for the MIR of independent firms is, where did they learn their trade? Of course that would mean asking the independent sector and the CMA have no idea how many there are. Therefore how can the CMA regulate something they don't know exists?

3. Local authority providers of burial and cremation. These providers have to behave in differing ways with different responsibilities to their stakeholders. There are considerable variations of model of profit generation/loss management.

4. Private Burial and Cremation authorities. They have been left pretty much to do as they please and the models vary, but again anecdotally, with a few exceptions profit generation appears to be the main driver. Service and vocational rewards taking a back seat.

It will only be after a full inquiry into how all these disparate sectors combine to produce the market we currently have is fully understood, that the CMA can possibly make any cognitive recommendations to Government for regulation and possible legislation.

I have long served on various committees of ScotSaif, the Scottish federation of the Nafd (as president of both simultaneously) and as an executive on SaifCharter and have long understood the differences between the independent and corporate funeral providers. The consumers see a funeral director, just like the CMA did in their initial report, yet the profession is obviously in two camps. The vocational service and the sales oriented. They have coexisted for decades and together have provided the public with client care and support. The choice of funeral director, once made, is very hard to change as there is emotional investment from the client towards the firm which they placed their trust in to care for not only the deceased but themselves. Value for money is an incredibly subjective opinion. The market has operated under this local market forces model for generations, I do agree that we as a profession are incredibly slow to change and cling onto the 'we always do it like that' mentality. However this isn't a reason to say the market isn't working. The huge emphasis the CMA placed into the examination of Dignity and Cooperative was obviously an easy place to start as they are regarded as the big two and their structure is far easier to come to terms with than looking at the various models within the 2500 small independent family run and owned firms. A telephone survey of only 18 of them was derisory and lazy. The excuse of contacting more who refused was also deflective and patronising. If the CMA calls, any firm answers to the best of their ability.

The CMA's own report throws up some quite disparate statistics for an average funeral cost. They emphasise that the whole funeral invoice should be looked at in terms of at need engagement. Why? Simply because an insurance company survey, specifically designed to generate fear of rising costs and sell highly profitable 50-80 whole life policies, combined all the costs together, including a memorial and probate? 75% of funerals are cremation with no memorial and less than 20% require probate (England and Wales) or Executry (Scotland) The assumption of the entire funeral account being attributable to the funeral directors is not only disingenuous but built on sand. In our own area of operation we can have two identical services but one could cost £1000 more, due to differences in local authority fees. Yet as an average that makes one service £500 more expensive, The premise of local average costs is nonsense let alone a national average, is fundamentally flawed. When the funeral directors final invoice is broken into its constituent items then the most expensive parts of the invoice can be third party costs. Mainly Burial and Cremation fees. All completely out with our control.

We have held our prices since 2015, because we saw the funeral affordability gap widening, making changes to support our communities and have posted full prices online for just about as long. Our most popular service is the traditional service with a quality veneered coffin, prestige Jaguar or Bentley fleet and bespoke personal attention which has been charged at £2310 plus third party costs since 2015. We do not attempt to be the cheapest but we believe we offer the very best value for money for our clients. We reinvest significantly so that the quality of our facilities and fleet makes a difficult day, more comfortable for the bereaved. We could buy old, tired vehicles, employ poorly trained, paid and motivated colleagues, have shoddy premises and charge £100-£150 less, but we believe that to be a false economy and a backward step for our clients and the communities we serve.

In view of this, it was very disappointing that the CMA undertook so little effort to engage with enough of the independent funeral sector vis-a-vis operational model analysis and grouped the overwhelmingly more numerous and highly regarded independent family owned and run firms beside the corporate firms, repeatedly named as Dignity and The Cooperative Funeralcare in the CMA report, so heavily criticised in the recently published CMA interim report. The pertinent fact that both of these national conglomerates were involved in cremation provision until Dignity (the nations main cremation and most expensive provider) bought the Cooperatives Crematoria in 2015 was also omitted completely. The highest level of cremation price inflation was pre 2015.

The CMA's call for reports of less than acceptable care is quite simply unbelievable and well beyond their remit. Natalie McKail, Scottish HMI of Funerals, but only 1 person, has spent 18 months extensively researching all models of operation with the consent of many funeral firms, interviewed and inspected in a far more detailed way than the CMA has attempted. Her reports have always been transparent, balanced and delivered in the spirit of always remembering that she is dealing with real people and real loss. Even the thought of using insensitive or overly technically harsher descriptive language which could be used to devalue and sensationalise the trust the public needs to have in this sector has been thought through. Alas the CMA interim report hasn't a clue about thoughtfulness or sensitivity.

As someone who has spent years looking at proper regulation regimes and the legal side of funerals, I can find no law or legal directive stating what 'appropriate' care is. There are textbooks and study guides but no laws whatsoever. The Anatomy Act comes close but as a funeral parlour or practitioner aren't licensed, there is no protection to a deceased human person in a funeral parlour. A frozen chicken in a Resturant kitchen has more protection. Therefore the CMA cannot deliver a detailed and accredited explanation for their statement

asking for details of illegal activity, as there are none, they have no evidence to collect.

Appropriate is subjective, neither black nor white.

Care of the deceased and the bereaved is everything to a vocational funeral director, but it has absolutely no bearing on how a market or its competition work. I'm more than happy for any of the CMA MIR team to visit my premises anytime without notice, to see what I mean but the inclusion of this section is a cheap political manoeuvre for headlines. Dignity and Respect for the feelings of the bereaved must be remembered.

Perhaps Westminster should look to follow Scotland, again, and appoint a UK HMI of Funerals, who would then have the legal remit to rightly ask those questions. If that was the case, I could recommend a suitable lady.

The religious implications of the sector with regard to how the market operates is obvious, in terms of speed of burial and the length of time some faiths demand the body to rest prior to cremation, but another area untouched by the interim report is the societal pressure a family experience depending upon where in the UK you live.

In Northern Ireland 75% of funerals are burial and take place within 3 days. In Scotland this timescale was similar until the Death registration legislation was changed in 2015 and burial authorities and many councils chose to use the opportunity to cut back on ground staff and registrars for cost cutting which means that the average wait is now 7-10 days, which is still far shorter than in England and Wales This means that a funeral provider has to have access to more staff and vehicles to accommodate the wishes of their clients, which in turn means higher levels of investment. At present, today, Friday the 4th of January 2019, we are currently caring for 26 decedents. This is 200% over normal. Myself and my colleagues are working hours ranging from 45 to 100 a week. However if we are asked to perform a funeral, where there is a specific religious requirement, we work on to make it so. No matter how large or small a business these are added pressures which affect the costs and market at need fees.

Finally I have to say that the complete omission by the CMA of the DWP capping of 'other costs' at £700 as a contributing driver to increased fees is truly shocking.

I sit on the Scottish Government Funeral Expenses Reference Group and various Funeral Poverty groups for over 3 years. Every single acknowledged and unacknowledged expert ever asked has placed this fact at the top of the list, yet it's not recognised by the interim report? Why?

The public had a legal promise from Westminster that those most in need would receive a 'normal' funeral in the 1987 Maternity and Funeral Payment Act. The fact that the Government in 2003 chose to remove this promise and freeze the 'other costs' at £700 is the real travesty.

Those other costs included, a coffin, a hearse, uplift, washing, cleaning, drying, care, dressing, the skill to present the deceased in a restful repose, placing into the coffin, a opportunity for loved ones to pay last respects in a suitable location and a limousine for the family to travel to the funeral. All that capped at £700 and quickly undeliverable, whereas digging a hole in the ground and the right to use it, well whatever the provider feels? £2000-£5000, no problem. Westminster only saw that as an essential. Therefore for 14 years the Westminster elite have decided that those on low incomes really should be doing the funeral themselves, without professional help, as that's the only way £700 could stretch to their idea of other costs. This figure is now less than a third of what those other costs are now, but not satisfied with that they have moved from trying to deliver a normal funeral to simple funeral, which waters down respect even more. Shame on our elected politicians who allowed this to happen to those in our society least equipped. This capping put huge pressure onto the funeral firms whose bad debt skyrocketed and had to be serviced in the only way we knew how, by increasing fees.

The quote from William Gladstone appears most apt. "Show me the manner in which a nation cares for its dead and I will measure with mathematical exactness the tender mercies of its people, their respect for the laws of the land, and their loyalty to high ideals.