

# Funerals market investigation

## International comparisons

**30 January 2019**

This is one of a series of consultative working papers which will be published during the course of the investigation. This paper should be read alongside the [Issues Statement](#) published on 8 April 2019 and other working papers published.

These papers do not form the inquiry group's provisional decision report. The group is carrying forward its information-gathering and analysis work and will proceed to prepare its provisional decision report, which is currently scheduled for publication in April/May 2020, taking into consideration responses to the consultation on the Issues Statement and responses to the working papers as well as other submissions made to us.



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The Competition and Markets Authority has excluded from this published version of the working paper information which the inquiry group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [✂]. [Some numbers have been replaced by a range. These are shown in square brackets.] [Non-sensitive wording is also indicated in square brackets.]

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## Introduction

1. In previous market investigations we have found that case studies on various aspects of the market can provide helpful insights into the difficulties that firms may face. Such studies have contributed to the identification of possible adverse effects on competition (AECs) and, where appropriate, have helped us to develop remedies designed to address the AECs.
2. In this market investigation, we have undertaken three international case studies, on France, the United States of America (US) and Spain, looking at different aspects of the funerals sector. The value of each case study lies in its ability to provide an understanding of the way the funerals sector works in these countries. The case studies are therefore written as factual accounts of our research. We have published the three international case studies as separate appendices to this working paper. We have, in addition, obtained information on a number of other countries around the world on how the funerals sector works.
3. In order to inform our thinking on any potential remedies, this paper sets out different models of regulation adopted in various countries around the world. This paper focuses on the at-need funerals only.
4. Although the supply of prepaid plans is out-of-scope of our investigation, we have also looked at two countries (the Netherlands and Spain), where there is a significant take-up of pre-paid funeral plans and funeral insurance.
5. The countries selected are those that seemed to have some form of regulation for example, in relation to quality, or some other price or quality regulation, or some other unique features identified when we performed preliminary desktop research.
6. As well as desktop research, we used a variety of other sources of information, such as:
  - (a) Telephone meetings with consumer and competition protection authorities, as well as trade associations in a number of different countries, including;
    - (i) The United States Federal Trade Commission;
    - (ii) The Consumer Authority, Norway;
    - (iii) The Finnish Competition and Consumer Authority;
    - (iv) The Dutch Authority for Consumers and Markets; and

(v) The SKKF (Sveriges kyrkogards – och krematorieförbund; Sweden’s cemetery and crematorium association).

(b) Written correspondence with;

(i) The Australian Competition and Consumer Commission;

(ii) The New Zealand Commerce Commission, and

(iii) The Federal Ministry of Economic Affairs and Energy, Germany.

(c) Extensive desktop research on Spain, France, the US and the Netherlands; and

(d) A commissioned report provided to us by Cooperative Group Limited.

### Summary of the main features of the countries reviewed

Country	Price controls	Price transparency regulation	Quality regulation	Statutory regulator specifically for the funeral sector	Large (over 50%) take-up of pre-need funerals
US	No	Yes	Yes	Yes	No
France	No	Yes	Yes	No	No
Germany	No	No	No	No	No
Netherlands	No	No	No	No	Yes
Spain	No	No	Varies between regions	No	Yes
Sweden	No	No	No	No	No
Norway	No	Yes	No	No	No
Finland	No	Yes	No	No	No
Australia	No	Varies between regions	No	No	No
New Zealand	No	No	No	No	No

## **Main findings**

7. The main findings of this paper are as follows:
  - (a) we have not found any instances of price regulation in the ten countries researched;
  - (b) some countries have price transparency regulations in place (France, the US, Australia) that can take the form of detailed price lists on funeral directors' (FDs) websites / shop front, or publishing FDs' prices in public buildings, such as local authorities;
  - (c) every country that has price transparency regulation tends to have some form of quality regulation; and
  - (d) pre-paid funerals tend to be more expensive than at-need funerals in the two countries we researched, namely Spain and the Netherlands.

### ***Regulation of prices***

8. We have not found any instances of price regulation in the ten countries listed in paragraph six. Some price regulation can be found in the national Spanish legislation, which specifies that FD prices are subject to approval by local authorities. However, we have not come across any instances where the local authorities made it a requirement for FDs to get approval and it is unclear from our research whether local authorities exercise this regulation.

### ***Price transparency***

9. In a number of countries researched, such as France, the US, Norway and Finland, attempts have been made to address the lack of price transparency by making it a regulatory requirement. In Australia, in particular in the state of New South Wales, the government has passed laws that will come into force in 2020 requiring greater price transparency in the funerals market.
10. In other countries where price transparency was not a regulatory requirement, such as New Zealand, Spain, and the Netherlands, from desktop research, we found that FDs do not regularly advertise their prices.
11. An overview of the countries' approaches to price transparency regulation are provided below along with new price transparency laws for Australia.



- *France*
12. A detailed case study of the French funeral sector and its regulation can be found in appendix A.
  13. FDs are obliged to provide families with general documentation which needs to include the prices of each service and product and indicate clearly whether the services are legally required or optional.
  14. Since 2010, FDs are obliged to make available a typical quote for their services to the local authorities, hospitals, other local healthcare providers, and public and private mortuaries. The quote must first include a statement of what are the legal minimum requirements for a funeral. The quote comprises eight different categories, with prices before and after tax:
    - (a) preparation/organisation of the funeral;
    - (b) transport of the deceased before placement in a coffin;
    - (c) coffin and accessories;
    - (d) placement in coffin and closure of the coffin;
    - (e) transport of the deceased in the coffin;
    - (f) funeral ceremony;
    - (g) burial; and
    - (h) cremation committal.
  15. Under each category, each service and its price are allocated to one of three possible types: common/typical, optional or disbursed. If any of the services provided are subcontracted, details of the subcontractor need to be provided.
  16. In towns with a population of 5,000 or more, FDs (with a branch or registered office in that area) are obliged to send the populated model quote to the relevant local authority, which is in turn obliged to make it available to the general public.<sup>1</sup>
  17. Compliance both by local authorities and FDs with these transparency requirements are mixed. For example:

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<sup>1</sup> There is no fine or penalty for non-compliance, as far as we can tell from our desktop research.

- (a) In 2017, the DGCCRF (The French Consumer and Competition Authority) carried out a round of 596 inspections of FDs to assess compliance with (amongst other matters) compliance with price transparency requirements. This included a review of both FDs and price comparison websites. During the course of their inspections they found widespread non-compliance.
  - (b) In 2019, a review of the funeral sector by the 'Cour des Comptes' (the French equivalent of the UK National Audit Office) found 60% of inspected local authorities failed (fully or partially) to meet the requirement to make quotes from all FDs available to the general public.
- *USA*
18. A more detailed study of the US regulatory system for the funerals sector can be found in appendix B. Price transparency regulations are captured by the Funeral Rule which is enforced by the Federal Trade Commission (FTC).
  19. Under the terms of the Funeral Rule, FDs are required:
    - (a) to offer itemised price lists; and
    - (b) to ensure that consumers are aware that they can disaggregate purchases.
  20. The Funeral Rule further prevents FDs from presenting certain services (such as embalming) as being a requirement under law (state or otherwise).
  21. The principle method by which FDs are required to provide this information is in the form of a General Price Lists (GPLs). The GPL is a standard list that is meant to be consistent across all providers. It has to include (amongst other things) the following:
    - (a) an itemised list of prices for every component of the funeral package;
    - (b) a list of coffins, including specifications and costs of all the coffins that the FD supplies, and
    - (c) information about the minimum requirements for a funeral to comply with the law, including the costs of those items.
  22. At the moment, FDs are only required by the Funeral Rule to provide GPLs in face-to-face meetings with consumers. These meetings can take place when the consumer visits the FD, or when the FD visits the consumer in their own home.

23. In some states (such as California), FDs are also required to provide pricing information on their websites, although the requirement does not stipulate that the online provision has to be the entire GPL or a summarised version of it.
24. We could not find any evidence that the Funeral Rule, or individual state laws that encourage price transparency have resulted in more consumers shopping around.
  - *Norway*
25. There are specific regulations governing price transparency in the funerals sector in Norway. The information provisions require FDs to provide the following:<sup>2</sup>
  - (a) Minimum and maximum prices for all elements of the funeral service which had to be disaggregated. These are likely to be extras, such as flowers, limousines, etc rather than the core elements of the funeral package.
  - (b) Pricing information to be given 'promptly', although there is no definition of what that means.
  - (c) Consumers to be given a 'reasonable time' to familiarise themselves with the price quotation before entering into a funeral service agreement. As above, there is no definition of what this means.
  - (d) Price lists have to be made available on the FD's website.
26. The regulations have been in place since 2013 and the main FD trade associations (which cover approx. 90% of the market) played a major part in shaping the contents of these regulations.
27. The Norwegian Consumer Protection Authority (NCPA) is responsible for enforcing these regulations. The NCPA told us that a recent online test by them, of a selected number of FDs, to check whether they provided sufficient price information on their websites, identified that 30 out of 47 FDs sampled did not meet the price information requirements.
28. The online test is the only form of monitoring that the NCPA has undertaken to check compliance with the regulations since these came into force in 2013. The low levels of monitoring follow the low levels of complaints that the authority receives in relation to the funerals sector.

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<sup>2</sup> Chapter 4, Regulation on price information for goods and services (price information regulation).

- *Finland*

29. The laws governing transparency in pricing in the funerals sector in Finland are not specific to funerals and are derived from the Finnish Consumer Protection Act.<sup>3</sup> To conform with the Act, FDs should make their price lists available in a way that allows consumers to easily compare prices before the point of sale (on websites and in shop windows).
30. The Finish Competition and Consumer Authority (FCCA) told us that some FDs offer very detailed price lists that allow for disaggregation, whilst others only offer price lists for bundles or packages.
31. Enforcement of the laws around transparency is decentralised and it falls to the six regional authorities in Finland. Where a breach is found, the regional authorities would request the FD to bring their business into compliance. If the business refuses to comply, the regional authority typically refers the issue to the FCCA. The FCCA generally would not take action unless there is a substantial breach and would pass the case back to the regional authority. The regional authority may then take legal action via the courts to address the matter, but FCCA told us that they would rarely be willing to commit the resources to do this.
32. More recently the FCCA have been involved in a broader national initiative to increase price transparency in the FD sector and have been using the trade associations to disseminate information about the relevant laws. The FCCA told us that consumers and FDs perceive this to be a very traditional sector, which considers price displays to be undignified and distasteful.
33. The FCCA undertook an investigation into the funerals sector in 2016 to assess whether or not there were problems with anti-competitive behaviour in the market. The investigation was eventually closed with no further action.<sup>4</sup>

- *Australia*

34. This section focuses on the state of New South Wales (NSW). Not only is NSW the most populated state in Australia, but according to a 2016 IBIS World Report, this is the state with the most FDs, crematoria and cemeteries in Australia (approximately 38% of all FDs across the country, the next largest is Victoria with 28%).

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<sup>3</sup> See [Finnish Consumer Ombudsman's Newsletter 2/2016](#) for more detail

<sup>4</sup> ['FCCA terminates investigation of the Finnish Association of Funeral Services'](#) 22 June 2016.

35. In 1987, the NSW government defined the essential components of a basic funeral in the NSW Fair Trading Act.<sup>5</sup> In 2005, the NSW and Victoria Parliaments undertook a joint enquiry into the sector that focused on conduct and price transparency.<sup>6</sup> Recommendations implemented from that enquiry were intended to promote low-cost funerals and advertising that would allow consumers to make easy comparisons of prices across all providers.
36. Under the NSW Fair Trading Regulation 2019, a new information standard will apply to funeral goods and services supplied in NSW from 1 February 2020. The aim is to provide greater information and price transparency to consumers. FDs will be required to display certain information as well as itemised pricing details both on their premises and their websites, including their least expensive funeral package. In addition, FDs are required to provide certain information to consumers within 48 hours of receiving a request from the person for information about the burial or cremation of a body, and before entering into an agreement to provide the supply of goods or services.<sup>7</sup>
37. Under the terms of the regulation, FDs must display price lists, broken down into the following components:
- (a) the transport of the body prior to burial or cremation;
  - (b) the storage of the body at a mortuary or holding room;
  - (c) the hire of a refrigeration plate;
  - (d) each type of coffin, casket or shroud supplied or the price range of all coffins, caskets or shrouds supplied;
  - (e) the care and preparation of the body prior to burial or cremation;
  - (f) a viewing of the body prior to burial or cremation;
  - (g) the arrangement and conduct of a funeral service (including hire of the venue), and
  - (h) the burial or cremation of the body.

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<sup>5</sup> The supply of specified goods and services, including the arrangement and conduct of a funeral service to be held during ordinary business hours, limited transport of a body, and supply of the least expensive coffin that a supplier of a funeral goods and services has available (NSW Fair Trading, Explanatory Note, 2008). See [Fair Trading Amendment \(Mandatory Funeral Industry Code\) Bill 2008](#).

<sup>6</sup> [Inquiry into the regulation of the funeral industry](#).

<sup>7</sup> Clause 8 Display and provision of funeral information to prospective consumers.

38. At the same time, the NSW Independent Pricing & Regulatory Tribunal is currently conducting a review of interment costs and pricing in NSW. This review will include an assessment of price transparency.<sup>8</sup>
- *Germany*
39. Under the German Trade and Crafts Code,<sup>9</sup> funeral services are treated as a craft, therefore they are not subject to licensing or price transparency regulations. FDs can be prohibited from practicing on grounds of ‘unreliability’ by the Federal Ministry of Economic Affairs and Energy, which has responsibility for policing the code. There have been very few instances in the recent past where FDs have been barred due to ‘unreliability’. In addition to the German Trade and Crafts Code, some German federal states have their own rules governing the operation of FDs in their area, mainly focusing on health and hygiene issues.
40. As far as we could find, there are no rules as to how and where prices should be advertised.
- *Sweden*
41. Sveriges kyrkogards-och krematorieforbund, Sweden’s cemetery and crematorium association told us that in Sweden, a significant proportion of the elements that make up a funerals package is provided by the state and paid for by taxes. For example:
- (a) Almost all deaths in Sweden occur in hospital. Where a death occurs elsewhere, the body is collected and delivered to the hospital for a post-mortem examination. All hospitals are state funded in Sweden.
  - (b) All mortuaries in Sweden are attached to a hospital and owned by the state. The average period from death to burial in Sweden is 22 days. In Stockholm, the average period is 30 days. During the course of that time the body will be stored in the mortuary and storage costs are borne by the state.
  - (c) Embalming can only be carried out in a hospital. FDs are not allowed to practice embalming. Embalming tends to only happen in big cities, there is a flat charge of SKK 1,000 for the service. The FD may coordinate embalming with the hospital on behalf of their customer.

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<sup>8</sup> Issues Paper - Review of interment costs and pricing - May 2019

<sup>9</sup> The Trade and Crafts Code

- (d) All local authorities in Sweden are able to offer a hall or similar facilities where a funeral can take place, if requested – this is paid for by local taxes. If the deceased is a member of the Church of Sweden, then they would have paid a church tax during the course of their life and that covers the cost of the church space being used for the ceremony.
  - (e) All crematoria and cemeteries are state or church-owned (crematoria are entirely owned by local authorities) – the cost of a burial plot or a cremation is paid for via taxes.
- 42. This means that the only services and products that the FDs provide are:
  - (a) transport of the deceased from the mortuary to the funeral ceremony and then on to the burial site or crematoria;
  - (b) the coffin or funeral urns;
  - (c) flowers;
  - (d) the organisation of any ceremony;
  - (e) grave stone (if a burial); and
  - (f) other personalised elements.
- 43. There is no regulation of the funerals market in Sweden other than the need for FDs to comply with the relevant requirements of consumer protection law.
- 44. FDs that are members of the trade association (which cover approx. 80% of FDs in Sweden) have to comply with various quality standards (set up by the trade associations). Furthermore, they are required to produce itemised price lists in face-to-face meetings with customers and also advertise their prices online.
  - *New Zealand*
- 45. The New Zealand Commerce Commission had very little information about the funerals sector in the country. It had recently started gathering market intelligence about potential issues in the funeral services market, such as developing its understanding of who regulates the sector (if at all) and if there are any regulatory gaps.<sup>10</sup>

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<sup>10</sup> [Oh funeral industry, how great thou aren't.](#)

46. The preliminary findings are that it is difficult to find out what a funeral service will cost as many FDs do not publish prices for their services. Some FDs may only provide estimates before the event itself but even that is not currently a requirement in New Zealand.
47. The Commerce Commission has been requested by the New Zealand Government to undertake further work and report back with its findings. However, as far as we are aware, this work has not commenced.
  - *The Netherlands*
48. It is not mandatory for FDs to publish prices online. Consumers can ask for a cost estimate if they wish and there are websites that offer price comparisons, but FDs are not required to make these available unless prompted to do so. Research into the sector, by the Dutch Consumer Authority, found that the funeral industry needs to improve its display of prices, but that measures to facilitate this were not necessary. The Dutch Consumer Authority found that it was up to the funeral sector to improve price transparency.
  - *Spain*
49. The national legislation of 1974 specifies that FD prices and transparency of prices are subject to local authority approval. However, the nature of the approval is left for local authorities to define.
50. Although price transparency seems to be unenforced in Spain, in 2016 Panasef, a trade body of Spanish funeral directors, found that 97% of consumers were 'satisfied' or 'very satisfied' with the quality and price transparency of the funerals they arranged.

## **Quality**

51. Our research shows that in countries which regulate quality, the regulation is via a licensing regime. Quality regulation is more common in those countries that also have some form of price transparency rules. The regimes we researched were either:
  - (a) established at national level (as in France);
  - (b) at a local (state or region) level (as in the US where individual states have their own separate regimes which differ from state to state); or
  - (c) a combination of (a) and (b) (such as in Spain and Australia, where there are national regulations in place, but each state or region is allowed to implement and enforce the regulations in their own way).



52. Of the countries that we researched, six do not regulate quality: Sweden, Norway, Finland, the Netherlands, New Zealand and Germany.
53. The various licencing regimes researched had a number of common elements, as described below. Monitoring and enforcement is reactive and complaints-based. However, the countries researched had very low levels of customer complaints or customer dissatisfaction. We found that in the countries we researched, individuals who practice as FDs:
- (a) need to be licensed, alongside apprentices, embalmers, mortuary and crematorium managers, amongst others (US, France);
  - (b) should not have a criminal record (US, France, Spain); and
  - (c) should have appropriate qualifications to demonstrate they can handle and transport the deceased. In the state of California, FDs are required to sit exams before they can be licensed. These exams cover state laws and regulations governing both the funeral sector and commercial activities in general.
54. We also found quality requirements at the firm level. FD firms also need to be licenced in some of the countries that we researched (such as the US). FD firms and crematoria need appropriate planning permissions, all the necessary equipment and facilities in place (including appropriate vehicles for the transportation of the deceased), and an appropriate standard of hygiene.

### ***Observations on the market***

55. The funerals sector (across all countries that we researched) has remained quite steady over the years, with very few changes taking place. However, we have identified a few trends that have become more prevalent in recent years and are likely to grow in intensity in the near future. They are as follows:
- (a) direct cremation has become a low-cost option in most countries and its likely to grow further, as a proportion of all funerals;
  - (b) 'water cremation' has become more popular in the US, with California being the 15<sup>th</sup> state to approve the process;
  - (c) online presence has increased significantly across all markets researched. This has happened in several ways, such as:
    - (i) FDs advertise their services and sometimes prices, on their own websites;

- (ii) the emergence of price comparison websites (PCWs), although evidence from the French DGCCRF investigation in 2017 found misleading practices being employed by a proportion of PCWs investigated; and
- (iii) funeral arrangements taking place online. In Sweden, the three largest FDs allow for all funeral arrangement to be made online. Similarly, in the US, disaggregation of funeral packages made it easier for consumers to pick and choose elements of the funeral package from a variety of suppliers.

(d) Unbundling is a statutory requirement in the US and France.

### ***The pre-paid market***

56. While the focus of our market investigation is not on the pre-paid funerals market, we thought that it was worth noting their popularity, in particular in countries such as Spain and the Netherlands, where take up of pre-paid funeral plans is significant. A more detailed analysis of the Spanish market can be found in appendix C.
57. The price of a pre-paid standard funeral in both Spain and the Netherlands is significantly higher than that of an at-need funeral in the same countries. This is again higher than that of a standard funeral in other European countries. The average cost of a funeral in the Netherlands and Spain is approx. €8,000, compared to £4,300 in the UK<sup>11</sup> or €2,500 in France.
58. In Spain, more than 60% of the population are covered by funeral insurance or a pre-paid funeral plan. Our research found that:
- (a) Spanish consumers are broadly content with the funeral services they receive;
  - (b) however, pre-paid plans can limit choice of FD;
  - (c) funeral costs are higher than the European average;
  - (d) some funeral plans do not cover the cost of the funeral in its entirety;
  - (e) in the event that the funeral costs less than the pre-paid amount, the bereaved can claim back the surplus; and

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<sup>11</sup> SunLife Cost of Dying Report 2018.

- (f) pre-paid funerals cost significantly more than at-need funerals.
59. In 2008, the Authority for Consumer and Markets in the Netherlands (ACM) carried out a market study into the funerals sector and found that two thirds of consumers have pre-paid funerals insurance or funeral plans, in a sector that is entirely private. This type of funeral insurance comes in two forms, as follows:
- (a) payments into an insurance scheme, and the insurer then pays out a pre-agreed sum to the bereaved family; or
  - (b) full insurance: the insurer organises the entire funeral at no extra cost to the bereaved. In the Netherlands, vertical integration in the funerals industry is quite common with the insurers also often being part of a wider FD or crematoria business.
60. Amongst other finding, the ACM market study concluded the following: <sup>12</sup>
- (a) of those who took out funeral's insurance, about half found that their insurance covered the costs of the funeral in full, while the other half found their insurance package only partially covered the costs;
  - (b) a general lack of price transparency in the market; and
  - (c) of the top four funeral directors (by volume) three were also funeral insurers.

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<sup>12</sup> [Insight into competition risks in funeral insurance market.](#)

# Appendix A: Overview of the French funerals sector and its regulation

## Introduction

1. In order to inform our thinking on potential remedies, we performed a comparison of models of regulation adopted in various countries. We believe, however, from initial work that the regulation of the French funerals industry and its evolution over the past 25 years provides interesting insights, for the following reasons:
  - (a) the current model of regulation was introduced in 1993, following decades of control of the supply of funerals services by local authorities;
  - (b) the system of regulation has been further refined over the years to address perceived weaknesses; and
  - (c) the funerals industry has been actively monitored (both by the French government and its agencies and academics) and reports and statistics compiled, which provide some insight into the outcomes of the model adopted.
2. At a high level, the French funeral market would appear to have delivered better outcomes than the UK one. However, problems relating to price transparency remain significant, due to inconsistent compliance with regulatory requirements and it appears that both the industry and government agencies are shouldering a significant regulatory cost. Enforcement issues have also been identified.
3. Of particular interest for comparison purposes are:
  - (a) the measures taken to improve information transparency and empowering consumers;
  - (b) the approach to quality regulation, including the areas in which minimum standards have been set;
  - (c) the separation of mortuary<sup>13</sup> facilities from the provision of funeral director services;

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<sup>13</sup> The French term 'chambre funeraire' or 'funerarium' refers to facilities that are used for the storage of the body after transportation from the place of death. Hospital mortuaries are referred to as 'chambre mortuaire', and where available, can be used by families free of charge for up to three days (hospitals and other healthcare providers that deal with more than 200 deaths per year are legally obliged to have such a facility). Throughout this report, we use the term mortuary as a translation for 'chambre funeraire'.

(d) the approach to the enforcement of (a) to (c) above and issues identified;  
and

(e) the way the market has evolved against this regulatory backdrop.

## History of regulation

### Key dates

1904	Local authorities given a monopoly over the provision of core funeral services.
1993	Local authorities stripped of their monopoly right. Licensing regime put in place ('habilitation préfectorale')
1999	Directions on the provision of information to consumers
2010	Statutory template for the provision of funeral quotes
2012	National diploma for funeral advisers and funeral directors

### Regulation before 1993<sup>14</sup>

- Overview
4. Until 1904, the Church was responsible for all matters relating to funerals. In 1904, and in the context of the separation of State and Church, local authorities were given the right (but not the obligation) to control the provision of funeral services in their area. Funerals at the time were regarded as purely a matter of public health focused on the disposal of the deceased (rather than the needs of the relatives), with the objective of such activities being to be able to bury all with a minimum level of dignity, including those whose relatives did not have the financial means to pay for a funeral (which in those days was a significant number). At a time when the separation of State and Church was being implemented, it made sense for local authorities to be entrusted with ensuring the universal provision of this service.
  5. Local authorities could do this either directly (by setting up a 'régie') or by outsourcing/delegating the service to a private operator through a 'concession'. These arrangements applied only to a proportion of the products and services ('service extérieur') that would be needed for a funeral. Looking at a funeral overall, the provision of services was thus split as follows:

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<sup>14</sup> This section summarises aspects of *Les services funéraires, du monopole public au marché concurrentiel*, October 2002, Pascal Trompette, Cristo (Université Pierre-Mendes-France)

- (a) 'Service interieur', comprising the provision of objects for the purpose of the ceremony carried out in religious buildings, and provision of decoration/ornamentation for such buildings. This was entirely controlled by the Church.
  - (b) 'Service extérieur', comprising transport of the body in a coffin;<sup>15</sup> provision of hearses, coffins and external textiles, limousines, supplies and staff necessary for the cremation, burial or exhumation. This was under the control of the local authority.
  - (c) 'Service libre', comprising all other activities (e.g. flowers, memorials etc) and the 'service extérieur' in areas where the local authority had decided not to exercise its right of control.
6. Thus, in practice, the extent and nature of involvement by local authorities varied considerably from area to area. In large cities (such as Paris, Marseille or Lyon), local authorities supplied funeral director services themselves. In most large and mid-size towns, local authorities chose to subcontract the management of the services to private companies, while in rural areas, funeral services continued to be provided in a traditional way, involving some economic activities (eg, from the local florist or carpenter), but also the local community (family, neighbours and local associations). By the late 80s, 85% of cities with more than 30,000 inhabitants were served by a 'concessionaire'; around 50 local authorities were directly operating funeral director services; while 30,000 local authorities in rural areas chose to leave the supply of funerals entirely to the market.
7. When subcontracting the provision to a 'concessionaire', the local authorities were not under any obligation to run a competitive process and contracts could be automatically renewed.
8. The unintended effect of the system put in place was the creation of a dominant national supplier: Pompes Funebres Generales (PFG). Having been established in Paris in the 19<sup>th</sup> century and following the opening of a few branches outside of the capital city, the PFG acquired a number of other operations in the first half of the 20<sup>th</sup> century (either in other local areas or operating in complementary activities, such as the manufacture of coffins and monumental masonry), to become a particularly large supplier. As early as 1930, it already had 230 branches across the country. Because of its scale, its relationships with local authorities, and ability to offer favourable terms when

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<sup>15</sup> Note that it was illegal at the time to transport bodies that had not been placed in a coffin. This requirement made sense at a time when most people died at home, but would later prove a source of difficulties and contribute to the relaxation of the legislation. By 1993, the transport of bodies before being placed in a coffin ('mise en biere') was included in the list of 'services extérieurs'.

bidding for contracts, it soon became the preferred partner of many local authorities, and cemented its position with some ease, as contracts were often not put out to tender and simply renewed without any competition at the end of their term. At its peak, estimated to be in the 1970s, the PFG held 50% of the local authority contracts, at which point its dominance started to be eroded by changing circumstances. At that point, around 500 companies shared the other 2,000 concessions. Overall across France, it is estimated that by the mid-1980s, the PFG and its subsidiaries organised 41% of funerals, while the numerous independent companies organised another 46%. But what made the PFG particularly powerful was its vertical integration.

- *An increasingly dysfunctional system*

9. A number of changes of circumstances led to the reform that would be implemented in 1993.
10. First, under the 1904 legislation, families had been required by law to source the coffin from the local authority where the person had died, while the monopoly over transport belonged either to the local authority where the ceremony or where the burial/cremation took place. It was also illegal to transport bodies before they had been placed in coffins. These rules made sense when most people died at home at the beginning of the 20<sup>th</sup> century. But by 1983, 66% of deaths took place in a medical institution, which meant that the place of death and place of ceremony/cremation/burial could be in different local authorities. This created intractable problems for families and led to the illegal transportation of bodies between local authority boundaries. In 1976, the legislation was changed to allow the transport of bodies before placement in the coffin.
11. Funeral directors operating in the 'service libre' part of the sector started to contest the monopoly rights of local authorities, and more precisely the PFG's exclusivity right clauses that were often part of the 'concession'. A maverick entrepreneur, Michel Leclerc (the brother of Edouard Leclerc, founder of the supermarket chain), rallied to their cause and created the first franchise network of independent funeral directors in 1985 (under the brand Roc' Eclerc). In the course of nine months in 1984, Leclerc's franchisees organised 1,600 'illegal' funerals in 20 towns and cities, which caused a certain amount of disruption (particularly where the local authority refused access to the cemetery in retaliation).<sup>16</sup>

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<sup>16</sup> Borrowing his brother's retail model, and breaking all taboos, Michel Leclerc will also create Funérama in 1990; a funerals supermarket based on three principles: a policy of low prices; similarly to the approach of normal

12. In parallel, Leclerc accused the PFG of abuse of dominance in the court ('Tribunal de Commerce de Paris') and sought advice from the European Commission on the compatibility of local authority's monopoly right over funerals with the Treaty of Rome.
13. In the ensuing years, a number of cases were brought in front of the courts, and subsequent judgements, not all consistent with each other, forced the French government to review the prevailing legislation.
14. In 1986, a small change to the legislation enabled families to use the services of a supplier located in the area where the body was to be buried or cremated, rather than only from the concessionaire or régie in the area where the person had died (as had previously been the case). This improved the competitive position of the smaller operators, who did not have the links with hospitals that the PFG had (see section on mortuaries below).
15. This did not resolve any of the fundamental problems associated with a two-tier system, and in 1989, the French government ordered a fundamental review of the legislation. This would lead to the full opening of the sector to competition in 1993.
  - *The growing importance of private mortuaries*
16. As an increasing number of people died in hospitals, a new problem arose. Hospitals were not prepared to invest in public mortuaries (and did not have any obligation to do so under existing legislation), which would create an opportunity for the private sector.
17. The first 'funerarium' or 'chambre funéraire' was opened in 1962 by the PFG and within 20 years the group had a total of 32 such facilities. 20 years later there would be 200 funerariums in France, with the vast majority having been developed by concessionaires (and in particular the PFG). In parallel, the PFG introduced embalming in France in the early 1960s and would face its first competitor only by the mid-1970s. It has been commented that until the early 1980s, only the PFG had access to enough resources to finance the building of mortuaries. As ownership of the local mortuary would often further justify renewing the concession (as they were increasingly seen as essential, given the shortage of equipment to deal with the dead in hospitals), its investment in mortuaries ended up reinforcing the PFG's strong presence in the provision of funerals and its links with local authorities.

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supermarkets, the presentation of a large range of products, within a retail outlet often located in shopping malls; price transparency: prices are displayed and can easily be compared to those of competitors.



18. The mortuaries were located close to the hospitals, if not within the hospital boundaries, and while it was the hospital that would generally decide to send the body to a privately-owned facility (despite regulation seeking to protect the choice of families), it would be the family who would pay the associated cost.
19. The 1989 review noted that mortuaries were an ideal means by which to capture customers, as once the body had been moved to the facility, families would be inclined to purchase all other services from the same provider.
20. The crucial role of the funerarium/mortuary in channelling customers from hospitals to funeral directors was described in detail in an academic article written in 2005 by Pascale Trompette (a sociology professor who has written many articles and books on the French funeral market). An English translation is available at: <https://www.cairn.info/revue-francaise-de-sociologie-1-2007-5-page-3.htm>.
21. The legislation<sup>17</sup> confirmed that, while the main purpose of the legislation was to remove the monopoly control of funerals by local authorities and open the market to competition, the 'service extérieur des pompes funèbres' remained a public service, and as such needed a number of safeguards, including to avoid 'unfair and anarchic' competition.<sup>18</sup> The legislator thus set four objectives for the legislation:
  - (a) the adaptability of funeral services to changing customs and attitudes towards death;
  - (b) the supervision of the funeral market;
  - (c) the moralisation of the profession;
  - (d) information transparency for families.
22. Recognising the changes that had taken place since 1904, the list of 'services extérieurs' was extended to include:
  - (a) the transport of bodies before placement in the coffin;
  - (b) the organisation of the funeral;
  - (c) embalming; and

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<sup>17</sup> [Loi n 93-23 du 8 janvier 1993](#)

<sup>18</sup> Source: [1904-1994=90 ans d'evolution du service public local des pompes funebres](#), Pierre-Alexis Feral.

- (d) the management and use of mortuaries.
23. The main elements of the new regime, which has been described by some commentators as draconian,<sup>19</sup> included:
- (a) a licensing regime for all suppliers of ‘services extérieurs’ with authorisations valid for a period of six years;
  - (b) professional qualification requirements for directors and arrangers expressed in terms of number of hours of learning in relation to specific themes, e.g. relevant legislation (40 hours); psychology and sociology of bereavement (16 hours) etc;
  - (c) rules on information to be provided to families;
  - (d) technical standards and open access for mortuary and crematoria facilities;
  - (e) the creation of a national advisory body (the Conseil National des Operations Funéraires), the purpose of which is to advise government on any proposed legislation affecting the sector and to publish reports every two years on its activities, the functioning of the funerals market, and price inflation; and
  - (f) transitional provisions, enabling existing arrangements to persist for a period of three years for ‘concessions’ and five years for ‘régies’.
24. In contrast, the legislation confirmed that local authorities would continue to have monopoly control over crematoria. Local authorities are the only entities that are allowed to build and manage them, either directly or through subcontracting. There were 55 crematoria in operation in France at that time.

### ***Strengthening of the legislation over time***

25. Below we have summarised what we see as the key pieces of legislation that have shaped the current regulatory framework. The list is not intended to be exhaustive.<sup>20</sup>
26. Government orders of 1998 (‘arrêté’) made it a legal requirement that companies provide customers with general information on the identity and legal status of the company, and pricing information on their services, which

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<sup>19</sup> Ibid.

<sup>20</sup> For an exhaustive list, see: [Cimetieres et operations funeraires \(Dispositions non codifiees\)](#)

were to be split between mandatory and optional services. It also required that the invoice be identical to the quote given, with the latter being a mandatory requirement. In addition, the contact details of all local funeral directors were to be made available to families in public buildings.<sup>21</sup>

27. In the light of changes in the market place (including the increasing number of suppliers; development of cremation and of prepaid plans), in 2005-06, the French Senate carried out a review of the funeral's legislation<sup>22</sup> and made 27 recommendations, four of which focused on the regulation of funeral directors, with regard to:
  - (a) strengthening the control of the qualifications of funeral directors as part of the licensing process;
  - (b) increased enforcement for non-compliance with the legislation by withdrawing their licence;
  - (c) creation of national diplomas for all employees in direct contact with families or who are directly involved in the conclusion or delivery of funeral services to families; and
  - (d) mandating the professional qualifications for directors who directly take part in the conclusion or delivery of a funeral service.
28. The Order ('arrêté') of 23 August 2010 prescribed the format of the quote to be given by all funeral directors.<sup>23</sup>
29. The Order ('arrêté') of 30 April 2012 made it mandatory for funeral directors and funeral advisers to hold a national diploma, the scope of which was tightly defined by the legislation.<sup>24</sup>
30. Since 1 January 2018, funeral operators are obliged to provide families with a document prepared by the French government explaining the limited circumstances in which embalming is a legal requirement and what alternatives are available to people.<sup>25</sup>

### ***Summary of the current legislation – the key elements***

31. A cremation or burial needs to take place (by law) within six working days following the death. A cremation cannot take place sooner than 24 hours after

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<sup>21</sup> [L'economie de la filiere funeraire](#)

<sup>22</sup> [Bilan et perspectives de la legislation funeraire](#)

<sup>23</sup> [https://www.legifrance.gouv.fr/jo\\_pdf.do?cidTexte=JPDF310820100000017&categorieLien=id](https://www.legifrance.gouv.fr/jo_pdf.do?cidTexte=JPDF310820100000017&categorieLien=id)

<sup>24</sup> [https://www.legifrance.gouv.fr/jo\\_pdf.do?cidTexte=JPDF0305201200000019&categorieLien=id](https://www.legifrance.gouv.fr/jo_pdf.do?cidTexte=JPDF0305201200000019&categorieLien=id)

<sup>25</sup> [https://solidarites-sante.gouv.fr/IMG/pdf/information\\_aux\\_familles\\_sur\\_les\\_soins\\_de\\_conservation\\_040118.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/information_aux_familles_sur_les_soins_de_conservation_040118.pdf)

the death. Once the death has been registered at the local 'mairie' (local authority), customers are free to choose their suppliers of funeral services.

- *Licensing of industry participants*

32. The following activities require an 'habilitation' or authorisation from the local government representative (the 'prefet'), which is valid for six years:
- (a) transport of human remains before and after placement in the coffin;
  - (b) organisation of funerals;
  - (c) embalming;
  - (d) provision of coffin and accessories and of urns;
  - (e) management and use of mortuaries;
  - (f) provision of hearses and limousines; and
  - (g) provision of staff and objects necessary to the carrying out of funerals, committals (burials and cremations) and exhumations, with the exception of memorials ('plaques funeraires', 'marbrerie'), religious symbols, flowers, notices and other printing).
33. Only companies that engage in funeral director activities on a regular basis<sup>26</sup> require an authorisation. The authorisation can be obtained if meeting strict requirements in relation to five criteria:
- (a) morality (no criminal record for certain specified crimes; no personal bankruptcy) and nationality (French or EU national) of the directors;
  - (b) professional competence of directors and agents (as defined by government order – see below);
  - (c) technical compliance of the facilities (as defined by government Order – see below);
  - (d) regular payment of taxes and other social charges by the applicant; and
  - (e) technical compliance of vehicles (as defined by government Order – see below).

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<sup>26</sup> For example, local tradesmen in some rural areas (eg carpenters etc.) may on occasions supply a coffin and can do so without an authorisation. The supply needs to be "exceptional" for the exemption to apply (source: [Guide Juridique relatif a la legislation funeraire a l'attention des collectivites territoriales](#))

- *National qualifications*
34. The legislation prescribes what level of qualification various funeral employees need to have. This not only applies to the CEO (if the company is a PLC), funeral directors, funeral arrangers and branch managers, but also to pall bearers, receptionists, drivers and junior employees.
  35. A national funeral advisor diploma, complemented by 42 hours of supplementary education (or evidence of an equivalent level of training) are mandatory for the CEO, manager of a funerarium or crematorium, branch manager, and funeral director.
  36. Embalmers need to have obtained a national embalmer diploma.
- *Technical compliance of facilities*
37. Mortuaries are subject to a number of detailed technical standards relating both to the viewing rooms and preparation and storage facilities. To be able to operate, mortuaries must be accredited following a visit by an independent accreditation body.
- *Technical compliance of vehicles*
38. The law prescribes how vehicles that are used for the transportation of bodies before and after placement in the coffin should be fitted out and prescribes the frequency of official controls such vehicles should be subjected to.
- *Provision of information*
39. Lists of locally accredited funeral directors are made available in the premises of the local authority, in hospitals (including their public mortuary facilities), care homes and hospices and in mortuaries.
  40. Funeral directors are obliged to provide families with general documentation which needs to include the prices of each service and product and indicate clearly whether the service is legally required or optional.

*Standard quote*

41. Since 2010, funeral directors are obliged to make available a typical quote for their services to the local authorities and hospitals and other local healthcare providers; public mortuaries, and private mortuaries ('chambres funeraires', 'funerariums'). The legislation mandates the format to be followed. The quote must first include a statement of what is the legal minimum requirement:

*“The supply of a vehicle that is authorized for the transportation of human remains (before or after placement in a coffin); a 22 mm thick coffin – or 18 mm for a cremation – with a leakproof lining and 4 handles; and if relevant an urn for the collection of ashes following a cremation.”*

42. The quote comprises eight different categories, with prices before and after tax:
- (a) preparation/organisation of the funeral;
  - (b) transport of the deceased before placement in a coffin;
  - (c) coffin and accessories;
  - (d) Placement in coffin and closure of the coffin;
  - (e) transport of the deceased in the coffin;
  - (f) funeral ceremony;
  - (g) burial; and
  - (h) cremation committal.
43. Under each category, each service and its price are allocated to one of three possible types: 1) common/typical, 2) optional or 3) disbursed.
44. If any of the services provided are subcontracted, details of the subcontractor need to be provided.
45. In towns with a population of 5,000 or more, funeral directors (with a branch or registered office in that area) are obliged to send the populated model quote to the relevant local authority, which is in turn obliged to make it available to the general public.<sup>27</sup>
- *Access to mortuaries*
46. Mortuary services are typically provided by funeral directors. The decree of January 14, 1987 and later, the 1993 legislation, designated funerariums as ‘public utility facilities’ that perform a public service. They can therefore legally be run by any local authority, publicly owned company, private company, or association, provided they are properly authorized.<sup>28</sup> The creation or

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<sup>27</sup> There is no fine or penalty for non-compliance, as far as we can tell from our desk research.

<sup>28</sup> Source: customer channelling arrangements in market organization: competition dynamics in the funeral business in France 2005 (<https://www.cairn.info/revue-francaise-de-sociologie-1-2007-5-page-3.htm>).

extension of a mortuary requires an authorisation from the 'Préfet'.and is subject to a needs test.<sup>29</sup>

47. If a hospital, care home or other health provider has not been able to contact the family within ten hours of the death and has requested without the family's consent, the transport of the body to a mortuary, then the care provider is required to pay both for transportation and for the first three days of storage.<sup>30</sup> Otherwise the family is responsible for paying for these services.
48. Mortuaries are subject to a number of obligations, the purpose of which is to protect competing funeral directing businesses:
  - (a) the mortuary operator has an obligation to display the list of suppliers of funeral services (including what services they offer) in the reception area of the mortuary. Possible €75,000 fine if this is not respected;
  - (b) there needs to be a separate entrance from the funeral director business;
  - (c) the mortuary operator is not allowed to advertise the funeral director business on the premises; and
  - (d) the mortuary operator is obliged to provide a physical access to the person who is mandated by the customer to organise the funeral, in order to enable the transport of the deceased to and from the facility and any activities relating to the presentation and/or conservation of the body.

### ***Monitoring and enforcement***

49. The 1993 legislation required the establishment of the Conseil National des Operations Funeraires (CNOF) comprising 27 members representing the government, local authorities, suppliers (both public and private), consumer bodies and members of the public. Its role is to advise government on legislation and rules governing the funeral sector. It meets on a regular basis and is required to produce statistics on the sector, including on pricing and the structure of the industry. Looking at the minutes of the meetings that took place in the 1990s, the group was very active in the early years following the introduction of the legislation as modifications needed to be made to ensure that the quality standards and other legal requirements set by the 1993 law

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<sup>29</sup> They have been therefore compared to essential facilities. See: [Les services funeraires - Du monopole public au marche concurrentiel Rapport final](#). Note that mortuaries in France are probably similar to the hubs and care centres operated by Co-op and Dignity. We have seen very small mortuaries at independent funeral directors, which would probably not be considered compliant with the legislation under French law.

<sup>30</sup> When hospitals have their own public mortuary, the first 3 days of storage are provided free of charge.

were appropriate in practice.<sup>31</sup> In recent years, however, there seems to have been little activity, based on the reports filed by the CNOF.

50. Le Ministère de l'Intérieur is responsible for overseeing the funeral sector<sup>32</sup> and has played an active role over the past 25 years, as illustrated by the changes that have been implemented in the regulation of the sector.
51. In addition to on-going enforcement action, of which there has been a fair amount over the years (discussed further in paragraphs 76 to 78), the competition arm of the Ministère de l'Economie et des Finances, the DGCCRF, produces consumer guidance and carries out regular reviews of the sector.

### ***Crematoria***

52. Crematoria provision remains under the control of local authorities, although their management can be outsourced. We note that local authorities are expected to set fee levels under all scenarios. We have not researched how such arrangements operate.
53. Crematoria are subject to the same neutrality provisions as mortuaries.

### ***The market and its evolution since 1993***

- *Key statistics*<sup>33</sup>

54. There were 596,700 deaths in metropolitan France in 2018 (INSEE estimate)
55. 73% of deaths take place in a hospital, hospice or care home (INSEE 2016). In most cases, the body of the deceased is moved to a private mortuary of which there are nearly 3,000 in France. Although not mandatory, it is estimated that 80% of people choose to use the services of a private mortuary.<sup>34</sup>
56. Over 45% of the deceased are embalmed.
57. 37% of the deceased are cremated.<sup>35</sup>

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<sup>31</sup> 1996 -1997 Report of the CNOF. Throughout this section, we quote statistics for metropolitan France.

<sup>32</sup> [L'Interieur et le secteur funeraire](#)

<sup>33</sup> Source: [Panorama du funeraire](#)

<sup>34</sup> [Lieu de repos du defunt: chambre funeraire, mortuaire ou domicile?](#)

<sup>35</sup> Fédération Française de Crémation.



58. 45% of people have a pre-paid plan.
- *Evolution of the market structure*
59. According to the CNOF,<sup>36</sup> the opening of the sector to competition did not result in substantial entry into the sector in the early years following the opening of the market (note that transition arrangements were put in place). By 1997, there were 3,908 companies<sup>37</sup> and 47 local authorities offering the six core funeral services,<sup>38</sup> out of the 11,385 licenced private operators and 2,904 local authority funeral operations.<sup>39</sup> It was further noted that as there had been few newly created funeral director companies, any growth in the provision of funeral director services had come from other suppliers in the broader funeral industry.<sup>40</sup>
60. Detailed statistics by activity are only available until 2006. We are showing below the number of licences for two separate activities (funeral arrangements and management of mortuaries).

**Number of licences held for two distinct activities**

	1997	1999	2004	2006
<u>Funeral arrangement</u>				
Local authorities	610	676	398	379
Private operators*	7,591	8,263	7,875	7,536
Total	8,201	8,939	8,273	7,915
<u>Mortuary</u>				
Local authorities	96	80	119	117
Private operators*	919	1,229	1,819	2,280
Total	1,015	1,309	1,938	2,397

\* includes companies and associations  
Source: CNOF reports

61. Shortly following deregulation, new franchise and commercial networks representing small family firms started to appear, with the creation of Le Choix Funeraire, Funeris, Funepius, Le Voeu Funeraire, Pompes Funebres Liberte.
62. In July 1995, SCI acquired the entire share capital of PFG, but later sold the company following a significant worsening of its performance.<sup>41</sup>

<sup>36</sup> Ibid.

<sup>37</sup> Although unclear, this may have been referring to branches, rather than actual legal entities, as other figures suggest that the total number of funeral director services companies operating was around 2,000.

<sup>38</sup> Transport of bodies before being placed in coffin; transport of bodies in coffin; organisation of funeral; supply of coffin, supply of hearse and limousines; supply of necessary staff. Other activities for which a licence is required are: embalming; supply of coffins and fittings, and or urns; supply of external draping.

<sup>39</sup> [Presentation dossier pole de competence funeraire](#)

<sup>40</sup> [Etude qualitative menee pour le compte du Comite Interfiliere Funeraire](#)

<sup>41</sup> Described in: [Du monopole public au marche concurrentiel Rapport final](#)

63. The available statistics on the number of companies operating in the sector are difficult to reconcile, probably because they are gathered for different purposes and seeking to measure different things:
- (a) Based on authorisation statistics gathered by the CNOF, the funeral industry overall appears to have progressively become more concentrated since the late 1990s and by 2016 there were 9,501 licenced private operators and 740 local authority operations. The decline in the number of private operators was nevertheless reversed in the three years to 2016 from 9,499.
  - (b) Statistics compiled by the Ministry of Works ('Ministère du travail') show that the number of funeral director companies and branches increased from 1,900 and 3,750 to 2,120 and 4,320 respectively between 2011 and 2016.
64. The PFG group, which had an estimated share of supply of 42% (through exclusive agreements in 3,187 towns) as of 1991,<sup>42</sup> was reported to be carrying out 20% of funerals by 2016, while the number two, FUNECAP, created in 2010 had a 10% share. It was noted that although competition continued to be local, many independents had chosen to join franchised networks, in order to gain access to national publicity, economies of scale in procurement and partnership with financial institutions (for the purpose of selling prepaid plans). As at 2015, there were 12 franchise networks representing on average 183 companies each and accounting for nearly 50%<sup>43</sup> of the revenue of the funeral sector.<sup>44</sup>
65. While local authority's own funeral operations accounted for 20% of licensed operators in 1993.<sup>45</sup> By 2016, the figure had declined to 7%, although it is estimated that they accounted for around 16% of the turnover of the sector.
66. Looking at the largest cities, it is noted that the share of funerals carried out by the Lyon local authority declined by 10% to 20% between 2012 and 2016, due to (among other factors) the opening of competing mortuaries. In Paris,

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<sup>42</sup> Hardy J, "L'avenir du monopole communal des pompes funebres" (March – April 1991), quoted in [Annuaire des collectivités locales 1994](#)

<sup>43</sup> A recent article published in Le Monde suggests that the figure is only 15% (although it could be because they only listed the three largest networks: [Marche funeraire les prix des concessions augmentent et les pratiques evoluent](#)).

<sup>44</sup> [Les reseaux dans le services](#); see also commentary on the largest networks in: [Marche funeraire: les prix des concessions augmentent et les pratiques evoluent](#)

<sup>45</sup> Note that this is higher than the figure implied in paragraph 8, which suggests that by the mid-1980s, they had 13% share. The statistics come from different reports on the development of the industry, so one should not read too much in these discrepancies.

the figure is about 20%. By contrast, in Grenoble, the local authority still carries out nearly 70% of funerals.

67. Number of mortuaries (excluding overseas 'departements' and territories)

	1993	1997	2004	2006	2016
Number	Circa 300	934	1,644	1,899	2,924
Refrigeration units	No data	No data	7,456	9,099	10,986
Average capacity per mortuary	n/a	n/a	4.5	4.8	3.8

Source: Conseil National des Operations Funeraires (reports of 2003/04; 2005/06 and 2014/16)

68. As at 2016, 287 additional mortuaries were either being planned or under construction.

69. With regard to the number of crematoria, it is reported that it increased from around 50 to over 200 between 1993 and 2016. It is also reported that nearly 90% of crematoria are operated by private operators on behalf of local authorities.

## Outcomes

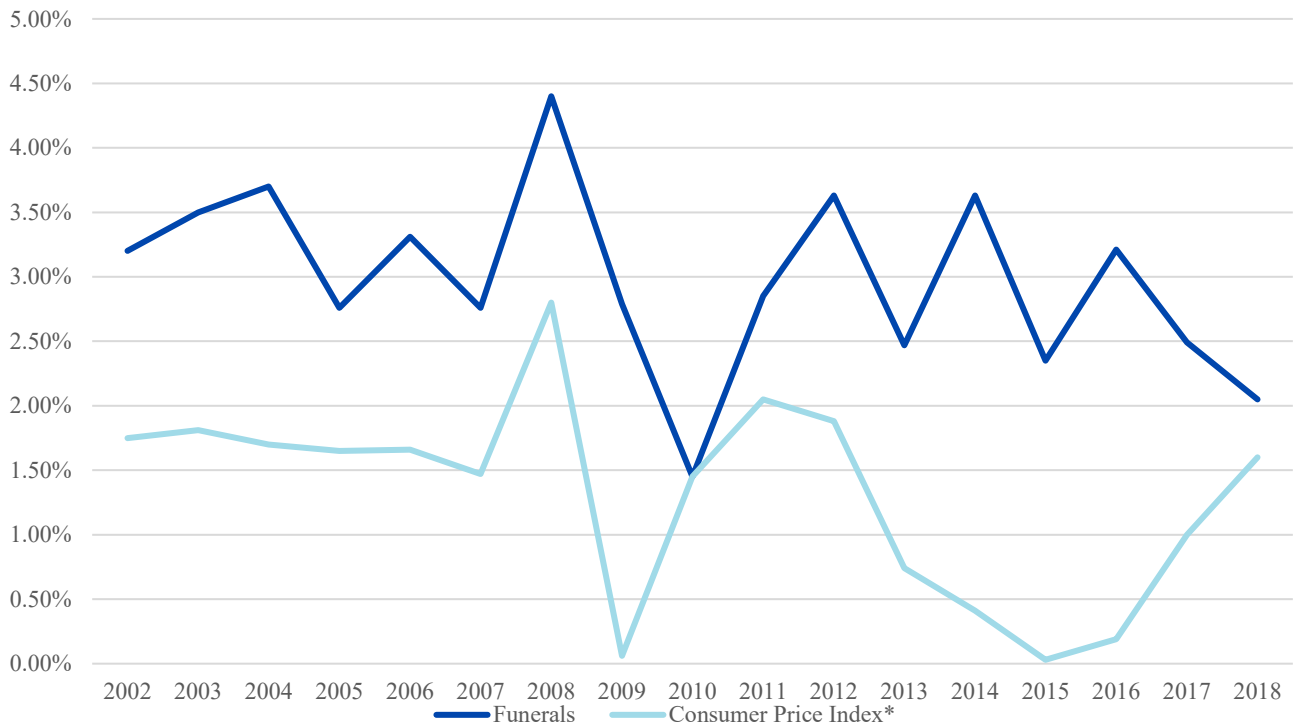
- *Prices*

70. A study published in October 2018 reported that the overall income of the funeral sector had increased by 28.4% between 2000 and 2018 (a CAGR of 1.4%), while the number of deaths increased from 540.6k to 603k (0.6% CAGR) over the same period. The report noted that upselling had enabled suppliers to maintain their margins despite a changing market, while the main suppliers, PFG, mentioned that it was reviewing its business model. The report also projected that the industry's revenue would grow by 3.5% annually in the next five years.<sup>46</sup>

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<sup>46</sup> [Pompes funebres business prospere ombre](#)

## Funerals prices vs consumer price index\*



\* Indice des prix à la consommation hors tabac.

71. A study of competition in the Lyon area, published in 2012, suggested that the combination of increased transparency and unbundling of mortuaries (followed by entry) was sufficient to constrain the exercise of market power in the supply of funeral services. Please note that the study was based on a survey of customers, using hypothetical scenarios, and may therefore not be very informative of what happens in real market conditions.
72. The average price of a funeral was estimated to be €3,350 in 2017.<sup>47</sup> One source indicates that a cremation would typically cost between €2,150 and €4,240 (€2,280 to €5,610 for a burial). In the Paris area, and on the Mediterranean coast, it would cost between €2,600 and €4,820 (€2,850 to €8,000 for a burial).<sup>48</sup>
73. Looking at mortuary prices more specifically, websites we viewed suggest that the daily rate ranges from €80 to €150, with some suppliers offering a €400

<sup>47</sup> [Prix des pompes funebres pour organisation d'obseques](#)

<sup>48</sup> [Combien coutent des obseques en moyenne?](#)

package (the number of days in a mortuary cannot exceed six days by law). Mortuaries also charge an entry/administration fee (€50 to €80 and transport costs also need to be added, €150 to €300). One website estimates that the total mortuary bill varies from €600 to €1,000.<sup>49</sup>

74. It is worth noting that low-cost funerals appeared on the French market considerably earlier than in the UK. Le Monde<sup>50</sup> reports in 2012 that in the wake of the financial crisis and increasing payment difficulties, companies started to offer options costing less than €2,000. For example, Ecoplus Funeraire offered three 'simple' funerals priced at €1,250, €1,990 and €2,490, while Claire Obseques, created in 2011, offered a €1,180 option, both located in the Paris area and supported by a strong online presence. The Ville de Paris also launched a funeral that only comprised the mandatory elements and cost around €1,400 including cremation fee (€789 excluding it).
75. In February 2019 the 'Cour des Comptes' published a review of the funeral sector, in which it made, inter alia, the following observations:
- (a) The sector is concentrated: PFG organised 20% of funerals and FUNECAP close to 10% in 2016, while franchise networks accounted for nearly 50% of the turnover of the sector.
  - (b) The practices adopted by mortuaries can be detrimental to families, as shown by recent fines imposed by the DGGCRF.
  - (c) More than 60% of inspected local authorities failed (fully or partially) to meet the requirement to make quotes from all funeral directors available to the general public. This was because of a failure by operators to provide the quotes to the local authorities. Further, the template was not properly filled in and it was difficult to compare between operators.
  - (d) The opening up of the market to competition has not resulted in a positive impact on the prices paid by families, as the funeral price index has been twice as high as the consumer price index. However, public suppliers seek to offer the most reasonable prices, which the Cour des Comptes found to be the case based on a review of the prices of four service categories.<sup>51</sup> It noted nevertheless that local authorities may be able to offer even lower prices, given in particular the operating margins they achieve.

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<sup>49</sup> [L Chambre Funeraire; Lieu de repos defunt: Chambre funeraire, mortuaire ou domicile?; Quelle difference entre chambre funeraire et chambre mortuaire?](#)

<sup>50</sup> [Sous la pression de la- rise le funeraire passe au low cost](#)

<sup>51</sup> Administrative processes; coffin with waterproof lining, handles and identity plate; placement in coffin; burial.

- (e) The licensing regime needs strengthening, as some operators appear to operate without a valid authorization. Similarly, visits to check the conformity of technical facilities are not always carried out within the statutory timeframes.
  - (f) The level of oversight local authorities exercise over the management of their crematoria varies greatly, which has led, in some areas, to some significant price increases and/or extension to contract periods, at the instigation of the private operator.
76. Its general conclusion and recommendation was that: “the funeral market, like any other market, obeys the laws of supply and demand. It displays however two abnormalities: first, the unique nature of a purchase made by vulnerable consumers and second, competition between private and public operators to provide benefits that are best characterised as a public service. The objectives that the law makers of 1993 had sought to achieve – to destroy the local authority monopoly, to provide a framework for the funeral profession and to strengthen the protection of grieving families – have only been partially achieved. Subject to insufficient controls, the sector is characterised by its concentration, price increases, and lack of price transparency. Therefore, it seems necessary for the legislation to be strengthened and for the government and local authorities to increase their efforts. It is not acceptable for operators, whether public or private, not to meet their legal obligations.”

### **Information transparency issues<sup>52</sup>**

77. In 2017, the DGCCRF carried out 596 inspections covering the wide range of ownership structures and activities carried out (including operators of mortuaries and price comparison websites), the stated objectives of the investigation being: a) to encourage suppliers to respect their obligations and b) to take action against the operators who mislead consumers.
78. The DGCCRF found, among other things,<sup>53</sup> that:
- (a) The information provided to customers was still insufficient:
    - (i) general information is rarely available and often inaccurate. It is rarely in a visible area and is often incomplete (with fees not being up to date);

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<sup>52</sup> [Secteur funeraire: ameliorer l'information et la transparence des tarifs](#)

<sup>53</sup> Including comments on funeral plans and the lack of use of mediation services by funeral directors in dispute with customers.

- (ii) regarding the samples and brochures presented by funeral directors on their premises, on certain occasions, the price of options (such as a cross or coffin padding), type of wood or thickness of the coffin were not mentioned;
  - (iii) given mark-ups of 300%, certain funeral arrangers don't hesitate to recommend embalming without explaining what is involved. The DGCCRF notes that such treatments are not mandatory (except for international transport) and that there are cheaper alternatives<sup>54</sup> that are available; and
  - (iv) the obligation to provide a detailed standard quote to customers is respected by all operators that were inspected. However, the quotes were rarely compliant with the regulatory template, for example: distinction between mandatory, common and optional services not made; absence or incompleteness of one or several mandatory piece of information; optional services presented as mandatory (e.g. embalming); some prices being allocated to the wrong category (e.g. optional services instead of disbursement); lack of estimates for other payments made on behalf of families.
- (b) Some funeral operators' websites and some price comparison websites are not compliant:
- (i) Funeral operators' websites: these sites present general information and provide a phone number to obtain a detailed quote. It was noted that there is poor compliance with the 2004 legislation relating to trust in digital markets (examples provided related to general company information).
  - (ii) Price comparison websites (PCW): the activities of six new PCWs were controlled. At least two operators, following an initial contact by the consumer, contacted the customer with a quote (the PCW would have obtained quotes from the funeral directors that were closest to the customer, and chosen one among them). If the consumer accepts the quote, a contract is signed at the funeral director's premises. The DGCCRF noted that in such cases, there is no meaningful comparison carried out by the consumer and therefore the PCW is misleading the consumers with regard the nature of its services.

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<sup>54</sup> Since January 2018, the French government has been publishing information on the various solutions that are available. This information should be made available to the bereaved by the funeral directors.

79. As part of its report, the DGCCRF notes that it will continue to monitor this sector actively and to take action against those who break the law.
80. Commenting on these findings,<sup>55</sup> the deputy director of the trade association (the Confédération des professionnels du funéraire et de la marbrerie) noted that more than half of the issues identified were minor. Responding to the report of the Cour des Comptes, the Ministère de l'Economie et des Finances emphasised that operators are responsive and tend to seek to comply with the legislation.

### **Anticompetitive behaviour by mortuary and crematoria operators<sup>56</sup>**

81. In 2014, the DGCCRF published on its website a general article summarising the unfair practices that it had come across in its various enforcement cases involving mortuaries and crematoria. By way of preamble, the DGCCRF noted that due to their 'public service' nature, such facilities must be neutral in their dealings with all companies requiring access. It added that it is nevertheless frequent for the manager of a mortuary or crematorium to handle more than two thirds of funerals within a local market and that it took advantage of its position to capture customers at the expense of competitors in relation to commercial funeral services (such as the purchase of coffins, accessories, transport, flowers, etc).
82. Examples of unfair practices encountered that the DGCCRF highlighted, were:
- (a) discriminatory pricing by mortuary operators: families are offered better prices if they ask the owner of the mortuary facilities to organise the funerals;
  - (b) creating confusion between the public services and the commercial services offered, by not making a clear distinction between them on websites, telephone directories, or marketing leaflets;
  - (c) welcoming the families who are using the mortuary in the reception area of the funeral directing part of the business, despite the requirement for physical separation. The abuse relates to the use of the reputation acquired as a manager of a public service to suggest that the commercial service will be better than the competitors;

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<sup>55</sup> [67% d'anomalies dans les devis funéraires](#)

<sup>56</sup> [Secteur funéraire: des pratiques déloyales](#)



- (d) the crematorium operator keeps the best slots for its own funeral director operations, thus impeding the activities of its competitors; and
- (e) some operators try to sign agreements with care providers for the transport of the deceased towards their mortuaries. These contracts include clauses that put their funeral arrangement services at a commercial advantage over competitors.

83. There were nine enforcement decisions from 2010 to 2018, but enforcement action by the DGCCRF has been on-going since the opening of the market in 1993.

## Appendix B: Overview of the US funerals sector and its regulation

### Introduction

1. In order to inform our thinking on potential remedies, we performed a comparison of models of regulation adopted in various countries. We believe, however, from initial work that the regulation of the United States funerals industry provides interesting insights, for the following reasons:
  - (a) the requirements of price transparency placed on Funeral Directors (FDs; either individuals licensed to perform the role of a funeral director or the firms that these individuals work for or own) and crematoria by the Funeral Rule which is regulated by the Federal Trade Commission;
  - (b) the similarities in how the funerals sector operates in the US in comparison with the UK;
  - (c) the individual states' regulations governing the operation of FDs (both individuals and firms), with most states operating licensing regimes, governing the quality of service provided by FDs, and
  - (d) emerging trends in the US (including the potential for internet sales to cause market disruption) that could also become prevalent in the UK.
2. To note, the focus of this paper has been on the at-need funerals sector and funerals resulting in cremation. This paper doesn't seek to cover in any detail the cemeteries market or pre-need funerals. This paper is based on information gathered from a variety of sources including:
  - (a) desktop research;
  - (b) a telephone conference and correspondence with the US Federal Trade Commission (FTC);
  - (c) correspondence with the California Cemetery and Funeral Bureau and the Georgia State Board of Funeral Service;
  - (d) correspondence with the International Conference of Funeral Services Examining Boards; and
  - (e) two IBIS World Industry Reports;
    - (i) report 81221, Funeral Homes in the US, February 2019, and

(ii) report 81222, Cemetery Services in the US, April 2019.

## **Main findings**

3. The Funeral Rule offers a straightforward directive for US FDs as to how they should present clear and transparent pricing information to their customers. It also provides rules on disaggregation of funeral products.
4. The Funeral Rule has been revised and amended over the years since its initial implementation. It is due to be reviewed again this year<sup>1</sup> (the review has not yet commenced, and it is unlikely that it will be completed before the publication of our final report). Part of that review will include considerations of whether FDs should be required to advertise their prices online.
5. We did not find any evidence to suggest that US consumers take advantage of the transparency provisions required by the Funeral Rule to actively shop around for the most cost-effective provider or to select different services (as part of their funeral package) from a variety of providers.
6. State level regulation focuses on quality standards with a licensing regime which impose a levy on the players in the industry.

## **A brief history of the funerals sector and its regulation in the US**

7. The creation of a funeral sector can be tracked around the time of the Civil War, between 1861 to 1865.
8. After the Civil War the continued industrialisation and urbanisation<sup>2</sup> of the US spurred on the emergence of a funeral sector with its own profession. The National Funeral Directors Association (NFDA) was founded in 1882 to represent the interests of this new profession, around the time of the construction of the first mortuary school in Cincinnati, Ohio<sup>3</sup>. It was at this school and others like it, that trainees could learn the skills of the profession including embalming techniques and the use of other chemicals developed by new industrial processes for preservation and restoration.
9. The first crematorium in the US was built in Washington, Pennsylvania in 1876<sup>4</sup>, but whilst US consumers willingly embraced new techniques for the

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<sup>1</sup> [Regulatory Review Schedule: A Proposed Rule by Federal Trade Commission on 05.02.2019](#)

<sup>2</sup> [The USA Online: Urbanization of America](#)

<sup>3</sup> [A History of Funerals in the United States](#)

<sup>4</sup> [Cremation: Funeral Custom](#)

preservation of the dead, they were less willing to accept cremation over burial. By the 1970s only 8% of the deceased in the US were cremated.

10. With the emergence of a funerals sector and its own profession, state intervention followed (we are not aware of the exact date), but until relatively recently this was at a state (as opposed to federal) level and tended to focus on standards of service, through licencing regimes.
11. In 1982, the Federal Government intervened in the operation of the funerals industry through the creation of a 'Funeral Rule' governing transparency of pricing in the sector. This could create a degree of tension between regulation at state and federal level. The focus of regulation at state level tends to be on standards of service which could create barriers to entry and favour incumbents. Whereas, the intention of federal intervention has been in seeking to open the market up and encourage competition and new entry.

## The US funerals sector

### Key Facts

Number of FDs (firms) in the US	25,187
Approximate number of funerals per year	2.4 Million
Projected proportion of the deceased in the US that will be cremated in 2019	54.8%
Average Cost of a funeral followed by cremation in 2017	US\$6,260
Average Cost of direct cremation in the US	US\$1,100
Proportion of FD (firms) in US owned by families or individuals	89.2%

12. According to the IBIS World Report on Funeral Directors in the US, in February 2019 there were 25,187 FDs (firms) operating in the US. This is low (per capita) when compared with the UK. Also, in the same year, approx. 2.4 million funerals took place generating revenue of \$16.7 billion, with profits of \$2.1 billion. That equates to approximately \$875 profit per funeral. All aspects of the funeral industry are provided by commercial businesses. Certain states provide hardship funding, and they contract directly with the businesses who deliver the service.

13. According to the NFDA<sup>5</sup>, in 2017, the national median cost of a traditional funeral, including viewing of the body and burial was about \$7,360 compared to \$7,181 in 2014. This represents an increase of 2.49% which is below the inflation rate in the US during the same period<sup>6</sup> The NFDA did not publish such information prior to 2014.
14. A funeral with cremation, was about \$6,260 in 2017 (compared to 2014 when it was \$6,078). This represents an increase of 2.99%, which is below the inflation rate in the US during the same period.
15. According to both the NFDA and IBIS, 89.2% of FDs in the US are family owned. The remaining 10.8% are owned by publicly-traded corporations, such as: the Service Corporation International, Carriage Services Inc. and StoneMor Partners.
16. Service Corporation International is vertically integrated, owning various crematoria brands in the US. Furthermore, larger companies typically have combination operations, meaning they have a cemetery adjoining a funeral home operation.
17. The 2018 NFDA report states that 30% of FDs (firms) own and operate their own crematorium, with a further 10% saying they intend to establish a crematorium in the next 12 months.
18. There is very little information in the public domain about the take-up of pre-paid funerals in the US. According to the most recent figures from 'The Encyclopaedia of Death and Human Experience'<sup>7</sup> in 2003, over a third of all funerals has been paid for, at least in part, in advance through pre-paid plans or funeral insurance products.
19. Competition between FDs seems to occur at a local level although the degree of competition seems to vary from region to region. However, competition for elements of the funeral package can occur on a national level. This type of competition has been increasing (albeit at a slow pace) – apparently due to federal regulations, which state that all FDs must unbundle the products and services they sell. Although these regulations have been in place for years,

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<sup>5</sup> The NFDA is a funeral service association in the US. Although it has members worldwide. It was created in 1882 and currently has 20,000 individual members who represent nearly 11,000 funeral homes in the US and 49 countries from around the world.

<sup>6</sup> [US Inflation Rate by Year from 1929 to 2020](#).

<sup>7</sup> [The Encyclopaedia of Death and the Human Experience](#), page 818, Pre-Need Arrangements.

we have identified very little evidence that consumers actually purchase the various components of funerals separately.

20. For example, consumers can make significant cost savings by purchasing coffins from third party retailers. Some retailers (such as Costco, Amazon and Walmart) offer consumers low-price coffins both online and in-store. FDs, under the federal legislation (the Funeral Rule as revised in 1994), are required to accept any funeral related products (including coffins) from a third party.
21. According to the 2019 NFDA Cremation and Burial Report, the 2019 cremation rate is projected to be 54.8% and the burial rate is projected to be 39%<sup>8</sup>. We could not find any information on the remaining 6.2%. It was only in 2015 that the number of cremations in the US exceeded the number of burials.
22. In recent years, direct cremation has become more widely available in the US with the average cost being \$1,100. According to the NFDA, 32% of those cremated in 2015 had no formal funeral or memorial service.
23. According to the NFDA, only 20% of its members, generally those in larger, competitive regions (such as urban centres), post prices online and the association claims not to have seen a major demand for it from consumers.

## **Regulation of the funeral sector in the US**

24. The Funeral Rule was introduced following an investigation into the funerals industry carried out by the FTC in the late 70's. This ended with the publication of its 'Funeral Industry Practices' report, published in 1978<sup>9</sup>. The report was based on a review of findings, including field work by mystery shoppers into FDs (firms) across the US.
25. The Funeral Rule was issued pursuant to the FTC's authority under Sections 5 and 18 of the Federal Trade Commission Act to forbid deceptive and unfair acts or practices. The Commission adopted the Funeral Rule on September 24, 1982, and it became fully effective on April 30, 1984.

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<sup>8</sup> [NFDA News Releases: Cremation is here to stay: aging baby boomers proved catalyst in shift beyond traditional burial](#)

<sup>9</sup> [Final Report to Federal Trade Commission and Proposed Trade Regulation Rule](#)

26. The purpose of the Funeral Rule was twofold, firstly to ensure that consumers receive the information that is necessary to make informed purchasing decisions, and secondly to boost competition in the market for funeral goods and services.<sup>10</sup>
27. The Funeral Rule was subject to a review and subsequent revision in 1994. A more recent review of the Funeral Rule was launched in 1999 and completed in 2008. No further changes were made as a consequence.
28. The current rule specifies that it is an unfair or deceptive act or practice for a funeral provider (FD individual, firm, embalmer or crematorium) to:<sup>11</sup>
  - (a) Fail to furnish consumers with accurate price information disclosing the costs of each funeral good or service used in connection with the disposal of dead bodies. FDs are required to provide this information in the form of a General Price List (GPL) that the consumer is able to keep. To comply with the Funeral Rule, they should give a copy of the GPL to anyone who asks. It was anticipated that the GPL would only be provided in face to face meetings (either when someone enters the FD (firm) and requests the price list, or when the FD (individual) visits the consumer in their home). There is an obligation to provide some price information to people who telephone, email or write but there is no obligation to provide the GPL.
  - (b) Require consumers to purchase a coffin for direct cremations.
  - (c) Condition the provision of any funeral good or service upon the purchase of any other funeral good or service.
  - (d) Embalm the deceased for a fee without authorization.
29. The Rule also specifies that it is a deceptive act or practice for funeral providers to misrepresent the legal or local cemetery requirements for:
  - (a) embalming;
  - (b) coffins in direct cremations;
  - (c) outer burial containers; or

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<sup>10</sup> [The FTC Funeral Rule](#)

<sup>11</sup> [Complying with the Funeral Rule](#)

- (d) purchase of any other funeral good or service.
30. The rule also prohibits misrepresentations of so-called “cash advance” items (FDs offering items at what they claim are wholesale prices when they have in fact added a mark-up). The rule sets out preventive requirements in the form of price and information disclosures to ensure funeral providers do not engage in the unfair or deceptive acts or practices described above.
  31. The FTC enforces the Funeral Rule, through ‘test shopping’ – undercover inspections of funeral homes to assess compliance with it. In 2015/16, the investigators working in nine states found failures to disclose pricing information in 31 of the 133 FD (firms) visited<sup>12</sup> (a failure rate of approximately 23%). In 2017/18, FTC investigators, working undercover in 11 states, found failures to disclose pricing information required by the rule in 29 of the 134 FD (firms) visited<sup>13</sup> (a failure rate of approximately 22%).
  32. Overall, since inspections began in 1996 the FTC have ‘test shopped’ approximately 3,200 FDs (firms) and found 550 FD (firms) to be non-compliant (a 16% failure rate).
  33. In instances of minor infractions, the FTC notifies the FD of non-compliance and requests evidence from them that they have addressed the non-compliance.
  34. If an FD fails a test shop and fails to address the non-compliance brought to their attention (normally the FTC test shops the same business twice in quick succession) they may face court action that can result in fines of up to \$42,530. Since the introduction of the Funeral Rule, the FTC has taken 12 enforcement cases. FDs that fail the FTC test enter the Funeral Rule Offenders Program (FROP). To register for the FROP the FD has to make a voluntary contribution to the US treasury of 0.8% of their annual turnover. They also have to subscribe to (and pay for) a three-year training program administered by the NFDA. Since the FROP program started in 1996, 550 FDs have been through the program.
  35. The FTC have agreed with NFDA that they will not identify the FDs who failed the mystery shopping tests.

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<sup>12</sup> [FTC Undercover Inspections of Funeral Homes in Nine States Prompt Compliance with Funeral Rule Disclosure Requirements](#), dated 15 February 2017.

<sup>13</sup> [Federal Trade Commission press release, April 18, 2018 'FTC Undercover Inspections of Funeral Homes in 11 States Test Prompt Compliance with Funeral Rule Disclosure Requirements'](#)



36. In the last two years, of those FDs subject to mystery shopping testing, compliance rates have been over 75%. However, the inspection rate is very low compared to the actual size of the industry. Since inspections began in 1996, 3,200 FDs have been inspected representing 15% of the overall market.
37. In addition to inspections, the FTC operates and monitors a 'Consumer Sentinel' database<sup>14</sup> that can be widely accessed by other enforcement agencies in the US, which captures consumer complaints. Complaints levels about FDs in the US, according to the FTC have been low, historically.
38. According to an NFDA consumer survey, 18.9% of consumers visit or call more than one FD. Of those 52.3% (9.88%) do so to compare prices.<sup>15</sup>
39. A further review of the Funeral Rule is due to commence in 2019. During the course of this next review, the FTC will be asked to consider whether the Funeral Rule should be extended to include a requirement for FDs to publish all their relevant pricing information online.<sup>16</sup>

## State-specific regulation

40. This section of the paper focuses on regulation of the funeral sector at state level. We considered Georgia and California for our review, as their state regulatory boards were the only states to provide a substantive response to our request for information. However, both states make for an interesting case study as they offer contrasting examples of state regulation of the funerals sector.
41. The broad findings are that:
  - (a) standards of quality regulation are broadly similar, but the machinery of regulation is very different in the two states;
  - (b) standards of regulation in relation to price transparency provisions are very different in the two states, such as:

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<sup>14</sup> [FTC, Consumer Sentinel Network](#)

<sup>15</sup> [NFDA News Releases: Funeral Planning not a Priority for Americans](#), dated 22 June 2017.

<sup>16</sup> The Consumer Federation of America (the main consumer association in the US) and the Funeral Consumers Alliance (the main consumer association in the US that focuses on consumer interests in the funerals market) launched a petition in 2016 to demand the review of the Funeral Rule be brought forward and that online publishing of prices by FDs be included in the it.

- (i) California has passed specific laws, which it actively enforces that go beyond the Funeral Rule to promote greater price transparency; whilst
  - (ii) Georgia has a de minima approach; and
- (c) the average cost of a funeral in both states is broadly similar.

## **Georgia**

- *The funerals industry*
42. According to the Georgia Secretary of State website there are 725 FDs (firms) in Georgia, 2,028 FDs (individual) and 127 crematoria. This equates to one FD (individual) for every 5,187 people,<sup>17</sup> higher than the US average of one FD (individual) for every 13,084 people. The average cost of a traditional funeral in Georgia is \$6,688 which is in line with the US average of \$6,642.<sup>18</sup>
- *Regulation*
43. Funeral regulation at the state level in Georgia is mainly focused on standards of service. The industry is regulated by the Georgia State Board of Funeral Service which administers the state's Funeral Service Law. The purpose of this organisation is to ensure the 'better protection of life and health, preventing the spread of contagious, communicable, and infectious diseases, and regulating the practice of embalming and funeral directing and the care and disposition of dead human bodies'.<sup>19</sup>
44. The Georgia State Board of Funeral Service is composed of seven members who are appointed by the State Governor. Of those, six members are required to be a licensed and practicing FDs (individuals) and an embalmer with a minimum of five years in the state prior to their appointment. The seventh member should be a consumer advocate with no connections to the funeral service industry.<sup>20</sup>
45. The main way in which FDs (both firms and individuals), embalmers and crematoria are regulated in Georgia is via a licensing regime which allows

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<sup>17</sup> Estimated population of Georgia in 2018 was 10,519,475 according to the [United States Census Bureau](#).

<sup>18</sup> Taken by adding the lowest figure - \$5,758, adding it to the highest figure - \$7,526 and dividing by two.

<sup>19</sup> [2006 Georgia Code](#).

<sup>20</sup> <http://rules.sos.ga.gov/gac/250?urlRedirected=yes&data=admin&lookingfor=250>

them to practice under State Law. The criteria for becoming a licensed FD (individual) and / or an embalmer are that the individual must:

- (a) be at least 18 years of age;
- (b) have graduated from a high school or obtained a General Education Development Certificate;
- (c) have graduated from an accredited college of funeral service;
- (d) have completed a minimum of 3,120 hours of service as an apprentice;
- (e) have passed a National Conference Exam, and
- (f) have passed the Georgia Laws & Rules Exam.<sup>21</sup>

46. The initial application fee for both FDs (individuals) and embalmers is \$50. Licenses have to be renewed every two years at a cost of \$100.
47. FDs (firms) and crematoria can only be licensed if the owner is a licensed FD (individual) or there is an FD (individual) identified in the application as being in 'full and continuous charge' (FDFCC). The establishment is then subject to a physical inspection, during which they check that all necessary equipment and facilities are available and appropriate standards of hygiene are met.<sup>22</sup> Subject to successful completion of the inspection the owner and the FDFCC (if not the owner) have to appear before the Board. The cost of an initial application to register both an FD (firm) and a crematorium is \$150. The licence has to be renewed every two years and the renewal fee is \$140.
- o *Monitoring*
48. Compliance with State funeral law is maintained through regular inspections (at least once a year<sup>23</sup>) of both crematoria and FDs (firm) by a representative of the Georgia State Board of Funeral Service (see Rule 250-6.06).
49. The focus of these inspections is on whether the necessary equipment and facilities are available to the provider to carry out its work, as well as cleanliness and hygiene standards of the FD (firm) and crematorium,

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<sup>21</sup> [Common Questions](#)

<sup>22</sup> <http://rules.sos.ga.gov/gac/250-6>

<sup>23</sup> [Page 37, Report to Congressional Requesters by the United States General Accounting Office, August 2003](#)

respectively. Inspections do not assess compliance with the requirements of the FTC's Funeral Rule.

50. The Georgia State Board of Funeral Service requires all FDs (firm) to display at least eight coffins on their premises and make them all available for purchase to customers. All coffins on display need to have price tags attached to them.
51. Non-compliance during the inspection results in on-the-spot individual fines which range from \$50 to \$500 but these fines can be cumulative (for example, an FD may be fined \$500 for each of two separate infractions identified in one inspection, resulting in total fines of \$1,000 from that inspection). There does not appear to be an upper limit for the size of fines that can be applied during the course of any one inspection. The FD can contest the fine to the Georgia State Board of Funeral Service but failure to pay a fine can result in disciplinary proceedings which can result in revocation of the licence.
52. Disciplinary proceedings can also be instigated as the consequence of a complaint. In these circumstances, Georgia State Board of Funeral Service appoint a representative to review the complaint and conduct an investigation. A hearing is then organised where the board can consider the evidence. After the hearing, the board may (by majority) revoke, limit or restrict a license or registration upon satisfactory proof of guilt.
53. The last time Georgia was subject to FTC mystery shopping tests was in 2017, when the FTC identified that five out of 13 FDs tested in Augusta failed to comply with a price list disclosure requirement.<sup>24</sup>

## **California**

- *The market*

54. There are approximately 13,500 licensees who are eligible to work within the 'death care' industry In California.<sup>25</sup> Licensing categories include;
  - (a) FD (firm) (1,083);
  - (b) FD (individual) (2,817);

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<sup>24</sup> [Federal Trade Commission press release, April 18, 2018 'FTC Undercover Inspections of Funeral Homes in 11 States Test Prompt Compliance with Funeral Rule Disclosure Requirements'](#)

<sup>25</sup> [Cemetery and Funeral Bureau Strategic Plan 2019-2023](#)

- (c) embalmers;
- (d) apprentice embalmers;
- (e) cemetery brokers;<sup>26</sup>
- (f) cemetery broker branches;
- (g) cemetery salespersons;
- (h) cremated remains disposers;<sup>27</sup>
- (i) crematoria (229), and
- (j) crematorium and cemetery managers.

55. The number of FDs (individual) in the state versus the total population of the state means that there is one FD (individual) for every 14,042 people.<sup>28</sup> This is broadly in line with the US average of one FD (individual) for every 13,084 people but significantly fewer FDs (individual) per head of population than in Georgia.
56. The average cost of a traditional funeral in California is \$6,135 which is in line with the average cost across the US of \$6,642<sup>29</sup> and also with Georgia.
- *Regulation*
57. In California, the funeral market regulator is the Cemetery and Funeral Bureau (CFB) which is part of the Department of Consumer Affairs (DCA) within the California Government.
58. The CFB administers all the state's laws relating to the provision of death care services. It is a self-funded system in that the CFB is entirely funded by its own licensing activities. All fees charged via the licensing regime are capped and cannot be increased without the authorisation of the state legislature. The CFB have also recently reviewed their current fee structure to determine if any

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<sup>26</sup> 'A cemetery broker is an individual who (1) sells or offers for sale, (2) buys or offers to buy, (3) lists, (4) leases or offers to lease, or (5) solicits or negotiates the purchase, sale, lease, or exchange of cemetery property or interment services. A cemetery salesperson is employed by a cemetery broker to perform any or all of the above services.' Extract from [CFB website](#).

<sup>27</sup> In the state of California ashes can only be scattered by a licensed cremated remains disposer.

<sup>28</sup> According to the US Census Bureau the population of California was 39,557,045 in 2018.

<sup>29</sup> Taken by adding the lowest figure - \$5,758, adding it to the highest figure - \$7,526 and dividing by two.

changes are necessary.<sup>30</sup> They have not made any changes following this review.

59. The consumer protection arm of the CFB is in charge of the following:
- (a) a licensing regime with a program of regular inspections to monitor ongoing compliance;
  - (b) investigation of complaints, and
  - (c) publication of both business and consumer guidance.
60. The criteria for obtaining a licence to practice as an FD (individual), crematorium manager or embalmer in California is as follows:<sup>31</sup>
- (a) be 18 years of age or older;
  - (b) possess an Associate in Arts or Associate in Science degree, or equivalent; and
  - (c) have committed no acts or crimes constituting grounds for denial of licensure under Section 480 of the Business and Professions Code.
61. The initial application fee for FDs (individuals) is \$100 and for crematorium managers is \$80. FD (individual) licenses have to be renewed every year at a cost of \$200.<sup>32</sup> Applicants in both instances are also required to sit an exam. The CFB produce a candidate handbook that sets out what candidates can expect to be tested on.<sup>33</sup> Crematorium managers have to pay a further fee to cover the exam of \$450.
62. FDs (firms) and crematoria can only be licensed if they meet the necessary criteria:
- (a) they provide the completed application form along with license fees;
  - (b) they are able to provide copies of the articles of incorporation or partnership as well as certification affidavit for each owner, partner, corporate officer or trustee;

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<sup>30</sup> [California Cemetery and Funeral Bureau Fee Audit](#)

<sup>31</sup> The criteria can be found here.

<sup>32</sup> An example of the application form for a funeral director licence can be found here. The application for a crematorium manager can be found here.

<sup>33</sup> A copy of the FD handbook can be found here, and the crematorium managers exam handbook can be found here.

- (c) appropriate document from the local authority showing approval for the use of the location either as an FD (firm) or crematorium; and
  - (d) the location of where preparation and / or storage will be performed if not on site.
63. In addition to this, for FDs (firm) either the owner must be a licensed FD (individual), or an FD (individual) is identified in the application as being responsible for day to day management of the FD (firm). Both crematoria and FDs (firm) are then subject to a physical inspection. The cost of an initial application to register both for a FD (firm) and a crematorium is \$400 which is also the fee for annual renewal.<sup>34</sup>
- *Monitoring*
64. The CFB is mandated to conduct at least one unannounced inspection of every crematorium in the state annually, and five to ten percent of cremated remains disposers each year.
65. The CFB also aims to conduct at least one inspection of each FD (firm) annually. Annual inspections ensure that issues are proactively addressed by the CFB. These are unannounced visits where a CFB field representative inspects the FD's website, grounds, embalming room, preparatory room, storage facility, and contracts. Any violations found of the CFB laws and regulations are noted and sent to headquarter for review and enforcement or disciplinary action.
66. The main focus of inspections is on criteria related to quality of service, hygiene and health and safety standards. However, California law also enhances the requirements of the Funeral Rule on matters of price transparency. The CFB actively monitor for compliance with advertising and price transparency requirements through their inspection regime.
67. California law requires specific consumer disclosures including price lists and other obligations by licensees that are designed to protect consumers. Most often, consumers will make funeral and/or burial arrangements in person with an FD (individual). However, arrangements can and are made via phone,

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<sup>34</sup> A copy of the funeral establishment application form can be found here. The crematoria application form can be found here.

email, fax and through online services. We do not know what percentage is made in branch otherwise.

68. Additionally, FDs (firm) that maintain a website are required to post their list of funeral goods and services online. The information must be provided by a link containing the words or combination of words 'goods', 'merchandise', 'products', or 'services'. Alternatively, an FD (firm) may post its GPL with a link from its home page with the words 'price information' or a similar phrase that includes 'price' that leads to the GPL.<sup>35</sup>
69. The CFB provides a table online that summarises the most common violations found during compliance inspections of FDs (firm).<sup>36</sup> This provides a good indication of what is checked for in a compliance inspection and does include references for checks of itemised price lists, both physically and online.
70. Customer complaints are also investigated and may result in disciplinary action. The CFB invites consumers to contact them by phone, online or in correspondence to notify them of complaints.<sup>37</sup>
71. A range of sanctions are available to the CFB including license revocation and suspension as well as the imposition of fines. There may also be instances where offenders can be punished by imprisonment in a county jail for up to six months for certain misdemeanours.<sup>38</sup>
  - o *Compliance*
72. The CFB publish both a table of citations and disciplinary actions on their website, alongside the names of businesses and/or the individuals subject to the action.
73. Between January and October 2019, the CFB made citations against 119 businesses and individuals, imposing total fines of \$27,800 including;
  - (a) one apprentice embalmer (\$0);
  - (b) one cremated remains disposer (\$0);

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<sup>35</sup> The full text of the Business and Professions Code section 7685 is hyperlinked and can also be found on CFB's website at [www.cfb.ca.gov](http://www.cfb.ca.gov) under "Laws/Regs".

<sup>36</sup> See [here](#).

<sup>37</sup> A link to the relevant part of their website can be found [here](#).

<sup>38</sup> The disciplinary process is set out in Article 6 of the Act ([link here](#)). See also [link here](#) to the section of the Act covering penal provisions.



- (c) one crematorium (\$100);
  - (d) 27 FDs (individual) (\$4,150); and
  - (e) 73 FDs (firms) (\$15,250).<sup>39</sup>
74. In the same period, the CFB had undertaken disciplinary action against 33 businesses and individuals, including:
- (a) One apprentice embalmer (petition for reinstatement denied);
  - (b) One crematorium (decision pending);
  - (c) Four crematoria managers (three decisions pending, one petition for termination of probation/ reduction in penalty denied);
  - (d) Two Embalmers (one petition for reinstatement denied, one decision pending);
  - (e) Eight FD (individuals) (three petitions for reinstatement denied, two licenses revoked, one three-year probation, one stipulated surrender and one decision pending); and
  - (f) Five FD (firms) (three licenses revoked, one placed on a three-year probation, one placed on a four-year probation).
75. Removing duplications of FDs (individual) that have been subject to both citations and disciplinary action, there are 71 FDs (individual) out of a total of 1,083 that have thus far failed to comply with the Funeral Rule in 2019. This represents a failure rate to comply with the legislation, in California, of 6.5%.
76. In terms of compliance with the Federal Funeral Rule, California was subject to the FTC mystery shopping test in 2015 – 16. At the time, 10 FDs (firms) in Bakersfield were the subject of undercover inspections. None of the 10 failed to make a price list disclosure.
77. There appears to be a high level of compliance with both state and federal laws governing the death care industry in California, although according to the recent Funeral Consumers Alliance survey,<sup>40</sup> the law around online pricing needs revision to require itemised price lists to be provided prominently.

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<sup>39</sup> [Administrative Citations Issued by the Cemetery and Funeral Bureau in 2019](#)

<sup>40</sup> [Funeral Consumers Alliance: Hidden Funeral Prices - A Report on California Funeral Home Price Disclosure and Lack of Disclosure](#)

## Advice and guidance

78. There is a wide variety of advice available online about purchasing a funeral in the US. This is the main medium the FTC use to explain to consumers how the Funeral Rule can benefit them. Online advice also appears to be the main medium used at the state level although some states, such as California supplement this with a range of other activities including local outreach.
79. The FTC also provide guidance to FDs on how to comply with The Rule along with template price lists that they can easily adapt.
80. Advice and guidance provided at the state level can vary considerably, such as:
  - (a) In Georgia, state advice and guidance on purchasing a funeral for the consumer is provided on one webpage on the Georgia Department of Law's Consumer Protection Division website.<sup>41</sup> There is no further information on the website about other sources of information for consumers.
  - (b) In California, the CFB promotes consumer awareness through information about consumer rights and options. The CFB's website is accessible to consumers and includes comprehensive information that is easily available. As part of its consumer education efforts, the CFB provides its Consumer Guide to Funeral & Cemetery Purchases, which has information on what the law requires, planning ahead for funeral and cemetery arrangements. All FDs (firms) and licensed cemeteries must display and make this guide available to consumers. The consumer guide is hyperlinked, and it is available on their website.<sup>42</sup> Furthermore, CFB participates in outreach events to provide information on how to educate and protect consumers when purchasing pre-need or at-need cemetery and funeral goods and services for either themselves or a loved one. These outreach events include community-based events sponsored by local assemblymen or senators or events at the California mortuary science schools.
81. Consumer groups such as the Funeral Consumers Alliance (a not-for-profit organisation) can also provide advice and guidance to consumers and even provide a helpline for consumers. At a state level there are also funeral

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<sup>41</sup> [Georgia Department of Law Funeral Services](#)

<sup>42</sup> [Cemetery and Funeral Bureau](#)

planning societies that appear to work like cooperatives to leverage buyer power to obtain discounts from local funeral providers. There are also price comparison websites that can help consumers gauge what average costs are for their locality.

82. The Funeral Consumers Alliance describes itself as a not-for-profit organisation dedicated to protecting consumers' right to choose a meaningful, dignified, affordable funeral. The organisation offers the following support:
- (a) online and printed publications on funeral choices to increase public awareness of funeral options, including how to care for your own dead without using an FD;
  - (b) monitoring funeral industry trends and practices nationally and exposing abuses;
  - (c) serving as a consumer advocate for legal and regulatory reform, giving advice on or lobbying for necessary changes locally, state-wide, or nationally;
  - (d) serving as a source of information for media covering death and dying;
  - (e) working with national organisations sharing similar concerns to expand families' choices and control over funeral options;
  - (f) giving advice and guidance to local memorial and funeral planning societies;
  - (g) referring people to local funeral planning societies and regulatory agencies; and
  - (h) helping 70 funeral planning societies stay in touch with each other and exchange ideas.

## Appendix C: Overview of the Spanish funerals sector and its regulation

### Overview

1. In order to inform our thinking on potential remedies, we performed a comparison of models of regulation adopted in various countries. This research note on the Spanish market considers:
  - (a) The structure of the funerals market and crematoria services market in Spain. The Spanish funerals sector is characterised by the decentralisation of regulation. The requirements to obtain a license to provide funeral services vary in autonomous communities and the main regulation at the state level is more than 40 years old. In 2010, a request for new harmonised regulation, in line with the transformation experienced in the sector, was made, although no action has been taken to date.
  - (b) The reasons for the large uptake in pre-paid funerals in Spain. Approximately 60% of the Spanish population is covered by death insurance.<sup>43</sup> Legislation requires that the burial or cremation must take place between 24 and 48 hours after death. Since funerals involve a lot of pre-planning and completion of administrative procedures, it makes it easier to organise funerals in advance. Death insurance covers all expenses arising from a death. Not only that, but it also offers help to family members so that they do not have to worry about the paperwork. Funerals are expensive, and many cannot afford to pay them up front. Death insurances offer a solution to not leave families with debt.
  - (c) Outcomes for Spanish consumers, including satisfaction levels, coverage and costs of the pre-paid plans and comparison with at-need. Data from a consumer survey reveals that 72% of family members who benefited from death insurance are very satisfied with the services provided by insurers.<sup>44</sup> However, some consumers also highlighted certain disadvantages to this type of insurance, such as the limitation in choice, lack of transparency, or cases in which they do not always cover all of the expenses.

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<sup>43</sup> [El Precio de la muerte en Espana](#)

<sup>44</sup> [El 68% de los espanoles prefiere la incineracion al tradicional entierro, segun OCU](#)

## Introduction to the Spanish funeral market

2. The liberalisation of the funeral sector in Spain, with the abolition of local authority monopolies, took place in 1996. Since then, many private companies have been offering their services, competing with local authorities. However, that is not the case in every region.<sup>45</sup>
3. The Spanish funerals market is characterised by the prominent role of funeral insurance companies. Over 60% of people who die each year in Spain are buried or cremated through a death insurance plan (pre-paid plans).<sup>46</sup>
4. Funeral services generate a turnover of about €1,500 million a year, according to figures from the National Association of Funeral Services (Panasef).<sup>47</sup> The market for funeral directors appears to be fragmented, about 73% of the demand is served by companies with a turnover of less than €5m, most of which are independent, family-run businesses operating locally.<sup>48</sup> Around 1,200 of them have a turnover of less than €1 million a year. Meanwhile, the funeral insurance market is concentrated, 33% of the annual turnover generated by funeral services are supplied by six companies: Mémora, which in 2017 was acquired by the Canadian pension fund Ontario Teachers for €450 million; Albia, owned by Santalucía; Funespaña, a subsidiary of Mapfre; Servisa, controlled by Ocaso Seguros; ASV and Interfunerarias. That is, three insurance companies, Santalucía, Mafre and Ocaso control three of the largest funeral directors in the country.<sup>49</sup>
5. There has been a growth in recent years of insurance companies expanding their business to provide death insurance services.<sup>50</sup> Death insurance is the most profitable product of the insurers' portfolio and it is registering very high

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<sup>45</sup> [Servicios funerarios: morir sale caro](#)

<sup>46</sup> In Spain there is no a distinction between pre-paid funerals plans and death insurance as it happens in UK, they are the same product El Precio de la muerte en espana, dated 28 March 2019.

<sup>47</sup> Panasef is the national association / trade body that represents the companies that operate in the funeral services sector (SSFF), both those that provide all the services generated by a death, and those that provide only the burial and / or incineration services. In Spain there are 1,700 funeral services companies operating, according to official calculations, employing 9,500 workers with a global turnover of around € 1.6 billion.

<sup>48</sup> Panasef, Informe de mercado del sector funerario, Herbert Smith Freehills Spain LLP, Marco normativo 2017, pp 14-15. 2017 Mercado del Sector Funerario

<sup>49</sup> El negocio funerario aviva el mercado asegurador

<sup>50</sup> Catalana Occidente is one of the companies that in recent years has decided to enter the market. Two years ago, in April 2017, the group closed its last major corporate operation with the acquisition of Previsora Bilbaína for 125 million euros, which gave it a market share of 5% in the field of death insurances and more than one million of insured people, in addition to the control of the funeral business of Previsora Bilbaína, Funeuskadi. This is not the only insurance company that has decided to enter the business in recent years. AMA Seguros, the insurance leader among healthcare professionals, did so in 2014, and last fall Liberty Seguros began selling insurance of this type by Preventiva Seguros.

growth rates: in 2018 the subscription of policies increased by almost 4%.<sup>51</sup> Hence, an appetite for mergers and acquisitions in the sector. However, the ownership of some of the main companies in the industry, including the leaders, is in the hands of families reluctant to sell, which makes mergers and acquisitions difficult.<sup>52</sup>

6. In June 2019, Santalucia and Mapfre announced the merger of their two funeral companies, Albia and Funespaña, to create the largest funeral company in Spain. This merger is waiting the green light from “la Comision Nacional de los Mercados y la Competencia” (the Spanish Competition and Markets Authority). Together they will have the largest network of cemeteries and crematoria in Spain, with more than 1,650 workers. They will have more than 60 crematoria, 400 funeral directors and mortuaries, 42 cemeteries and 750 vehicles. If the merger is completed, they will have direct and indirect presence in 100% of the national territory and they will be able to provide more than 70,000 funeral services per year, thus surpassing Mémora as the first in the sector.<sup>53</sup>
7. Despite the long-standing legislative push for liberalisation and privatisation of the funerals market, several companies owned entirely or partly by municipalities still operate.<sup>54</sup> Moreover, there is often little choice at the local level. In approximately half of all municipalities, there are two or fewer funeral directors per 100,000 inhabitants, and a de facto monopoly operates in 21% of municipalities. In Catalonia, most funeral companies enjoy a situation of monopoly in the municipality in which they operate, thus this autonomous community has the highest levels of concentration.<sup>55</sup>
8. Typically, insurance companies arrange the general terms of the funeral service in advance and act as brokers between the insured and funeral directors. As a result, funeral directors in Spain have much less interaction with consumers than funeral directors in the UK do. With this structure, the insurers have significant buying power and the funeral directors’ trade body reported this as a source of downward pressure on funeral service prices.<sup>56</sup> There are no laws establishing minimum requirements or regulating prices.

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<sup>51</sup> [El negocio funerario aviva el mercado asegurador](#)

<sup>52</sup> [El negocio funerario aviva el mercado asegurador](#)

<sup>53</sup> [El negocio funerario aviva el mercado asegurador](#)

<sup>54</sup> Ministerio de Economía y hacienda, Ministerio de sanidad y política social (2010), ‘Estudio sobre los servicios funerarios en España’, 28 June, page 10. [Estudio sobre los servicios funerarios en espana](#), dated 28 June 210.

<sup>55</sup> Ministerio de Economía y hacienda, Ministerio de sanidad y política social (2010), page 8.

<sup>56</sup> Panasef (2017), op. cit. p. 30.

9. The Spanish Organisation for Consumers and Users (OCU) published a report in 2013 in relation to consumer experiences in the provision of funeral services. They found that it is a widespread practice for funeral directors to provide little and unclear information. When the time comes, consumers who need to hire funeral director services find themselves with very limited choice, either because there is hardly any competition (as it is the case in some Spanish cities like Cuenca, with just two funeral directors) or because they do not have information to compare and shop around.<sup>57</sup> The OCU recommendations suggested that it was necessary to speed up the process to pass the law that will regulate the funeral services in Spain (*Ley de Servicios Funerarios*), including comprehensive measures for the protection of consumers. At the time of this research, this law has not yet been approved.<sup>58</sup>
10. We can observe a funeral cost inflation of 90% in the period from 1998 to 2008, the average cost of a simple funeral increased from €1,040 to €1,978.<sup>59</sup> According to the OCU report, the cost of an average funeral service in Spain in 2013 was around €3,300. There are notable differences depending on the services chosen and the autonomous community<sup>60</sup> in which the service takes place (Barcelona, for example is the most expensive). The OCU study reveals that one out of four funerals cost €4,200 or more and that 45% of respondents were completely unaware of the cost. As of 2019, a basic burial without extras costs about €3,500. The average of a standard funeral service would be around €6,500, while a service with extras could start from €10,000.<sup>61</sup>
11. Since insurance companies usually act as brokers and customers usually pay for their own funeral through an insurance policy, customers are less sensitive

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<sup>57</sup> [OCU research 2013 La grandas cadenas del sector como Memora, servisa o ASV no destacan por precio ni por informacion](#)

<sup>58</sup> Ley 25/2009 established that within six months since the entry into force of such Law, “the Government will conduct a study and propose, where appropriate, the regulatory changes necessary to guarantee the freedom of choice of the providers of funeral services, including the cases in which has contracted a death insurance, and boost the elimination of other possible obstacles that may derive from current regulations”. Under the mandate contained in Law 25/2009, the Council of Ministers approved, on 17 June 2011, a Bill for Funeral Services. The Bill aimed to (i) adapt the rules regarding the provision of funerals services to the regulations that guarantees the free access to the exercise of such services (ii) guarantee freedom of choice of the funeral service providers for the users. This project, far from regulating, deregulated the funeral activity and left it out of health control. However, the Project expired as a result of the dissolution of the Cortes and, even today, still has not been promulgated a norm regarding the provision of services funeral homes that meet the needs of liberalization of the provision of such services.

<sup>59</sup> [Los funerales casihan duplicado su precio en los ultimos diez anos](#)

<sup>60</sup> In Spain, an autonomous community (in Spanish: comunidad autónoma) is a first-level political and administrative division, created in accordance with the Spanish constitution of 1978, with the aim of guaranteeing limited autonomy of the nationalities and regions that make up Spain. In Spain there are 17 autonomous communities.

<sup>61</sup> [Un seguro de decesos perisado par vivir mas](#)

to the prices charged by funeral directors. Furthermore, a report from the Spanish government argues that consumers seem to exhibit low price elasticity because of the statutory requirement to bury or cremate all bodies within 48/72 hours of death.<sup>62</sup> According to Panasef, funeral directors compete primarily on product differentiation.<sup>63</sup>

## Legislation

12. The regulatory framework applicable to the funeral sector is quite broad as a result of:
  - (a) the variety of aspects that are regulated within of the provision of funeral services (mortuary health, transport of corpses, land planning, etc); and
  - (b) the distribution of competences between the National State Administration, the autonomous communities and local entities.
13. These two circumstances give rise to complex regulations that can be contradictory in some cases, as the requirements to access the funeral service activity vary considerably from some autonomous communities to others, and even between different municipalities within the same autonomous community.<sup>64</sup>
14. The only national law that contains provisions regarding quality and safety is the *Decreto 297/1997 aprobando el Reglamento de la Policía Sanitaria Mortuoria* (Regulation of Mortuary Health Police).<sup>65</sup> This regulation is over 40 years old. In addition, most of the regulations developed by the autonomous communities were promulgated more than 20 years ago, almost all date from the 90s. Therefore, while the sector has undergone an evolution in the last 10 years, the legislative framework is made by laws promulgated more than 40

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<sup>62</sup> Ministerio de Economía y hacienda, Ministerio de sanidad y política social (2010), page 7.

<sup>63</sup> Panasef (2017), 'Mercado del sector funerario – marco legal', page 30.

<sup>64</sup> Ibid. page 20.

<sup>65</sup> The Mortuary Health Police is a security force, dependant from the Spanish civil service. They develop their functions in the field of public health, specifically in all the aspect relating to corpses and human remains.

They work with funeral companies and funeral homes, supervising the use of the coffins, the cremations techniques, as well as the conditions of the funeral vehicles.

The Mortuary Health Police supervise that funeral homes, both public and private, comply with the legislation in place regarding sanitary and technical conditions when corpses are being handled and embalming takes place. They also check that cemeteries comply with the stipulated sanitary regulations, whether they are municipal or private. All this with the purpose that the deceased receive a professional, adequate and, above all, respectful treatment.



years ago. The standards have not been adapted to the transformations experienced in the sector in recent years.<sup>66</sup>

15. Each piece of legislation described below regulates a different aspect of the industry. At the state level the main law applicable to the funeral sector is the *Decreto 297/1997 Reglamento de la Policía Sanitaria Mortuoria*. This law will be the applicable one in the aspects not regulated by the autonomous communities. *The Ley 14/1986 General de Sanidad* make the Town Halls responsible of the health control (quality control). There is no law regulating the transparency of information at the state level. Just certain autonomous communities have developed regional regulation regarding protection of consumers and users.<sup>67</sup>

### ***Laws at the national level***

16. The national law applicable to the provision of funeral services in Spain is: *Decreto 297/1997 aprobando el Reglamento de la Policía Sanitaria Mortuoria* ("Decreto 2263/1974"). Decreto 2263/1974 applies directly to autonomous communities that have not legislated on the subject. It applies also, as supplementary provision, to those aspects not regulated by the regional norms. It is important to highlight that the international transfers regime provided for in the Decreto 2263/1974 applies in all autonomous communities, regardless of whether they have regional regulations in this aspect.<sup>68</sup>
17. The other legislation applicable to the provision of funeral services does not contain provisions relating to mortuary standards. They regulate aspects relating to the distribution of competencies in the sector and the liberalisation of provision of funeral services.
18. The distribution of competences for the provision of funeral services is provided in *Ley 7/1985, de 2 de abril, Reguladora de Bases del Régimen*

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<sup>66</sup> Ibid. page 38.

<sup>67</sup> Among the autonomous communities that have developed regulations for the protection of the rights of the purchasers of Funeral services are: Asturias (Decreto 14/2005, de 3 de febrero, por el que se regula el derecho a la información y los derechos económicos de los usuarios de servicios funerarios); Cantabria (Decreto 88/1997, de 1 de agosto, por el que se regulan los derechos de los adquirentes de servicios funerarios en la Comunidad Autónoma de Cantabria); Cataluña (Artículo 3 de la Ley 2/1997, de 3 de abril, sobre servicios funerarios), Islas Baleares (Decreto 1/1998, de 2 de enero, por el que se regula el derecho a la información sobre los servicios mortuorios o funerarios), Castilla-La Mancha (Decreto 25/2000, de 15 de febrero de 2000, de los derechos de información y económicos de los usuarios de los servicios funerarios), Canarias (Decreto 132/2014, de 29 de diciembre, por el que se regula la sanidad mortuoria de la Comunidad Autónoma de Canarias) y Castilla y León (Decreto 79/1998, de 16 de abril, por el que se regula el derecho a la información y los derechos económicos de los usuarios de servicios funerarios).

<sup>68</sup> Panasef (2017), 'Mercado del sector funerario – marco legal', page 38.

*Local* (“Ley 7/1985”), which attributes to the municipalities the competence over cemeteries and funeral activities.<sup>69</sup>

19. *Ley 14/1986, de 25 de abril, General de Sanidad* (“Ley 14/1986”) reserve to the Town Halls the responsibility for compliance with the sanitary control of cemeteries and police mortuary. They can impose sanctions for failure to comply with the law, ranging from a fine to the closure of the workspace.<sup>70</sup>
20. *Real Decreto-Ley 7/1996, de 7 de junio, sobre medidas urgentes de carácter fiscal y de fomento y liberalización de la actividad económica* (“RDL 7/1996”) opened up the provision of funeral services, which was before reserved to local entities, subject to obtaining a license reserved to practice in just the municipality where it was obtained.<sup>71</sup>
21. *Ley 24/2005, de 18 de noviembre, de reformas para el impulso de la productividad* (“Ley 24/2005”) modified article 22 RDL 7/1996, allowing the practice of funeral services across the entire national territory once they receive a license from one municipality. The license shall be regulated and established in accordance with the minimum criteria established by the State and the autonomous communities in development of their competencies. The license shall be granted to any applicant who meets the requirements and certify the availability of the material means that are necessary to carry out the transport of corpses. The rules that regulate the requirements for the authorizations for the provision of these services must not establish requirements that distort the liberalization of the sector.<sup>72</sup>
22. At the national level, in article 3 of the *Decreto 297/1997 Reglamento de la Policía Sanitaria Mortuoria* states that to obtain this license companies must:
  - (a) be registered in the Registry / Census of Funeral Companies of each autonomous community;
  - (b) inform the recipients of the services about the mandatory administrative processes;

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<sup>69</sup> Law 7/1985, of April 2, Regulator of Bases of the Local Regime, Article 25.2.k)

<sup>70</sup> *Law 14/1986, de 25 de abril, General Health*, article 42.3.e) [Cual es la Legislacion de cementerios y tanatorios en Espana?](#)

<sup>71</sup> Royal Decree-Law 7/1996, of June 7, on urgent fiscal measures and the promotion and liberalization of economic activity

<sup>72</sup> [Artículo vigesimo tercero Habilitacion en todo el territorio nacional para la prestacion de servicios funerarios Ley 17/2009, articulo 23.](#)

- (c) certify the availability of the material means necessary to attend the services offered in good hygienic-sanitary conditions;
  - (d) keep the facilities in adequate hygienic sanitary conditions with the appropriate cleaning and disinfection methods;
  - (e) provide appropriate training to staff; and
  - (f) comply with the mortuary health regulations of each autonomous community and have a record of the services provided.
23. *Ley 17/2009, de 23 de noviembre, sobre el libre acceso a las actividades de servicios y su ejercicio* (“Ley 17/2009”), and *Ley 25/2009, de 22 de diciembre, de modificación de diversas leyes para su adaptación a la Ley sobre el libre acceso a las actividades de servicios y su ejercicio* (“Ley 25/2009”) were passed as a consequence of the transposition of Directive 2006/123 / EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. These two laws are applicable to the provision of services in the funeral sector and they introduce the general principle that the provision of services may only be subject to prior authorization regimes when they are not discriminatory and must be justified by an overriding reason relating to the public interest.<sup>73</sup>
24. *Ley 20/2013, de 9 de diciembre, de garantía de la unidad de mercado* (“LGUM”), aims to end with the fragmentation of the national market and eliminate the obstacles arising from the different regulations that significantly hinder the business activity. However, the objectives pursued by the rules that advocate the liberalization of provision of funeral services and the unity market have not been achieved in the funeral sector. LGUM is a necessary regulatory initiative that regulates funeral services and guarantees its full adaptation to the principles established in Ley 17/2009 and the LGUM. These same thoughts have been manifested on numerous occasions by the authorities competent to carry out the procedures for the protection of economic operators provided in Chapter VII of the LGUM.<sup>74</sup>

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<sup>73</sup> Law 17/2009, of November 23 on free access to service activities and their exercise, and Law 25/2009, of December 22 on the modification of various laws for their adaptation to the Law on free access to service activities and their exercise.

<sup>74</sup> In this regard, the Secretariat of the Council for the Market Unit (Secretaría del Consejo para la Unidad de Mercado) has announced this in different Files: File 28/1533, of January 28, 2016 (Funeral Services-Facilities (28)); File of September 19, 2014 (Funeral Services-Facilities); File 28/1415, of July 21, 2014 (Funeral services- Barriers); File of July 21, 2014 (Funeral Services-Regulation).

### **Laws at the regional level (autonomous communities)**

25. The autonomous communities throughout Spain have passed their own legislation, to regulate the activities that take place within them. Funeral activities have not escaped and therefore the legal regulations established for the entire national territory have been adapted according to the needs, beliefs and / or preferences of each region, community or territory they concern.<sup>75</sup>
26. The majority of the autonomous communities have assumed their competence in the provision of funeral services and have issued Mortuary Health Police Decrees (Decretos de Policia Sanitaria Mortuoria) in which, similar aspects to those contained in the Decreto 2263/1974 are regulated, or the provisions of the State Decreto are completed.<sup>76</sup>
27. It is possible to identify differences in these regional regulations between different autonomous communities. While in some autonomous communities the minimum requirements demanded of funeral companies to access to the provision of funeral services have a general character, in others such requirements are foreseen with a high level of detail. As an example, Catalonia passed its own law (*Ley 2/1997 de 3 de April de Servicios Funerarios*).<sup>77</sup>
28. The autonomous regulations relating to Mortuary Health Police can be classified in three groups:<sup>78</sup>
  - (a) Autonomous communities with a regulation that does not specify the minimum requirements for the provision of funeral services, and therefore it is necessary to apply the national law: *Decreto 2263/1974* (this is the case for example in Aragon, Asturias and Murcia).
  - (b) Autonomous communities that regulate in more detail the necessary requirements for the provision of funeral services, adding even requirements of local character (for example Andalucía, Islas Baleares, Canarias, Castilla-La Mancha, Castilla y León, Extremadura, Madrid, Navarra, País Vasco and Valencia).
  - (c) Autonomous communities in which those requirements are specified in a very detailed manner, for example specifying minimum quantities

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<sup>75</sup> [Cual es la Legislacion de cementerios y tanatorios en Espana?](#)

<sup>76</sup> Panasef (2017), 'Mercado del sector funerario – marco legal', page 41.

<sup>77</sup> Ibid.

<sup>78</sup> Gobierno de España: *Estudio sobre los Servicios Funerarios en España*, 28 de junio de 2010.

(Cantabria, La Rioja and Galicia). In Catalonia, unlike in the rest of the communities, it is necessary to provide a deposit to guarantee the continuity of the service.

29. There are also certain autonomous communities that have developed a regional regulation regarding protection of consumers and users specific to funerals.<sup>79</sup> These norms display the rights that buyers of funeral services have. As an example, it is possible to cite the following:
- (a) the offer of services must adjust to the principles of truthfulness, objectivity and sufficiency;
  - (b) it is forbidden to force buyers to buy when they do not want to purchase certain service, or to condition the provision of such services to the purchase of other additional services;
  - (c) funeral companies have the obligation to provide the buyer with a budget, in writing, prior to the provision of services;
  - (d) funeral companies are obliged to issue invoices, as well as make available for the buyer complaints form; and
  - (e) funeral companies must publicly advertise their services, for which they must have a catalog of services including their fees.

### ***Laws at the local level***

30. Most municipalities and Town Halls have also legislated in the field of Mortuary Health Police. Thus, the multi-layered and overlapping legislation generated by the number of existing standards at the state level and the autonomous communities level is further complicated by the existence of municipal ordinances. The municipal ordinances further regulate the provision of funeral services in each municipality. These ordinances usually add

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<sup>79</sup> Among the autonomous communities that have developed regulations for the protection of the rights of the purchasers of Funeral services are: Asturias (Decreto 14/2005, de 3 de febrero, por el que se regula el derecho a la información y los derechos económicos de los usuarios de servicios funerarios); Cantabria (Decreto 88/1997, de 1 de agosto, por el que se regulan los derechos de los adquirentes de servicios funerarios en la Comunidad Autónoma de Cantabria); Cataluña (Artículo 3 de la Ley 2/1997, de 3 de abril, sobre servicios funerarios), Islas Baleares (Decreto 1/1998, de 2 de enero, por el que se regula el derecho a la información sobre los servicios mortuorios o funerarios), Castilla-La Mancha (Decreto 25/2000, de 15 de febrero de 2000, de los derechos de información y económicos de los usuarios de los servicios funerarios), Canarias (Decreto 132/2014, de 29 de diciembre, por el que se regula la sanidad mortuoria de la Comunidad Autónoma de Canarias) y Castilla y León (Decreto 79/1998, de 16 de abril, por el que se regula el derecho a la información y los derechos económicos de los usuarios de servicios funerarios).

additional requirements to funeral companies, and even, sometimes, contradicting what is already provided in the regional regulations to obtain the necessary authorization for the provision of funeral services in a certain municipality.<sup>80</sup>

31. Most of the municipal ordinances applicable to the provision of funeral services, are obsolete and not adapted to the liberalization regulations on the provision of economic activities and the guarantee of the market unit.<sup>81</sup>
32. The Secretaria del Consejo para la Unidad de Mercado<sup>82</sup> ("SGCUM") has expressed several times her opinion about the lack of adequacy of different municipal ordinances to the LGUM and the Ley 17/2009. Here are some examples:
  - (a) File 28/1533, 28 January 2016 (Servicios funerarios instalaciones (28)),<sup>83</sup> is a case about an ordinance issued by the municipality of Fuengirola (Málaga) that requires funeral companies to register in a municipal registry and obtain an opening and operating license in order to provide services in the municipality. In this case, SGCUM considers that the requirement of registration in a municipal registry may be contrary to the principles of necessity and proportionality contained in articles 5 and 17 of the LGUM. They propose to replace this requirement for a responsible statement or previous communication. Similarly, the requirement of an opening and operating license is contrary to article 3 of the Law on urgent measures of trade liberalization and certain services.
  - (b) A file from 19 September 2014 (Funeral services-facilities)<sup>84</sup> considers contrary to the LGUM the provisions of several municipal ordinances of Madrid and Aragon the require funeral services companies to request an authorization to operate in such municipalities, even though such companies are already operating legally in accordance with the regulations of another municipality.
33. The examples above show that many of the ordinances dictated by the Town Halls in the provision of funeral services introduce additional requirements,

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<sup>80</sup> Panasef (2017), 'Mercado del sector funerario – marco legal', page 42.

<sup>81</sup> As it was also the case with state and autonomic regulations.

<sup>82</sup> Council Secretariat for the Market Unit

<sup>83</sup> Vid. Expediente 28/1533 de la SGCUM de 28 de enero de 2016 (Servicios funerarios-instalaciones (28)). Disponible en <http://www.mineco.gob.es/stfls/mineco/economia/ficheros/28.58SERVICIOSFUNERARIOSinstalaciones.pdf>

<http://www.mineco.gob.es/stfls/mineco/economia/ficheros/28.58SERVICIOSFUNERARIOSinstalaciones.pdf>

<sup>84</sup> Vid. Expediente de la SGCUM de 19 de septiembre de 2014 (Servicios funerarios-instalaciones). Disponible en <http://www.mineco.gob.es/stfls/mineco/economia/ficheros/pdf/FUNERARIASinstalacionesfunerariass.pdf>

<http://www.mineco.gob.es/stfls/mineco/economia/ficheros/pdf/FUNERARIASinstalacionesfunerariass.pdf>

sometimes contrary to state or autonomic regulations applicable in terms of provision of funeral services.

### ***Insurance regulations***

34. Given the prominence of insurers in the Spanish funerals market, the regulation of insurance is relevant. In particular, given the vertical integration, insurance regulation can impose a constraint on the provision of funeral services as well.
35. The three main insurance companies (Santa Lucia, Ocaso, Mapfre) supply around 75% of death insurance policies and these three companies control about 50% of annual benefits of funeral services in Spain.<sup>85</sup> In addition, these insurance companies have their own funeral company (Ocaso has Servisa, Mapfre has Funespaña, and Santa Lucia has Albia). The strong bargaining power derived from their market share and their vertical integration in the sector of funeral services give them great influence in the funeral sector.<sup>86</sup>
36. Funeral insurance is subject to the regulation governing general insurance products, including transparency requirements: Real Decreto Legislativo 6/2004, de 29 de octubre, de ordenación y supervisión de los seguros privados and Real Decreto 2486/1998, de 20 de noviembre, sobre el reglamento de ordenación y supervisión de los seguros privados. Namely, insurers are required to specify the detailed terms of the funeral service covered by the policy; indicate the terms regarding premiums and the risk factors used to calculate them; provide a regular update on the total amount of cover; and communicate clearly the conditions for termination and renewal of the policy.<sup>87</sup>

### **Steps after the death, preparation of the funeral**

37. When someone dies it is necessary to carry out a series of administrative procedures without delay. The family of the deceased will need to undertake the following steps, or they may have a pre-paid funeral plan (death insurance) in which case the insurance company will undertake all the necessary paperwork and arrangements.

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<sup>85</sup> [Cementarios seharauis polo eres y entre el povo moriras](#)

<sup>86</sup> [Cementarios seharauis polo eres y entre el povo moriras](#)

<sup>87</sup> Ministerio de Economía y hacienda, Ministerio de sanidad y política social (2010), 'Estudio sobre los servicios funerarios en España', 28 June, page 47-49.

- (a) First it is necessary to obtain a medical death certificate, this is an official document proving the death of a person. If the family opt for cremation instead of opting for a burial, they must indicate it directly to the doctor so that it is recorded in this certificate.<sup>88</sup>
- (b) The next step is to register the death in the Civil Registry, where certain facts of the life of a person such as his/her birth, marriage or death are recorded. It will be necessary to provide the medical death certificate and must be done within 24 hours after the death and before the burial. Without this registration, the Civil Registry will not issue the burial or cremation license that allows it to proceed including sanitary actions for the conservation of corpses, non-judicial autopsies, the closing of the coffin or transfers.<sup>89</sup>
- (c) Legislation requires that the burial or cremation must take place between 24 and 48 hours after death, unless authorized by the court. Embalming and transitory conservation will also take place within those deadlines, although the embalmed corpses may remain in the mortuary domicile for up to ninety-six hours. These conditions will not be applicable to the corpses that are going to be used for carrying out transplants or for scientific and teaching purposes.<sup>90</sup>
- (d) The deceased must always be carried in a coffin and in a vehicle that meets the characteristics specified in the Mortuary Sanitary Police Regulations.
- (e) The administrative expenses that these situations entail are collected in the form of fees regulated by the municipal ordinance of each municipality. It must be paid by the person requesting the provision of the funeral service, or in any event by the heirs or legatees of the deceased. The Civil Code establishes that funeral expenses should be borne by the deceased himself. If he had not left funds, it should be paid by those who in life would have had the obligation to care for him/her, that is: spouse, descendants, ascendants and brothers. If those expenses had been borne by another person or by the administration, it is possible for them to claim them back.<sup>91</sup>

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<sup>88</sup> [La ley de los muertos](#)

<sup>89</sup> [La ley de los muertos](#)

<sup>90</sup> [La ley de los muertos](#)

<sup>91</sup> [La ley de los muertos](#)



## Death insurance plans (pre-paid plans)

38. Over 60% of people who die each year in Spain are buried or cremated through a death insurance plan (pre-paid plans). Its main objective is to provide the insured with the necessary services in these cases, such as burial or incineration, provided for in the policy within the term covered by it. Death insurance usually cover the funeral costs such as the coffin, the wake, the cremation, the hearse, the certificates, the burial rates, the flower crowns and the obituaries.<sup>92</sup>
39. The autonomous communities with the greatest take-up of funeral insurance are Extremadura, with 70.2% of the population covered, followed by Asturias (64.1%) and Andalusia (60.5%). In any case, even in the autonomies with less take-up, a significant proportion of people have these policies, with the Balearic Islands (22%), Navarra (23.2%) and La Rioja (29%).<sup>93</sup>
40. The costs of funeral insurance can vary quite widely from €60,254 in Cantabria to €21,629 in Asturias.<sup>94</sup> There is a big difference between these figures and the average funeral costs €3,200. However many insurances companies say on their websites that 'once the service is completed, in case that there is money left over from the insured capital, this will be returned to the beneficiaries' (Seguros Meridiano),<sup>95</sup> and 'Family members will have the right to claim services for the amount insured and the right to claim the excess not invested' (Mapfre).<sup>96</sup>
41. When the cost exceeds the sum insured, the insurer will pay it without claiming more money from the client and his/her family. When the cost falls below the sum insured the insurer will pay the customer the difference. In this way, the insured always have a guarantee: if the funeral is cheaper than the amount paid they will receive their money back; and if it is too expensive, they will not have to pay the difference.<sup>97</sup> This could explain the success of this type of death insurance in Spain.

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<sup>92</sup> <https://www.estamos-seguros.es/cuanto-cuestan-los-entierros-en-espana/>

<sup>93</sup> <https://www.elperiodico.com/es/economia/20171029/cuantos-seguros-de-entierro-hay-en-espana-6385303>

<sup>94</sup> <https://www.elperiodico.com/es/economia/20171029/cuantos-seguros-de-entierro-hay-en-espana-6385303>

<sup>95</sup> <https://www.segurosmeridiano.com/preguntas-frecuentes>

<sup>96</sup> <https://www.mapfre.es/seguros/particulares/vida-accidentes/seguros-de-decesos/faqs/seguro-de-decesos.jsp>

<sup>97</sup> <https://www.estamos-seguros.es/cuanto-cuestan-los-entierros-en-espana/>

## Popularity

42. Death insurance plans are one of the oldest and most valued types of insurances in Spain. Approximately 57% of the Spanish population are covered by these types of insurance.<sup>98</sup> In Spain, legislation requires that all funerals must happen within 48 hours of the death. Since funerals involve a lot of preplanning and paperwork it makes it easier to organise them in advance. Generation after generation, Spanish people have been purchasing their own pre-paid plans / death insurances, making the moment of their death easier for their relatives and loved ones.
43. It is now part of the Spanish culture to arrange one's own burial, since they are expensive, and many people cannot afford to pay such big quantities in one go. Funeral directors have power to ensure they are paid and there have been reports of funeral directors refusing to act until they have been paid.<sup>99</sup> To avoid leaving their families with big debts, many set up a pre-paid plan. Death insurance also avoids people having to worry about the risks of dying suddenly or from unexpected rises in the cost of funeral services, facilitating the procedures for the family in a particularly painful and complicated time.<sup>100</sup>
44. People between 25 and 45 years old are the most likely to acquire death insurance. Two out of every three individuals in this age group get a pre-paid plan. The presence of this product continues to be prominent in the following age groups, between 45 and 65 years old.<sup>101</sup> This is because the purchase of death insurance is closely linked to events such as starting a family or the signing of a mortgage.<sup>102</sup>

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<sup>98</sup> [https://www.abc.es/familia/consumo/abci-decir-adios-mas-facil-seguro-decesos-201804181658\\_noticia.html](https://www.abc.es/familia/consumo/abci-decir-adios-mas-facil-seguro-decesos-201804181658_noticia.html)

<sup>99</sup> [https://murciatoday.com/understanding-the-funeral-process-in-spain\\_824-a.html](https://murciatoday.com/understanding-the-funeral-process-in-spain_824-a.html)

<sup>100</sup> <https://blog.bankinter.com/economia/-/noticia/2017/10/26/que-seguro-decesos>

<sup>101</sup> <https://www.elperiodico.com/es/economia/20171029/cuantos-seguros-de-entierro-hay-en-espana-6385303>

<sup>102</sup> Although prohibited by law, conditions such as the contracting of death insurance may still be included when signing a mortgage when they involve a "bonus" in the loan granted. By including this in the signing of a mortgage the hiring of an insurance policy could reduce the amount of the loan fee. However, the user will be tied to a product that does not interest him, that is not personalized and, therefore, does not offer him neither the advantages nor the benefits that he truly needs. <https://www.abascal.es/atado-seguros-banco-ley-hipotecaria/> It is usual that when going to sign a mortgage with a bank, it is requested by the bank to sign life insurance together with the mortgage. The law does not require the performance of this contract, then why then some banks can ask costumers to sign for death insurances with the mortgage? That is being made by the bank in order to seek additional peace of mind in the mortgage contract. They argue it can be positive because in some cases it may be necessary to resort to the coverages that death insurance can provide us because the mortgage payments that are usually made on a monthly basis cannot be met. <https://www.santalucia.es/seguros-vida-hipoteca.html>

### ***How does the insurance work in practice?***

45. In most cases, death insurance is not limited to covering the cost of funeral services associated with death, but most insurance companies also incorporate complementary and / or additional guarantees that help to solve material needs and emotional support the family after the death of a loved one.<sup>103</sup>
46. There are different types of plans, but among the most common basic coverage we could find:
- (a) funeral service including the coordination of necessary elements to carry out the funeral of the deceased;
  - (b) supplementary assistance to the funeral service consisting of:
    - (i) free cemetery choice;
    - (ii) coverage of medical-legal expenses due to the traumatic death of the insured or cases in which judicial intervention is required;
  - (c) travel assistance for the insured in Spain or abroad if the incident occurs outside the insured's place of residence;
  - (d) assistance to people, which includes:
    - (i) coordination of the funeral service
    - (ii) family telephone legal consultation (labour, administrative, civil, criminal, inheritance, pension, insurance, lease agreements, claims to third parties and any matter related to death);
    - (iii) arrangement of all the necessary paperwork;
    - (iv) psychological help for family members;
  - (e) mortuary expenses.<sup>104</sup>
47. The majority of pre-paid plans cover the whole cost of the funeral, but if we compare the prices as opposed to “at need”, pre-paid plans can end up being

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<sup>103</sup> <https://blog.bankinter.com/economia/-/noticia/2017/10/26/que-seguro-decesos>

<sup>104</sup> <https://blog.bankinter.com/economia/-/noticia/2017/10/26/que-seguro-decesos>

more expensive. From an economic point of view, the OCU advises against this type of insurance which, on occasions, may involve up to significantly two or three times more than an at-need funeral would cost.<sup>105</sup>

## Consumer satisfaction

48. In 2013, the OCU conducted a survey to find out the satisfaction levels in relation to funeral services and death insurance after the death of a family member, as well as the impact on the family economy.<sup>106</sup> According to the results of the OCU study, three out of four deceased had death insurance, well above the rest of the countries we have looked at, where these insurances are practically non-existent (In United States only 7% have them, while in Europe the average is 20%).<sup>107</sup>
49. In addition, the survey reveals that 72% of family members who benefited from this insurance were very satisfied with the services provided by insurers (there are no significant differences in satisfaction levels between the three main companies). However, some consumers also highlighted certain disadvantages when contracting this type of insurance, such as the limitation in the margin of choice (36% had to settle for the funeral company imposed by the insurer) or cases in which they do not always cover all the expenses.<sup>108</sup>
50. From a purely economic point of view, OCU do not advise this type of insurance. Sometimes it can mean spending up to two or three times more than at need funerals would cost. Even so, many Spanish people still consider it the best option as it releases family members from having to carry out a series of administrative procedures and decisions at a particularly difficult time.<sup>109</sup>
51. The OCU survey reveals that, in general, funeral companies satisfactorily fulfill their function: respondents rate them with 7.9 out of 10 and only 15% of the respondents were dissatisfied with the services received.<sup>110</sup>

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<sup>105</sup> <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2018/funerarias301018>

<sup>106</sup> To this end, OCU gathered the experience and opinion of 856 people between 40 and 80 years old, all of them directly involved in decisions about funeral services after the death of a family member in the last five years.

<sup>107</sup> <http://pdfs.wke.es/9/8/1/8/pd0000049818.pdf>

<sup>108</sup> <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2018/funerarias301018>

<sup>109</sup> <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2018/funerarias301018>

52. However, there are some aspects that did not receive a good evaluation. For example, more than half of the users felt pressured to hire more expensive products and services, 23% were unhappy with the difference between the estimated cost and the actual cost and two out of ten respondents declared themselves dissatisfied with the level of detail and billing transparency.<sup>111</sup>
53. According to OCU, the will of the respondents regarding their own funeral is very varied, but there is a very important cultural change that is making cremations the preferred option instead of traditional burials (68% vs. 18%). Today 58% of Spanish people are buried without cremation. In addition, 45% of those who claim to prefer cremations would like their ashes to be spread in nature.<sup>112</sup>

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<sup>111</sup> <https://www.futuroafondo.com/es/noticia/seguro-de-decesos-muy-popular-en-espana-e-inexistente-en-resto->

<sup>112</sup> <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2018/funerarias301018>