

# FUNERAL MARKET INVESTIGATION

## WORKING PAPER ON INTERNATIONAL COMPARISONS - RESPONSE

### CO-OPERATIVE GROUP LIMITED

#### 1 Overview of CMA's international comparisons paper

- 1.1 We welcome the CMA's international comparisons paper – it is important to consider best practice regulation of the funerals sector when considering what will be effective and proportionate in the UK.
- 1.2 The CMA study comes to the same conclusion as the [redacted] paper on international comparisons: there are no instances of price regulation of funerals.<sup>1</sup> The only exception found by either [redacted] or the CMA relates to a piece of Spanish legislation which does not appear to be enforced. This strongly suggests that price regulation in this market is not an appropriate remedy.
- 1.3 Furthermore, we note that the CMA does not find evidence that traditional price transparency remedies enacted in the US (e.g. the Funeral Rule) have been effective in encouraging greater shopping around. A transparency remedy relating to the granular itemisation of price lists is highly unlikely to be effective, and will have the unintended consequence of overloading consumers with information, *reducing* their capacity to take well-informed decisions.
- 1.4 The CMA did find evidence of intensifying trends in other countries similar to those we believe are taking place in the UK, including growth in direct cremation, water cremation and activity online through presence of funeral directors online, emergence of price comparison websites and arrangement of funerals via the internet.<sup>2</sup> The CMA should therefore give weight to the prospects for similar changes in the UK market.
- 1.5 Failure to comment on a particular element of the CMA's analysis should not be read as acceptance of it.

#### 2 There are no instances of price regulation

- 2.1 [redacted] study researched seven countries (plus the UK) and did not find any instances of price regulation (except for a piece of apparently unenforced Spanish legislation).<sup>3</sup> The CMA expanded the scope to include four additional countries, but also found no cases of price regulation:<sup>4</sup>

“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.”<sup>5</sup>

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<sup>1</sup> [redacted].

<sup>2</sup> CMA (2019), 'International comparisons', paragraph 55.

<sup>3</sup> Australia, Canada, France, Germany, the Netherlands, Spain, and the US.

<sup>4</sup> Finland, New Zealand, Norway, and Sweden.

<sup>5</sup> CMA (2019), 'International comparisons', para. 8.

- 2.2 The 11 researched countries<sup>6</sup> include countries which are likely to have broadly similar cultural attitudes to funerals as the UK (e.g. Australia, New Zealand). The 11 researched countries also include countries with cultures with different funeral traditions (e.g. the requirement to be buried within 72 hours in Spain) and funerals markets (e.g. the high take-up of pre-paid funerals in the Netherlands).
- 2.3 Price regulation has not been deemed appropriate by any of the regulators, governments, or competition authorities in all 11 considered countries. Therefore the CMA must justify why the provision of at-need funerals are different in the UK to the rest of the world.
- 2.4 In other words, there is no positive evidence that any form of price regulation of the funerals sector would be effective or proportionate. Indeed, the lack of price regulation in the 11 comparator countries should be taken as evidence that price regulation is *not* effective or proportionate. This should be unsurprising for all the reasons explained in the 2019 Oxera paper on Price regulation of UK at-need funerals.<sup>7</sup>

### **3 The itemisation of price lists is an ineffective remedy**

- 3.1 The CMA explains how the US Funeral Rule requires itemised price lists, but has not been effective in encouraging shopping around.

"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."<sup>8</sup>

- 3.2 This is unsurprising because, as explained by the 2018 [§] report on Disclosure in at-need funerals, the itemisation of the price lists under the Funeral Rule is likely to lead to information overload of bereaved consumers.<sup>9</sup> This conclusion is confirmed by the academic literature, such as Kopp and Kemp (2007).<sup>10</sup>
- 3.3 Given this evidence of information overload undermining the effectiveness of transparency remedies in the funerals market, the CMA must recognise that detailed itemisation of price lists is not in consumers' best interests. We believe that price transparency is important, but providing too much information for consumers to process would be an ineffective and counter-productive attempt to achieve good consumer outcomes. More creative consideration needs to be given to how best to communicate useful and usable comparative information to consumers.

### **4 Effectiveness of price transparency regulations**

- 4.1 The CMA considered price transparency regulation in two US states. California has passed and enforces regulation in a way that goes beyond the Funeral Rule, whereas Georgia regulates price transparency to a minimum level. The average cost of a funeral in both states was found

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<sup>6</sup> Including Canada which was researched by [§], but not the CMA.

<sup>7</sup> Oxera (2019), 'Price regulation of UK at-need funerals'.

<sup>8</sup> CMA (2019), 'International comparisons', Appendix B, para. 5.

<sup>9</sup> Oxera (2018), 'Disclosure in at-need funerals', section 4.3.

<sup>10</sup> Kopp, S.W. and Kemp, E. (2007), 'The death care industry: A review of regulatory and consumer issues', *Journal of Consumer Affairs*, 41:1, p. 165.

to be “broadly the same” and in line with the national average.<sup>11</sup> This suggests that more price transparency regulation does not necessarily lead to lower prices for consumers.

- 4.2 The CMA finds that countries with price transparency regulation tend to also have some form of quality regulation such as a licensing regime.<sup>12</sup> This is an important finding, [REDACTED].<sup>13</sup> A remedy that seeks to increase price transparency but that does not also come with effective quality regulation risks leading to significant deterioration in the services customers receive. The CMA must ensure that potential remedies do not have the unintended consequence of reducing the quality of service that consumers receive.

## 5 Future trends for the UK funerals market

- 5.1 The CMA found evidence of developments in the funerals market in several countries. The UK market is also rapidly evolving and it is important for the CMA to consider these and any future trends.
- 5.2 Consumers in several countries are increasingly able to access low-cost funerals. For example, direct cremation as a proportion of all funerals is growing in most markets.<sup>14</sup> Simple funerals have existed for several years and discount funerals have grown in popularity across different countries.<sup>15</sup> Similar changes are also taking place in the UK. For example, around 20% of all UK funerals are now simple funerals.<sup>16</sup> Co-op saw a rapid initial take up for our re-launched Simple funeral proposition in 2016 and our Cremation Without Ceremony option in 2018, and demand for both has continued to grow.
- 5.3 In all markets, the use of the internet in the funerals sector has been increasing. In some countries this has been seen in the emergence of price comparison websites, while in others funeral directors are increasingly advertising their services and prices on their own websites. The CMA found that in some cases the entire funeral can be arranged online.<sup>17</sup> In the UK, online search volumes in the funeral sector have also been growing.<sup>18</sup> This is enabling consumers to shop around more easily to compare the price as well as the quality of funeral directors. Our research shows that [REDACTED] of consumers considered [REDACTED] funeral directors, compared to [REDACTED]% in the previous year.<sup>19</sup> It is likely that the growth of internet usage will further increase consumer shopping around behaviour in the UK context.
- 5.4 Pre-need funeral options are more common in some countries. For example, the CMA highlights the popularity of pre-paid funeral plans in Spain and the Netherlands.<sup>20</sup> Pre-need is also increasingly becoming popular in the UK. Changing consumer preferences have been driving the market to innovate, with pre-paid plans accounting for 15% of all funerals.<sup>21</sup> This

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<sup>11</sup> CMA (2019), ‘International comparisons’, Appendix B, para. 41.

<sup>12</sup> CMA (2019), ‘International comparisons’, para. 51.

<sup>13</sup> [REDACTED].

<sup>14</sup> CMA (2019), ‘International comparisons’, Appendix B, para 22.

<sup>15</sup> For example Germany, [REDACTED].

<sup>16</sup> CMA (2019), ‘Funerals market study’, Final report and decision on a market investigation reference, para. 4.5.

<sup>17</sup> CMA (2019), ‘International comparisons’, paragraph 55.

<sup>18</sup> [REDACTED].

<sup>19</sup> Steerco3 Consumer Insight Pack, slide 60.

<sup>20</sup> CMA (2019), ‘International comparisons’, para. 59.

<sup>21</sup> CMA (2019), ‘Funerals market study’, Final report and decision on a market investigation reference, para. 8.114.

trend is likely to continue, with pre-paid options becoming an important part of the UK funerals market in the future.

- 5.5 It is clear that there are common trends in the development of funerals markets across different countries, including the UK. These trends are likely to develop further in the UK, as consumer behaviour and competitive dynamics continue to evolve. The CMA should be careful to consider such changes in the UK market, and how such developments and innovation could be impacted by potential remedies. Inappropriate regulation would stifle innovation in this changing market environment; directly causing consumer detriment.