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## London Cremation Company

### Submission in response to CMA's Market Investigation Working Paper on Funeral Directors - Price Dispersion Analysis published 20 February 2020

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#### 1. Executive Summary

- 1.1. This submission is made by the London Cremation Company ("LCC") in response to the CMA's working paper on funeral directors - price dispersion analysis (the "Working Paper").
- 1.2. The submission is intended to highlight key areas where the CMA's analysis raises concerns for the LCC. In particular, we highlight the CMA's use of post code and local authority areas in order to conduct its price dispersion analysis is likely to misconstrue the true nature of competition by location.

#### 2. The CMA's Methodology

- 2.1. The CMA's methodology builds "*upon the price dispersion analysis undertaken in the market study.*"<sup>1</sup> The market study analyses used the Royal London's definition of a local area, which is based upon the first section of the postcode, such as SW17. The CMA indicates that where "*insufficient information was available within the postcode area (usually in rural areas where there would be no local 'in-postcode' funeral director) the search was expanded up to eight miles from the postcode centre.*"<sup>2</sup>
- 2.2. The Working Paper uses local authority areas, as defined by the Office for National Statistics.<sup>3</sup> It focuses on "*areas which have at least three funeral director branches to ensure the statistics are meaningful*" and only uses local authority areas where "*sufficient data was provided in the analysis.*"<sup>4</sup>
- 2.3. The CMA's stated aim is "*to compares prices between funeral directors by somewhat 'controlling' for some of these differences, namely the product range, as we compare prices for simple and standard funerals separately, and the location, as we compare prices for funeral directors located in the same local area and thus likely to face similar demand and cost conditions.*"<sup>5</sup>

#### 3. The CMA's Conclusions

- 3.1. The Working Paper concludes that "*the magnitude of the price differential may indicate that customers are not shopping around such that lower priced funeral directors are not constraining higher priced funeral directors. We also note that the magnitude of the price differential we estimate needs to be assessed in light of the fact that it relates to funeral*

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<sup>1</sup> Paragraph 16, *Working Paper*

<sup>2</sup> Paragraph 16, *Working Paper*

<sup>3</sup> Paragraph 17, *Working Paper*

<sup>4</sup> Paragraph 17, *Working Paper*

<sup>5</sup> Paragraph 2, *Working Paper*

*directors that are likely to be positioned towards the lower price-end of the market.”*  
(Emphasis added)<sup>6</sup>

- 3.2. The CMA’s notes that its analysis does not “(a) take into account other potentially relevant differences between funeral director services within each local area, such as differences in quality and costs; (b) does not cover all funeral director branches in each local area, and so may be missing price data that could affect the price dispersion statistics. Therefore, our analysis could be understating the degree of price dispersion within local areas; and (c) the boundaries of each local authority area may not correspond with what we would normally regard as an economic market, so we may be comparing prices across branches which face difference demand or supply conditions.”<sup>7</sup>

#### **4. LCC’s Comments on the CMA’s Working Paper**

- 4.1. The CMA’s Working Paper analysis is based on postcodes updated by local authority area. It might be thought that ‘at need’ funeral services supplied by Funeral Directors in competition with each other in a given location may reasonably be assessed with relation to their location vis-à-vis each other. The CMA is clearly looking to establish the extent and nature of competition between Funeral Directors and would expect to see “shopping around”. However, this assumes the customer is performing that shopping by physical location, as would a supermarket shopper.
- 4.2. To some extent the dispersion analysis might show this, but there is a major difficulty in making that assessment *assuming* that consumers using funeral directors nearby to their homes or the homes of the deceased are performing physical searches and actually visiting the funeral directors in a certain location for reasons, perhaps of proximity to the customer (the bereaved) or the deceased.
- 4.3. Customer behaviour indicative of customer choice by crematoria location is evidenced in the Ipsos Mori responses.<sup>8</sup> Ipsos Mori research indicates that the majority of people chose their funeral director due to previous personal experience, recommendations by work colleagues and website searches.<sup>9</sup> These methods are not directly related to the location of local funeral directors, or competition between them by location of the funeral director. It is also unlikely that the bereaved would know the brands or names or website addresses of funeral directors without such methods.<sup>10</sup>
- 4.4. The survey conducted by the CMA assumes demand and assumes demand by location. It is not therefore an exercise gathering evidence of actual demand from actual customer behaviour. Moreover, there is no information in the Working Paper which takes into account the location of the crematoria or cemetery that customers wish to use. It is however evident from the Ipsos Mori responses that the overwhelming majority of customers in fact make a choice of based on the location of the crematoria used for the funeral. The location of the Funeral Director is likely to be secondary to the location of the crematoria and more likely to

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<sup>6</sup> Paragraph 4, *Working Paper*

<sup>7</sup> Paragraph 8, *Working Paper*

<sup>8</sup> The volume of respondents is statistically insignificant when compared to the number of funerals and the numbers of bereaved people, who are likely to constitute a greater number than the number of deaths in a year. The reference is to the available evidence and should not be seen as an endorsement of the approach or sufficiency of evidence.

<sup>9</sup> If online search results are considered it is likely that funeral directors that are returned at the top of Google search engine results pages are likely to be the ones most used by bereaved people; and include the major players such as Dignity and the Co-Op who are returned at the top of the results, with additional information on location then being displayed on Google Maps.

<sup>10</sup> Nevertheless, the CMA’s commissioned Mystery Shopper survey tests the issue of checking Funeral Director websites in a web audit. This was because: “*website audits were chosen as the most effective approach for gaining an independent, objective understanding of how prices were presented on funeral director websites. ‘Web audits’ are undertaken by a group of auditors who are briefed to browse a website in detail and complete a pre-determined questionnaire on the information provided, including the location of the information and how it is displayed.*”

be determined by a list of other factors such as the location of the deceased's body. By not starting with questions to customers about their choices for example by taking evidence from shoppers using a particular location by way of an exit survey,<sup>11</sup> the geographical component of market definition has not been conducted in accordance with CMA guidelines, or EU guidance, and established CMA precedent.

- 4.5. This is particularly problematic when the location of the crematoria is considered as a key item in the customer's requirements. The assessment of geographic competition would ordinarily start with demand, often by exit survey,<sup>12</sup> then by looking at supply meeting that demand by the location. The purpose of the assessment would be to establish the competitive intensity and the degree of demand, supply, and competition in that locality.
- 4.6. The demand and supply activity by location would be expected to correlate and spatial distribution show a relevant pattern if the demand and supply are in fact being measured. However, the method chosen for the Working Paper's geographic analysis means that demand has not been measured at all. Competition to meet that demand has also not been measured. Correlation is not shown but the methodology would make that unlikely in all events.
- 4.7. What has been measured are supply prices by location. Two specific issues also arise from using postcodes or local authority areas:
  - (a) Postcodes in urban areas will straddle catchment areas that should be used to assess competition by location. For example Golders Green cemetery is in NW11 which is next to N2 and within a 30 minute drive time of many other postcode areas including N6, N4, N8 etc. The use of postcodes showing the location of funeral directors and their prices, which are unconnected with the location of cemeteries does not provide evidence of demand and supply, so cannot be used to draw conclusions such as the extent or nature of competition in a particular area.
  - (b) Postcodes in rural areas may be very large and may exceed the basis on which the CMA has assessed catchment areas for cemeteries, so cannot be used to measure competition between funeral directors for the supply of cemetery services.
- 4.8. Not starting with evidence from customers of their needs but instead with postcode and local authority areas, assumes too much and will lead to inconclusive results, as has occurred.
- 4.9. The conclusions that can be drawn from such dispersion analysis for competition by location will be very limited for the reasons noted above and recognised by the CMA.<sup>13</sup>

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<sup>11</sup> See, for example, the CMA's investigation into the proposed Sainsbury/Asda merger

<sup>12</sup> See, for example, the CMA's investigation into the proposed Sainsbury/Asda merger

<sup>13</sup> Paragraph 8, *Working Paper*