

FUNERALS MARKET INVESTIGATION

Notice of Provisional Decision Report

1. On 28 March 2019, the Competition and Markets Authority (CMA), in exercise of its powers under sections 131 and 133 of the Enterprise Act 2002 (the Act), made a reference to the Chair of the CMA for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (the Group) for an investigation in relation to the supply of funerals and related goods and services in the United Kingdom (the Investigation). By a Notice dated 16 March 2020 and acting under section 137(2A) of the Act, the Group extended by six months until 27 March 2021, the period within which the CMA is due to prepare and publish its report on the reference.

Provisional findings

2. The Group has provisionally found, pursuant to section 134(1) of the Act, that there are features of the relevant markets in the United Kingdom which alone or in combination prevent, restrict or distort competition in the supply of (a) services by funeral directors at the point of need; and (b) crematoria services; and accordingly that there are various adverse effects on competition (AECs) within the meaning of section 134(2) of the Act.
3. The Group has provisionally found the following features in the funerals directors markets:
 - (a) Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral.
 - (b) Lack of easily accessible and clearly comparable information on the products and services provided by funeral directors, including their prices and levels of quality.
 - (c) Lack of visibility to customers of the level of quality of care given to the deceased by funeral directors.
4. The Group has provisionally found the following features in the crematoria services markets:
 - (a) Low level of customer engagement caused by the intrinsically challenging circumstances surrounding the purchase of a funeral.
 - (b) High barriers to entry in the supply of crematoria services.
 - (c) High levels of local concentration in the supply of crematoria services.

Provisional Remedies

5. The Group has provisionally decided the following package of remedies.

Price, commercial information and transparency

6. The Group has provisionally decided to require all funeral directors to provide customers with information on the price of their:
 - (a) Most commonly sold funeral package;
 - (b) Standard funeral package (if different from (a)); and
 - (c) Simple funeral package (defined as the simplest funeral package that the funeral director offers) (if different from (a)).
7. For each of these packages, funeral directors would be required to provide:
 - (a) A description of what is included in and excluded from the package;
 - (b) The total price of the package as specified, which should reflect, as far as possible, the final price that customers are likely to pay for their chosen package; and
 - (c) A description of the main disbursements, or additional costs, that are not included in the price of the package (eg burial fees or cremation fees) and an indication of their likely cost to the customer.
8. In addition, funeral directors must also provide customers with a full price list of the disaggregated, individual products and services that they offer when those services are offered in addition to one of the funeral packages specified above, or when a customer is choosing to specify a funeral to their own personal requirements.
9. Funeral directors must also provide customers with details of their terms of business, specifically:
 - (a) The size of upfront deposit required;
 - (b) When the deposit and final balance must be paid;
 - (c) Any available payment options for paying the deposit and balance; and
 - (d) Any charges for late payment.
10. To meet this obligation, funeral directors must:
 - (a) Make their price information and terms of business available to customers at their premises and on their website (if available). The information must be made available in a clear and prominent manner;
 - (b) Provide their price information, as well as the price information of crematorium operators in the local area (eg all crematorium operators

within a 30-minute cortege drive time), to customers on request; and to customers prior to the arrangement meeting if this price information has not previously been requested by, and provided to, the customer.

11. The Group has provisionally decided to require all crematorium operators to provide customers and funeral directors in the local area (eg all funeral directors within a 30-minute cortege drive time) with information on the price of:
 - (a) A standard fee attended service;
 - (b) An unattended service (if offered by the crematorium operator); and
 - (c) A reduced fee service (if offered by the crematorium operator).
12. For each of these services, the crematorium operator must provide:
 - (a) A description of what is included in and excluded from the service, including the slot length;
 - (b) The total price of the service as specified, which should reflect, as much as possible, the final price that customers are likely to pay for their chosen service. This should include the different prices for different slots, covering day, time of day and length of slot; and
 - (c) A breakdown of the total price of the service as follows:
 - (i) Core service, including use of the chapel; any mandatory fees (eg death certificate and cremation forms and environmental levies; and any other elements that are necessary for the service).
 - (ii) Additional optional services, including the purchase of additional slots, use of music facilities; webcasting; organists; visual tributes; memorials; and the storage, collection, or scattering of ashes.
13. To meet this obligation, crematorium operators must:
 - (a) Make their price information available to customers at their premises and on their websites (if available). The information must be made available in a clear and prominent manner;
 - (b) Provide their price information to customers upon request; and
 - (c) Provide their price information to funeral directors in the local area (eg all funeral directors within a 30-minute cortege drive time).
14. The Group has provisionally decided to require funeral directors to disclose to customers:
 - (a) The ultimate owner of the business;
 - (b) Where a funeral director has any interest in a price comparison website; and

- (c) Where a funeral director makes a charitable donation, charitable contribution or a payment of a gratuity to a third party (such as a bereavement office in a hospital, care home or other similar institution), or another form of payment that does not relate to a cost incurred or a service provided by the third party on behalf of or to the funeral director.
- 15. To meet this obligation, funeral directors must make this information available to customers at their premises and on their websites (if available) in a clear and prominent manner.
- 16. The Group has provisionally decided to prohibit funeral directors from engaging in the following activities:
 - (a) Arrangements or any exchange of services with, or payments to, hospices, care homes and other similar institutions which encourage or incentivise those institutions to refer customers to the funeral director;
 - (b) Soliciting for business through coroner and police contracts. To comply with this requirement, funeral directors must adhere to any non-solicitation clauses that are in their contracts with coroners and the police, and not solicit business if any such clauses are not included in the relevant contract.
- 17. To comply with this remedy, funeral directors must terminate any existing arrangements or exchange of services with, and stop making payments to, third parties as outlined in paragraph 16 (a) and (b). Funeral directors are also prohibited from establishing any new arrangements, engaging in any new exchange of services or making any new payments.

Improving the quality of funeral directors' back of house standards

- 18. The Group has provisionally decided to recommend to the UK government and the devolved administrations in Northern Ireland and Wales to establish in England, Northern Ireland and Wales an inspection and registration regime to monitor the quality of funeral director services and as a first step in the establishment of a broader regulatory regime for funeral services in England, Wales and Northern Ireland.

Continuing review of the funerals sector by the CMA

- 19. The Group has provisionally decided to recommend to the CMA board to:
 - (a) Actively monitor consumer outcomes in the funerals sector, in order to identify and, where possible, address any harmful behaviour, by tracking funeral volumes and revenue and encouraging customers or third parties to report any non-compliance with price disclosure obligations or any other harmful behaviour to the CMA;
 - (b) Publish an annual review of consumer outcomes in the funerals sector; and

- (c) Consider consulting on a supplementary market investigation reference at the earliest opportunity once the impact and consequences of Coronavirus (COVID19) on the funerals sector are sufficiently understood and the sector is more stable.
20. To enable the CMA to monitor the funerals sector, the Group has provisionally decided to require funeral directors with five or more branches to provide to the CMA details of:
- (a) The total number of funerals provided each quarter; and
 - (b) The total revenue (excluding disbursements) during that quarter.
21. For funeral directors with ten or more branches, this information must be provided both in aggregate form and split by simple, standard and other funerals (based on the funeral director's definition of these types of funerals).
22. To enable the CMA to monitor the crematoria sector, the Group has provisionally decided to require all crematorium operators to provide to the CMA details of:
- (a) The total number of cremations provided each quarter; and
 - (b) The total revenue during that quarter.
23. This information must be provided in aggregate form and split by standard services (ie peak services from 10am to 4pm), reduced fee early morning attended services (ie services at 9am or 9.30am) and unattended services. Crematorium operators must also provide an explanation of any variance if this breakdown of revenue and volumes does not equate to the aggregate numbers provided. The Group has provisionally decided to include in the Order the ability for the CMA to require this information from smaller providers if the CMA deems that this information is necessary to support its monitoring of the funerals sector.

The next steps

24. The Group now invites interested parties to submit reasons in writing as to why these provisional findings and proposed remedies package should not become final (or, as the case may be, should be varied).
25. Unless otherwise specified to a party, these reasons should be received by the Group no later than 5pm on **10 September 2020**.
26. Unless a different date is agreed with any party, the Group will have regard to any such reasons provided by this date in making its final decisions in this investigation.

MARTIN COLEMAN

Group Chair

13 August 2020