



**C.P.J. Field.**

More than a funeral director since 1690.

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**10 September 2020**

Dear Sir or Madam,

**CONSULTATION RESPONSE ON THE COMPETITION AND MARKETS AUTHORITY ("CMA")  
FUNERAL MARKET STUDY ("INVESTIGATION") – PROVISIONAL DECISION REPORT**

We, C.P.J. Field & Co. Limited ("**CPJ Field**"), are both a competitor in the funeral market and an active member of the National Association of Funeral Directors ("**NAFD**").

We write in response to the CMA's Provisional Decision Report dated 13 August 2020 ("**Report**") and, in particular, in relation to the provisional remedies proposed by the CMA.

Please note that this response is in relation to funeral directors only and does not touch upon the crematoria market. Any defined terms used herein have the same meaning as given in the Report (unless otherwise defined hereunder).

**1. Price, commercial information and transparency**

CPJ Field welcomes the CMA's proposition in paragraphs 9.24-9.28 (inclusive) of the Report, to ensure that customers are given pricing information on certain funeral options. Although CPJ Field does not have funeral 'packages' per se, providing this level of transparency is not an issue, as we already provide this level of transparency to our customers. We view this as a positive move for customers, and not an unreasonable ask of funeral directors, providing that the following issues are addressed:

- More detail is required on how such packages are to be consistently defined and what they should include, for example, what is deemed to be "standard" or "simple" needs to be made clear and will need to account for religious, cultural and ethnic differences.
- More detail is required on how the information listed in paragraphs 9.27 and 9.28 should be presented, in order for customers be able to chose readily between funerals.

- The CMA will need to make recommendations for commonality of presentation to funeral directors, otherwise we fear that there will be too much information for customers to easily process at what is already a confusing and stressful time.

CPJ Field would like to raise the following concerns over certain paragraphs of this section of the Report:

- Paragraph 9.28(b): placing a formal obligation on funeral directors to provide certain information re crematoria, which is both clear and up to date, is onerous. Typically we see customers gain this information through ourselves, for a particular crematorium, which they have already chosen primarily based on location. We very much agree that this information should be readily available for customers, however the responsibility needs to be placed on crematoria to provide accurate information, including any pricing changes, to funeral directors, as this is outside of our control.
- Paragraphs 9.30 and 9.31: following on from the above, as most customers find out information on crematoria through funeral directors, we feel that how this information is disseminated to funeral directors by crematoria should be the focus of this remedy. The CMA will need to ensure that there is commonality in language, and easy comparison between crematoria, from a customers' point of view.
- Paragraph 9.32(a): there are already legal requirements to disclose the name of a business<sup>1</sup>, therefore we do not see the value in including this obligation as a proposed remedy. It is also unclear what is meant by "the ultimate owner of the business"; it is unclear how this is meant to go beyond the requirements of the Companies (Trading Disclosures) Regulations 2008, and whether this is in reference to parent companies' ultimate ownership, directors and/or shareholders.
- Paragraph 9.34(a): CPJ Field does not have any issue with, what it presumes is, the premise of this prohibition (being, to tackle the issue where a funeral director collects a deceased person, prior to the family electing its "chosen" funeral director, which could be a different funeral director, meaning the original funeral director would not be able to invoice for such collection). However, the language used in this suggested prohibition and how it will be defined is problematic as it stands. We would also like to note that we, along with the majority of the sector, carefully follow the Bribery Act 2010, which we take very seriously, and feel already covers off this area.

Another area that we are especially concerned that this could impact is initiatives we currently run alongside nursing homes, by way of corporate social responsibility ("CSR") projects, for example, "Never Alone" in Buckinghamshire which tries to tackle social isolation of those going into nursing homes by (pre COVID-19) nursing homes exchanging people with one another, to help residents meet more people. CPJ Field of course has an interest in such initiatives (as any business does in CSR projects), but the aim of this CSR project is not to generate business, but to help address loneliness and social isolation in society, as we recognise that retirement, bereavement and relocating to assisted living or a care/nursing home are triggers that can lead to such feelings, which have proven links to shortened life expectancy. We therefore would like to request that the CMA ensures

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<sup>1</sup> The Companies (Trading Disclosures) Regulations 2008 require businesses to display certain information, including its registered name, at its registered office, any place that it carries on business, its website, its business letters and bills, etc.

that such initiatives are not impacted, and more information on how this remedy would be applied and its intended consequences is needed.

- Paragraph 9.34(b): the CMA will need to consider that, by not giving funeral directors a lead in time to the implementation of this remedy, if a funeral director simply stops any such contractual arrangement, this would likely put them in breach of contract. There is also a duty for funeral directors to disclose who they are on arrival to collect a deceased person, especially when there is no police presence, however it is unclear whether this would be deemed to be “soliciting business”.

More emphasis also needs to be placed on local authorities choosing funeral directors based on quality instead of price, as the majority of local authority tendered contracts weight price highly, often to the detriment of quality. For example, funeral directors that score highly on the quality criteria (which is often not universal and token in the tender process) tend to lose out in each tender, as their price is not the cheapest. The use of standard local authority tendering processes for low value contracts also puts off a lot of “would be” tenderers; for small businesses the process involves a lot of data gathering, form filling and engagement with hard to use portal websites for submission of tenders typically used by other larger funeral directors, tendering for local authority work, who have employees solely for such purpose.

## **2. *Improving the quality of funeral directors’ back of house standards***

We agree and fully support the CMA’s suggestion to establish an inspection and registration regime to monitor the quality of funeral director services, as a first step in the establishment of a broader regulatory regime in England, Wales and Northern Ireland, akin to that already in place in Scotland.

We approve of the regulatory regime implemented in Scotland, however our main concern in relation to this proposal is: how does the CMA propose to implement such a regime in the rest of the UK? Paragraphs 9.104 – 9.111 of the Report and paragraphs 114 onwards of Appendix W discuss the possibilities for such a quality regulation regime, but do not specify what the “*balance between outcomes-based and rules-based standards*” will actually entail. Although we appreciate the CMA’s reasoning behind suggesting the use of a mainly outcomes-based regulatory model (for flexibility reasons), we are concerned that this may make compliance difficult for funeral directors, due to a lack of clarity and certainty. We therefore strongly recommend that the CMA uses a hybrid model to ensure that any such regime is clear and enables compliance by funeral directors, instead of unclear guidance.

We would welcome more information on how the regime will work in practice, for example: whether legislation within the first stage of setting up a registration and inspection regime would include active guidance/rules for funeral directors, or simply set up the relevant regulatory body; whether funeral directors will have to sign up to a regulatory body or there will be auto-enrolment; how the cost of the regime will be born by funeral directors (e.g. in the form of a membership fee to a regulatory body, how and when this would be payable) instead of the tax payer; if there is an outcomes-based model what form will this take and how will compliance be judged; etc. As we set out below in paragraph 3, CPJ Field is concerned that additional overhead costs for funeral directors, at a time of both downward pressure by the CMA and COVID-19, will negatively impact on the price of funerals for customers, due to such overheads being passed onto customers – please see below for further discussion of this issue.

## **3. *Continuing review of the funerals sector by the CMA***

CPJ Field is ready to assist the CMA by providing such data, if it will assist with the improvement of the sector; however, we are not entirely clear which AEC listed in paragraph 8.9 of the Report (see page 393 – 396 of the Report) the proposed revenue reporting will tackle. As raised in our previous responses to the CMA during the course of the Investigation, we are particularly concerned that proposed remedies, such as this, do not tackle the quality issues in the sector (which we feel are the critical issues in the sector), but instead only focus on pricing. We would like to again highlight our view that remedies be qualitative, not simply quantitative, in approach.

The CMA will also need to consider the logistics of how reported data will be collected and collated, who will do this, what will be done with the data and what action the CMA propose to take (e.g. implementing further investigations into the sector) depending on the outcomes of the data.

As the Report states, there will be an administrative burden on funeral directors by implementing revenue reporting, therefore we agree that this should be done incrementally, based on the size of the funeral director. However, as the CMA states itself, we have many questions on how this proposed remedy will be implemented; we feel that there needs to be clarification of the language used in this section of the Report, for example, what is deemed to be a “funeral home”, “consumer outcome”, “client redress system”, “branch” or “smaller provider”. We would also like to refer to our previous point above (see section 1 of this letter), that the categories of services to be reported on will need to be very clearly defined.

Without clarity, and, as previously mentioned, if there is only an outcomes-based approach to the proposed reporting, funeral directors will struggle to report concise, accurate and meaningful information – which would likely increase funeral directors’ pass through costs, which would be detrimental for customers. We feel that this is not the time to increase funeral directors’ current overheads, as, if funeral prices are being monitored and cannot be increased to account for such rises, the obvious solution would be to reduce overheads, leading to redundancies. This would be an unintended outcome of the Investigation that we would not welcome in the economic current climate, where all businesses are trying to do everything possible to avoid redundancies due to COVID-19. In order for funeral directors to cope with COVID-19, we need to retain enough staff to account for the increase in deaths; as staff numbers cannot be increased and decreased quickly according to demand, particularly if funeral directors have to comply with quality and training regulations, it is critical that funeral directors are not placed in this position.

A positive, proactive outcome to the Investigation is critical for both the improvement of the sector and protection of customers, therefore we would like to work further with the CMA in its Investigation and would be keen to discuss our above views further prior to the proposed remedies being finalised.

C.P.J. Field & Co Limited