

## **FUNERALS MARKET INVESTIGATION**

### **The Funerals Market Investigation Order 2021**

#### **Notice of intention to make an Order under section 165 of, and Schedule 10 to, the Enterprise Act 2002 and public consultation on the draft Order**

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 market investigation reference (MIR) in relation to the supply of funerals and related goods and services in the United Kingdom (the Market Investigation).
2. On the same date, the CMA appointed from its panel a group of four independent members (the Inquiry Group) to conduct the Market Investigation and publish a final report (the Final Report). The Inquiry Group was required to decide whether any feature, or combination of features, of each relevant market prevents, restricts or distorts competition and thereby has an adverse effect on competition (AEC) and, if so, what action should be taken.
3. On 18 December 2020, the Inquiry Group published its Final Report on the Market Investigation, entitled *Funerals Market Investigation: Final report*, in which it decided in accordance with section 134 of the Act that:
  - (a) there are features of the relevant markets which, individually and in any combination, prevent, restrict or distort competition in connection with the supply of funerals and related goods and services in the United Kingdom and therefore there are AECs, within the meaning of section 134(2) of the Act;
  - (b) the CMA should take action to remedy, mitigate or prevent the AECs and resulting detrimental effects;
  - (c) in order to address the AECs and resulting customer detriment, an integrated package of remedies should be imposed consisting of:

- (i) A requirement on all funeral directors and crematorium operators to disclose price information to customers.
  - (ii) A requirement on all funeral directors to disclose particular business, financial and commercial information to customers.
  - (iii) A prohibition on all funeral directors from:
    - 1. entering into or conducting certain arrangements with a hospital, hospice, care home or other similar institution which could reasonably be understood to encourage, incentivise or require the institution to refer customers to the funeral director or give that funeral director preference over other funeral directors; and
    - 2. soliciting for business through coroner and police contracts.
  - (iv) A recommendation 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, as a first step in the establishment of a broader regulatory regime for funeral services in these nations.
  - (v) A recommendation to the CMA Board to:
    - 1. actively monitor market outcomes in the funerals sector, in order to identify and, where possible, address any harmful behaviour;
    - 2. publish an annual review of market outcomes in the funerals sector; and
    - 3. consider at the earliest opportunity, when the impact and consequences of COVID-19 on the funerals sector are sufficiently understood and the sector is more stable, whether to consult on a future MIR.
  - (vi) To assist the CMA in monitoring the funerals sector, a requirement on some funeral directors and all crematorium operators to provide the CMA with specific price and volume information on the goods and services that they provide to customers.
4. The CMA intends to implement the package of remedies by: (a) the Funerals Market Investigation Order 2021 (a draft of which is attached to this Notice)

(the Draft Order); and (b) recommendations it has made in the Final Report to the UK government and the devolved administrations in Northern Ireland and Wales, and the CMA Board.

5. In accordance with section 165 of, and paragraph 2(1)(a) of Schedule 10 to, the Act, the CMA hereby gives notice of its intention to make the Order as part of a package of remedies to remedy, mitigate or prevent the AEC and any resulting customer detriment, which it identified in the Final Report.
6. This Notice and the Draft Order, together with a draft Explanatory Note, have been published on the CMA website.
7. The draft Explanatory Note accompanying the Draft Order provides an explanation of how the proposed Order is expected to operate.
8. The CMA invites written representations on the Draft Order, draft Explanatory Note and responses to the eight consultation questions from any interested person or persons . The CMA will have regard to any representations made in response to this Notice. The CMA may also make modifications to the Draft Order and draft Explanatory Note as a result of any representations. If the CMA considers that any representation necessitates a material change to the Draft Order, the CMA will give notice of the proposed modifications.
9. Representations made in response to this Notice should reach the CMA by 5pm on 17 May 2021. Representations should be in writing and sent by email to [funerals@cma.gov.uk](mailto:funerals@cma.gov.uk).

Martin Coleman  
Inquiry Group Chair  
15 April 2021