



Friday 26 July 2019

Better Regulation Division, Regulatory Policy
NSW Department of Customer Service
Via email: fr@finance.nsw.gov.au

Dear Department of Customer Service,

RE: Consultation paper on proposed Fair Trading Regulation 2019

Arranging a funeral can be an emotional process, sometimes with added time pressures if the death of a loved one was unexpected. Funeral industry practices are not helping consumers to find options that best suit their needs. Some practices that make costs hard to identify or understand seem to be structured to take advantage of families when they are most vulnerable. Change must occur to help people easily find prices and compare options.

I write regarding the consultation for the information standard for funeral goods and services in the proposed Fair Trading Regulation 2019. Under the proposed arrangements, funeral service operators will be required to display a price for all goods and services offered at their place of business and on their website, including a total minimum cost of providing a funeral service. These arrangements seek to provide greater clarity and transparency to consumers and encourage fair trading practices in the funeral industry.

CHOICE welcomes the proposed changes to the regulations as they will address the lack of transparency - a major problem for consumers - in the funeral industry. CHOICE is currently conducting an in-depth investigation into the funeral industry. In this market, we have found that the decision-making ability of consumers is often considerably impacted by their vulnerable state, time constraints and cultural expectations and pressures. As a result, consumers are almost always reliant on funeral suppliers and are limited in their ability to shop around. The absence of easily accessible pricing information exacerbates this. Due to these unique conditions, consumers are more susceptible to overcharging, misinformation and unsatisfactory services.

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“It’s a really stressful time - and the costs are a lot higher than you think to purchase plots and buy a coffin. There are a lot of incidental fees too - such as transferring the body; paying for the service; even putting a notice in a newspaper.” - CHOICE funeral survey respondent

The proposed changes will make it easier for consumers of funeral goods and services to access pricing information and compare services between businesses. While CHOICE is generally supportive of the proposed regulations, we raise some considerations to ensure that the regulations achieve their stated aim.

Information standard for funeral goods and services

We support the intent of the itemised list of ‘funeral goods and services’ under proposed Division 2, clause 7(2) as it will help consumers easily compare services between suppliers. However, we propose changes that will help consumers distinguish the legal requirements for body committal from the ceremonial components that funeral suppliers may provide (refer **Attachment A**).

CHOICE research found that while consumers were generally satisfied with the quality and level of service provided by funeral suppliers, in hindsight they wish they possessed a better understanding of the minimum legal requirements after a death and the optional ceremonial components. While we recognise that funeral suppliers may only offer set packages (i.e. not bespoke funeral services), by highlighting the distinction between legal requirements and ceremonial components, consumers may be able to more easily choose funeral goods and services appropriate to their needs.

“We ended up with all the bells and whistles that we didn’t want. With my background and my knowledge ... I still couldn’t get what I wanted, and it was extremely disappointing to think: wow, if that can happen to me, that can happen to anyone.” - Marie, funeral industry worker

In a CHOICE-commissioned mystery shop, we also found that there are significant discrepancies in the billing of the ‘professional services fee’ which could range up to \$7,100. We found that suppliers would consolidate multiple items, including obtaining death and medical certificates and the care and preparation of body into this fee, making it harder for consumers to discern which funeral goods or services were included in this fee and which were simply the operating or administrative costs of the business. The proposed regulations will deter suppliers from lumping multiple goods and services into the professional service fee and reduce confusion for consumers. We support the level of itemisation included in the draft regulations, with the minor amendments included in **Attachment C**.

Recommendation:

- **That the funeral information standard requires that prices be provided for specific items**
- **That the funeral information standard requires that information provided indicates what services provided are legally required to commit a body to help consumers identify add-ons from the service provider.**

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Display and provision of information about funeral prices

CHOICE supports proposed Division 2, clause 8(1), requiring that a supplier of funeral goods and services must prominently display the funeral price information at each place of business of the supplier and on the home page of any public website maintained by the supplier. We recommend that 'each place of business' includes any solicited visits to the consumer's home or an agreed upon location.

We also recommend that the pricing information be provided in an accessible format to facilitate easy comparison between suppliers for all consumers. We also strongly encourage that funeral suppliers provide pricing information in downloadable formats (.pdf, .xlsx). By encouraging the use of downloadable formats, there is opportunity for third parties to aggregate pricing information and develop applications that enable consumers to easily compare suppliers. Such comparison tools prove popular for time-poor consumers, and can help usefully drive demand-side competition.

Other recommendations

CHOICE's research indicates that people want better transparency in relation to funeral business ownership. Most consumers are not aware of the extent of consolidation in the funeral industry in Australia. Larger funeral businesses use this to their advantage, creating the impression that businesses are small and family-owned when in reality, they are owned by ASX-listed companies. Our investigation into the funeral industry found that outfits in NSW, such as Hasting District Funeral and Cremation Service and Southern Highlands Funerals – once family-owned, small businesses have changed ownership but continue to represent their business as an independent family-owned business.

We recommend that the commencement date for the funeral goods and services information standard be 1 December 2019 to allow sufficient time for the industry to transition to the new requirements. We also recommend that the Department of Customer Service is given adequate resources to monitor compliance with the new regulations once they come into effect.

For further information please contact CHOICE on sagar@choice.com.au

Yours sincerely,



Sarah Agar

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Attachment C - Amended regulations

Suggested amendments in **bold type**.

Division 2 Funeral goods and services

7 Information standard for funeral goods and services

(1) For the purposes of section 47C of the Act, the requirements of this Division are prescribed as an information standard for funeral goods and services.

(2) For the purposes of this Division, the following goods and services that may be supplied in connection with the burial or cremation of a body are funeral goods and services:

- (a) the obtaining of a death certificate from the Registrar of Births, Deaths and Marriages,
- (b) the collection of certificates or permits provided by a medical practitioner in relation to the body,
- (c) the **transport** of the body prior to burial or cremation,
- (d) the storage of the body at a mortuary or holding room, or **hire of a refrigeration plate**,
- (e) the supply of a coffin **or shroud**,
- (f) the burial or cremation of the body,
- (g) the care and preparation of the body prior to burial or cremation,
- (h) the arrangement and conduct of a funeral service,
- (i) **the hire of a funeral venue**
- (j) **any other disbursements payable in relation to a ceremony after a person's death.**

8 Display and provision of information about funeral prices

(1) A supplier of funeral goods and services must prominently display the funeral price information:

- (a) at each place of business of the supplier, and
- (b) on the home page of any public website maintained by the supplier.

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(2)

(a) A supplier of funeral goods and services must provide separate prices for all items in 7(2) (a) to (j) in its funeral price information.

(b) Funeral price information must indicate what items are required for body committal as outlined in the *Births, Deaths and Marriages Registration Act 1995* and *Public Health Act 2010*.

(3) A supplier of funeral goods and services who receives a request for information about funeral goods and services from a person must, within 48 hours after receiving the request (or within a period agreed between the person and the supplier), provide the funeral price information to the person.

(4) Before entering into an agreement for the supply of funeral goods and services, the supplier must provide a written notice to the consumer that contains the following information:

(a) the price of each of the particular funeral goods and services that are to be supplied to the consumer under the agreement,

(b) a reasonable estimate of the amount of each of the additional fees that are payable by the consumer under the agreement,

(c) a reasonable estimate of any other disbursements likely to be made by the supplier that are payable by the consumer under the agreement.

(5) In this clause:

additional fee means a fee charged by a cemetery or crematorium, or by a medical practitioner in respect of a certificate or permit provided by the practitioner, in relation to a burial or cremation of a body.

funeral price information means:

(a) the price (or the price range) of each of the funeral goods and services offered by the supplier, and

(b) a reasonable estimate of the amount of each additional fee required for the burial or cremation of a body, and

(c) the price of the least expensive package for funeral goods and services required for a burial or cremation of a body that is offered by the supplier.