

12 May 2021

Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop
SYDNEY NSW 1240
Via: ipart@ipart.nsw.gov.au

Dear Sir/Madam,

Submission regarding Draft Report into Competition, Costs and Pricing in the NSW Funeral Industry – May 2021

Thank you for your invitation to provide written comments on the Draft Report delivered in April 2021 regarding Competition, Costs and Pricing in the NSW Funeral Industry. Please find following the submission from Catholic Metropolitan Cemeteries Trust (trading as Catholic Cemeteries and Crematoria).

1 Role of IPART

As you are aware, IPART is an independent pricing regulator for numerous public services.

IPART's decisions generally involve the balance of a number of factors, such as:

- the protection of consumers of regulated services from unreasonable price hikes and price gouging;
- the encouragement of regulated service providers to improve their economic efficiency and maintain or improve their service quality;
- the encouragement of competition where possible; and
- where applicable, the protection of the environment and the impact on customers.

It is evident from the above that a main aspect of IPART's role is to protect consumers. Most consumers do not view the funeral industry and the interment industry as two separate industries because, in most instances, upon the death of a loved one, they primarily only deal with a funeral director who manages and organises for the consumer both the funeral service and the interment. Accordingly, for the benefit of the consumer, IPART should approach the review of the funeral industry and the interment industry consistently, otherwise it will only lead to confusion for consumers and a customer experience that is far from seamless.

Inexplicably IPART has not treated the two industries consistently. This is plainly evident not only in the high level of regulation recommended for the interment industry, as compared with the almost anti-regulation stance of the funeral industry recommendations, but also in the starkly different number of recommendations provided in IPART's reports - there are 33

recommendations in IPART's report on the interment industry and only 10 recommendations in IPART's Draft Report on the funeral industry.

Many of our submissions in this letter are reflective of our disagreement with this incongruous approach adopted by IPART between the funeral industry and the interment industry which, we submit, is the antithesis of consumer protection.

2 Provision of Industry Information

2.1 Draft Recommendation 2 - Use of NSW Government Life Events webpage as the central source of industry information

Whilst we support a centralised website for the supply of industry information for consumers, we question whether the proposed website is the right site to be able to support all consumer needs. Of particular concern are the diverse cultural and religious needs of the NSW community regarding funerals, which may not be adequately addressed through the recommended site.

Further to this, the NSW Government Life Events website is not particularly well known or publicised, and we believe it would not be considered the 'first port of call' at the time of death. Considerable work would need to be undertaken, such as public promotion and community education, to raise the communities' awareness of its existence.

In addition, as per our response below to Draft Recommendation 6, we would advocate that both industry information and pricing (For Cemeteries and Funeral Directors) are contained on one centralised website to make it easier for consumers to locate information.

2.2 Draft Recommendation 3 – Development of Fair Trading Consumer Guide

We support the development of a new guide and the information to be contained in the guide, as proposed by IPART. However, we suggest additional commentary be included in the guide on which items are compulsory and those items which are optional so that consumers have greater clarity when making purchase decisions.

Although theoretically, we support families being able to complete some elements of the funeral arrangements themselves, it is our experience that families often complete the relevant forms, such as the authority to collect the deceased or the registration of death, incorrectly. This inevitably results in the families seeking guidance from a funeral operator to correctly complete the forms and, therefore, the families do not save any money in the long run.

3 Pricing

3.1 Draft Recommendation 5 - Amendment of Fair Trading Funeral Information Standard

The suggested amendments to the Funeral Information Standard are welcomed. However, we would still advocate for any proposed pricing template provided by Fair Trading to be made compulsory, making 'like for like' funeral pricing comparisons more straightforward for the consumer. This would be similar to recommendations 22 and 23 in IPART's review of the costs and pricing of interment in NSW, which provides for publication of prices for a plaque lawn grave, headstone lawn grave, monumental lawn grave and ashes interment. If both industries are expected to publish prices for their products and services, this will ensure consistency across the two sectors and create a seamless experience for consumers.

The Review proposes for NSW Fair Trading "to include a definition of the "Least expensive funeral package" to clarify that it is an estimate of the total minimum price for the least expensive combination of products a funeral provider offers". As noted in our response to Draft recommendation 5 we advocate that the template provided by Fair Trading to be made compulsory, however we consider this to be the first step in making it easier for consumers to compare prices for "like-for-like" packages. The second step in this process should be to require funeral directors to itemise the price of each individual product or service included in the "Least expensive funeral package".

In particular the current practice adopted by some funeral directors, which is to itemise the products and services included in the package but then only provide a total package price rather than a price for each component in the package, should be eliminated. This practice makes it impossible for the consumer to determine value for money when comparing prices. As an example, if the price of coffin is not itemised the consumer will not be able to determine if the coffin included in the package is valued at \$400 or \$800 or \$1,000.

3.2 Draft Recommendation 6 - Standard Pricing

We note that recommendation 6 b. requires all funeral providers to publish "the price of the least expensive funeral package that includes a funeral service, for the burial or cremation of a body, if supplied by the funeral provider." We question why the recommendation does not enforce a minimum pricing regulation for a basic or least expensive funeral, similar to that proposed in IPART's report into the review of the costs and pricing of interment in NSW for cemetery operators.

The median funeral pricing reported by your survey respondents ranges from \$5,000 - \$10,000, which is a substantial range. During the hearing held on 29 April 2021, several funeral operators commented that pricing was often directly associated with the level of service provided. Our experience is that cemetery operators also price according to the service level provided in addition to standard costs. We question why a minimum pricing regulation applies to one part of the process, i.e. burial, but not to the funeral service or cremation component.

Further, the median funeral pricing reported by IPART is significantly higher than the average cost for a basic adult lawn burial in NSW, which ranges from \$3,794 to \$5,652. Despite the significantly higher cost for a funeral as compared with an interment, IPART is proposing that pricing in the interment industry should be regulated, whereas pricing in the funeral industry should not be regulated (apart from the need to publish prices). For example, some of the pricing recommendations proposed by IPART for the interment industry include that:

- the NSW Government amend the *Cemeteries and Crematoria Act 2013* (NSW) to provide for CCNSW to refer a cemetery operator to IPART for a maximum price determination of a specified body interment service;
- CCNSW refer the metropolitan Crown cemetery operators to IPART for a price determination in relation to basic adult lawn burials;
- the Code of Practice on pricing recommend that cemeteries publish prices for a subset of interment products on a consistent basis; and
- CCNSW develop, within 12 months of the release of IPART's report, a central website to enable consumers to compare prices for interment services in one place.

This is in stark contrast to IPART's Draft Report on the funeral industry, which only provides for one recommendation in relation to pricing, being that NSW Fair Trading start the process for amending the funeral information standard to:

- require all funeral providers to publish the price of their professional services fee, and the price of the least expensive funeral package;
- clarify that funeral providers are required to publish funeral information on any public website maintained by the funeral provider, and include a link to the funeral information on any social media account maintained by the funeral provider; and
- include a definition of the 'least expensive funeral package' to explain that it is an estimate of the total minimum price for the least expensive combination of products a funeral provider offers to customers, whether or not the funeral provider defines that combination of products as a 'package'.

3.3 Draft Recommendation 6 - Publication of Pricing

As stated in our initial submission dated 27 November 2020, we strongly support the compulsory requirement for funeral directors to advertise pricing publicly. We agree with the recommendations for funeral directors to publish pricing on websites and social media platforms, but still retain concerns about this pricing not being in a compulsorily standardised format.

The development of online funeral and cremation price comparison tools such as GatheredHere.com.au demonstrates a desire in the community for consumers to be able to access funeral pricing in an easy to read consistent format for comparison purposes. We were surprised that this recommendation did not extend further, requiring a centralised website for the publication of funeral director pricing such as those recommended for cemetery pricing within IPART's report into the review of the costs and pricing of interment in NSW (recommendation 26 of IPART's report on the interment industry).

Our view is that one consolidated website containing both funeral and cemetery pricing and information would be far more beneficial to consumers than the requirement to access a centralised cemetery pricing website and then individual funeral director websites for the service component pricing.

4 Regulation

We disagree with the following IPART findings contained in the Regulation and Licensing Information Paper:

- *‘There is no need for additional regulation or licensing of the funeral industry as an occupation’; and*
- *‘There is insufficient justification for a single funeral industry regulator’.*

It is challenging to understand IPART’s logic that licensing and regulation would add to the costs of the industry affecting affordability in the funeral market, when IPART’s report into the review of the costs and pricing of interment in NSW strongly advocated regulation in the cemetery sector, thus ultimately raising the overall costs for consumers for a funeral/interment.

Further to this point, IPART does not recommend a single statutory regulator for funeral directors, cemeteries and crematoria. This is in direct contravention to the Department of Planning, Industry and Environment’s (DPIE) Statutory Review of the *Cemeteries and Crematoria Act 2013* (NSW) and its associated report (The 11th Hour, Solving Sydney’s Cemetery Crisis), which clearly recommend the consolidation of funeral directors, cemeteries and crematoria under a single statutory regulator. The authors of the 11th Hour Report state that they have reviewed:

- the Quality Regulatory Services (QRS) Initiative;
- The NSW Guide to Better Regulation 2019;
- IPART’s own Best Practice Approach to Designing and Reviewing Licensing Schemes; and
- the Commonwealth Regulatory Guidelines,

and they concur that their recommendation for a single statutory regulator meets the requirements set out under these instruments.

Lack of Regulation in the Wider Sector

As a cemetery operator who ultimately deals with only one element of the funeral process, it seems nonsensical that extensive regulatory and bureaucratic requirements are imposed on cemetery services.

Yet, an individual can open a funeral business:

- without any formal requirements other than an Australian business number;
- without any experience, qualifications or training, including any training on the safe handling of bodies or dealing with grieving, bereaved or traumatised people;
- with limited proactive consumer legislation compliance checking;
- without any requirement for ongoing training or development; and
- without any oversight or reporting requirements.

Although NSW Fair Trading reported only 186 complaints registered with their agency during the IPART hearing, the Australian Competition and Consumer Commission has declared the funeral industry as one of its compliance and enforcement priorities for 2020/2021. This would suggest there is an existing concern in the community about misleading or unethical practices in the funeral industry that take advantage of vulnerable consumers.

At the IPART hearing, it was clear that consumer groups supported both regulation and centralisation. They indicated that a single regulator would eliminate the current fragmented approach and break down barriers between cemetery operators and other funeral service suppliers who currently operate under minimal obligations.

Yours Sincerely,



Peter O'Meara
Chief Executive Officer