



# **Cemeteries and Crematoria Association of NSW**

## **IPART Review of Competition Costs and Pricing in the Funeral Industry**

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### 1. Tell us what you think about choice and competition in the funeral industry:

a) what are your views on the range of providers and choices of services emerging in the funeral industry?

The funeral industry has three traditional components:

- funeral directors
- cemetery operators
- crematorium operators

which may be horizontally or vertically integrated and another emerging component

- direct sales - online operators who operate in a similar manner to other internet intermediaries e.g. Webjet, Trivago, ISelect. They provide information and facilitate transactions, rather than necessarily being in the business of conducting funerals or operating a cemetery or crematorium.

These operators may be an arm of an existing provider or a freelance operation (which allocates business and may be remunerated accordingly)

Whilst there are significant barriers to entry into the funeral industry to establish a cemetery and lesser barriers to establish a cremator facility e.g. as little as the capital expense associated with placing a furnace in a rented industrial estate facility, there are no barriers for establishing a funeral directing or direct sales business... all you need is a website and a mobile phone.

## b) What are your views on the need for regulation and what regulation might look like?

Some related matters were already raised within the CCNSW submission to IPART re Interment Costs and Pricing.

We again draw IPART's attention to the fact that:

- The acronym CCNSW is commonly confused by cemetery operators and the community, with that which this Association has continuously used since 1965 (CCANSW).
- In the light of the functions the Cemeteries Agency i.e. Cemeteries & Crematoria NSW (CCNSW) has under the Act; it would appear more appropriate and less misleading, to refer to it by a simple English name that better reflects its scope and responsibilities e.g. Funeral Industry Agency (FIANSW).
- The CCNSW already registers details of the cemeteries and crematoria within NSW. It would appear to be consistent with its legislative functions to also register and regulate providers of funeral goods and services.
- CCNSW should broaden the scope of its activity, in line with the Act, to facilitate the application of the Fair Trading Regulation 2019.

To date it appears that the focus of CCNSW has been upon matters to do with cemeteries and especially the implementation of Part Four of the Act (which became effective in 2018, with implementation transition into 2019). Whilst private crematoria are required to be registered, they do not appear to be regulated.

Similarly whilst funeral directors have obligations under NSW Fair Trading, there appears to be little, if any enforcement e.g. in relation to the Information Standard.

Regardless of the level of business model integration, there is service delivery interconnectivity between the funeral director and the provider of the interment/cremation facility.

In that context and given the Act already allocates oversight to CCNSW, this Association advocates that the renamed CCNSW should be the lead agency in the regulation of the entire industry.

Whilst other departments e.g. Health and Fair Trading are best to create the regulations that reflect their particular expertise/interests, it is inefficient to have multiple agencies taking the lead on the application of the regulations, particularly if their administrators have limited industry understanding.

Centralising the application and enforcement under the renamed CCNSW

- diminishes the potential confusion for individual funeral industry operatives that is likely to arise through interaction with multiple agencies, which may or may not be coordinating their efforts
- increases the likelihood that the staff involved with the application of the regulations understand the industry, the interrelationships between providers and the impacts on transparency and competition
- is likely to facilitate the enforcement of the Fair Trading Information Standard
- enhances the opportunity to develop training frameworks.

IPART has already identified that there are virtually no barriers to entry into funeral directing. Whilst CCNSW does not wish to diminish competitive market forces, it is concerned that the current lack of regulation of funeral directors

- increases the potential risks for a grieving family, should they unwittingly choose a funeral provider whose practices are not in the best interests of the consumer, at a time when their emotional vulnerability diminishes their capacity to research alternatives.
- creates an environment where unscrupulous or poorly trained operators can operate with little risk of being held accountable for inappropriate or misleading practices e.g. non-compliance with Fair Trading regulations, exploitation of bereaved families, unethical behaviour (allegedly: reuse of floral tributes, switching coffins, disposing of waste within a coffin delivered for cremation), providing competing quotes under various business names etc.

Should such activities occur it is likely to put those funeral directors (who pursue best practice and act in accordance with the law) at a material disadvantage in terms of comparative pricing.

Whilst the spirit of Fair Trading requiring transparent pricing and promoting comparisons is in the interests of families and reputable operators, it has two significant shortcomings in its application.

- Unlike specific brands and models of white goods and televisions, funerals are not homogenous. The variation in prices are also likely to reflect a variation in the components, inclusions and service delivery of funeral. The price comparison may not be comparing apples with apples.
- There is no regulatory enforcement. Various government departments are responsible for the regulatory requirements. It is possible that the administrators of the regulations have no sector expertise and limited understanding of how the matters they are responsible for interact with other sector regulations.

Where is it that an industry whistle blower can go to report allegations/insights into inappropriate activity? It is in the industry and community's interest to broaden the scope of CCNSW activity, aligning it with the breadth of jurisdiction provided under the 2013 Act. Doing so would also increase the likelihood that the regulator (CCNSW) would develop and maintain industry insights and networks and be able to enforce regulation in a timely manner.

[c\) Can people complete some or all the funeral arrangements easily without using a funeral director?](#)

Whilst people can complete all aspects of arranging a funeral and bodily disposition, legally themselves, the practicalities of the situation usually mitigate against them doing so.

The transfer of the deceased, completion of required certification, compliance with applicable requirements re storing and holding cadavers, preparation of a suitable receptacle for the body, making a booking at a cemetery or crematorium, and arranging the conduct of a service (if required)... all takes research and time.

There are also issues of liability and additional administrative costs for cemetery and crematoria operators, if they are to receive the deceased directly from the family, to ensure all of the aspects of preparation and delivery of the deceased have been done in accordance with the legislation and prevailing community standards.

Even when a death has been anticipated e.g. palliative care, there appear to be relatively few instances of families undertaking that role themselves.

The emergence of direct sales funeral providers does make it easier for people to bypass (or think they are bypassing) traditional funeral service providers. Whether or not this amounts to a DIY funeral will depend on what they purchase.

#### d) What are your views on the impact of COVID restrictions on choice of services in the funeral industry?

Obviously, the restrictions on funeral attendance numbers have impacted the traditional approach to the conduct of funeral services. The COVID environment also has broader implications for the nature of the 'rites of passage' and impacts upon the grieving process.

In circumstances where the death has occurred in a COVID environment i.e. one with restricted visitation to a sick or aging person by family members, the processes associated with palliative care by loved ones has been severely interrupted.

The necessary COVID precautions within funeral premises and other service facilities e.g. churches, have also affected another dimension, potentially interrupting the usual approach to viewing of the deceased prior to disposition, holding of rosary's etc.

There has been a material increase in

- live streaming of funeral services, with COVID limitations on attendees
- digital recording
- remote participation in service delivery
- the deferral of actual gatherings of numerous mourners for a traditional funeral, a related focus on timely body disposition, coupled with indications that at some stage in the future a "gathering" will be held to commemorate the deceased.
- the proportion of bodily disposition by cremation where there is no funeral service prior to the cremation i.e. what the industry refers to as NSNA (No Service No Attendance) or NSD delivery for cremation
- the use of venues that can accommodate more guests within the social distancing constraints
- an increase in outdoor gatherings.

In a podcast Hannah Gould, cultural anthropologist and A.R.C. Research Fellow with the Death Tech Research Team at University of Melbourne, provides some interesting insights into related matters.

<https://www.abc.net.au/radionational/programs/lifematters/planning-cemeteries-for-the-future/12817980>

## 2. Is funeral price information easily available on providers' websites and does the information meet consumers needs?

The requirement under Fair Trading to reflect the pricing of funeral components more transparently is necessary and beneficial but limited in its real, as distinct from perceived, value to the community.

Not all providers are compliant and as yet, there would appear to be no enforcement of the Regulation.

In the absence of regulation of funeral directors, to ensure at least a basic knowledge of health and safety and regulatory requirements and compliance, consumers cannot have confidence in the comparative professionalism of the service providers whose prices they seek to compare.

## 3. Tell us what you think about funeral pricing and affordability.

Whether or not funerals are affordable will be impacted by a variety of factors

- a family's capacity to pay and the complexity of their requirements
- expectations about what the costs might be e.g. if the last funeral arranged was 20 years ago, inevitably the change in costs will be noticed
- the choices that are made in relation not only which funeral director is used but also the coffin or casket, body preparation, viewings, vigils, flowers, press notices, digital presentations, refreshment choices, the venue and number of services
- the form of bodily disposition and the venue at which it occurs.

## 4. Tell us what you think about the different ways of paying for a funeral.

Prepaid funeral plans have made it somewhat easier for people to

- budget for funeral costs in advance of need
- reduce the financial and decision making burdens on the next of kin
- diminish some of the emotional factors which might influence decision making if arrangements are made when death occurs.

In the absence of a prepaid plan, usually with an at-need funeral the funeral director books the interment or cremation on behalf of the family and is responsible to the cemetery/crematorium operator (which may be part of a vertically integrated business) for payment of that fee.

Ascertaining whether the price of a funeral is appropriate is challenging, as it requires in depth understanding of the components delivered and the complexities associated with assisting particular families.



Secretary

23 November 2020