April 16, 2020

Ms. April Tabor
Acting Secretary
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW, Suite CC-5610 (Annex B)
Washington, DC 20580

Re: Funeral Rule Regulatory Review, 16 CFR part 453, Project No. P034410
Via electronic submission through www.regulations.gov

Dear Acting Secretary Tabor:

On behalf of all older Americans, including our nearly 38 million members, AARP is pleased to offer this comment letter in support of updating the Funeral Industry Practice Rule (Funeral Rule) to require funeral homes to post price lists online.

The death of a loved one is a challenging time for all grieving families, even more so when family disputes are present or when lost income from the person who died makes meeting expenses difficult. At the same time, funeral services are expensive, with a median funeral cost of $7,640 (or $5,150 for a funeral with cremation), according to the National Funeral Directors Association.\(^1\) In addition, families use funeral services rarely, so they typically do not have experience in navigating the marketplace.

\[1\] **The Funeral Rule has provided important consumer protections, but improvements are needed**

The Funeral Rule, originally promulgated in 1984 well before the internet age, provides important consumer protections. It requires funeral homes to provide grieving family members with price lists at the start of any in-person discussions to facilitate price transparency. It also requires funeral homes to provide accurate information from the price lists to consumers who call and ask about prices or offerings (but it does not require funeral providers to send the price

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list to consumers who call). It also allows consumers to select only the items they want to buy, rather than having to buy bundled packages.

Despite these consumer protections, the Funeral Rule should be updated to better protect consumers, increase oversight, and promote competition among funeral homes. Grieving family members may be overwhelmed by their obligations when attending to a loved one’s death and may not be willing or able to visit multiple funeral homes in order to price shop or gather price lists. In addition, the current Funeral Rule creates barriers to conducting oversight of the industry. Regulators such as the FTC and third parties such as journalists, nonprofits, and for-profit companies must send representatives in person to receive funeral price lists. Price lists posted online would provide consumers with greater ability to make price comparisons, and allow regulators to conduct oversight more easily.

2) Studies show that funeral homes are not providing adequate price transparency.

A national study from the Consumer Federation of America (CFA) and Funeral Consumers Alliance (FCA) found that 16 percent of funeral homes did not disclose prices on their website, by email, or over the phone and thus required consumers to visit in person to receive the price list.2 The same groups also found in another study of funeral homes near 26 state capitals that only 16 percent of funeral homes with websites posted their general price lists online.3 In addition, undercover investigations from the FTC revealed that 29 of 134 funeral homes inspected in 2017—about one in five—failed to properly disclose pricing as required by the Funeral Rule.4

3) The FTC should modernize the Funeral Rule to require funeral homes to post their prices online.

To ensure greater transparency of pricing, more effective oversight, and greater competition, the FTC should modernize the Funeral Rule to require funeral homes to post the price list online, which could be done at minimal cost (even for those funeral homes that do not already have a website). Such a requirement would directly benefit grieving families, who would be able to comparison-shop and save money without having to visit multiple funeral homes in person. In addition, regulators, including the FTC, would more easily be able to conduct oversight. Moreover, on-line price lists would allow third parties to gather and share information with the public about funeral pricing. Doing so would increase competition and encourage funeral homes to offer the best possible pricing, particularly helpful in local markets where there are large price differences between many funeral homes.

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4) *The FTC should include the cost of crematory fees in the General Price List.*

Cremations have become much more prevalent since the Funeral Rule was first promulgated. While most funeral homes appear to disclose these fees, a 2016 survey by FCA and CFA found that over a fifth of funeral homes did not. According to the National Funeral Directors Association, by 2040, the cremation rate is expected to increase to nearly 78 percent in the U.S, a trend set by the Baby Boomers. In order to ensure needed transparency, families should have full and complete cost information when making funeral arrangements, including the cost of crematory fees.

Thank you for the opportunity to comment on these important issues. If you have any questions, feel free to call me or contact Debra Alvarez at (202) 434-3814.

Sincerely,

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs

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