



Consumer Federation of America

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Comments of Stephen Brobeck,
Senior Fellow, Consumer Federation on the
Funeral Industry Practices Rule
To the
Federal Trade Commission
Regarding

Funeral Rule Regulatory Review, 16 CFR Part 453, Project No. P034410

The Consumer Federation of America (CFA), a nonprofit association of more than 250 consumer groups that was established in 1968 to advance the consumer interest, appreciates the opportunity to comment on the Federal Trade Commission's Funeral Rule. While the Rule has played a key role in protecting consumers, it has not significantly "lowered barriers to price competition in the funeral goods and service market."¹ That goal would be greatly advanced if the FTC required all funeral homes to prominently post their General Price Lists (GPLs) on their websites. Online disclosure would benefit not only individual customers seeking burial services; it would also promote consumer price awareness and price competition by facilitating price research and dissemination by third parties such as Consumer Reports. Furthermore, online price posting would provide the FTC with a useful tool for monitoring compliance with Funeral Rule disclosure requirements.

CFA also proposes other improvements to the Funeral Rule in addition to online price disclosures.

I. Funerals represent a major expense, especially for minority populations, and consumers care about this expense.

Funerals represent a major and sometimes unexpected expense. According to a 2017 estimate by the National Funeral Directors Association, the median funeral cost \$7,360. This expense did not include vault, burial plot, headstone, flowers, or obituary. Consequently, the average funeral cost considerably more.

¹ Federal Trade Commission, Request for public comment on its Trade Regulation Rule entitled "Funeral Industry Practices Rule" (2020), p. 2.

While there is no solid cost data on the subject, African-Americans and Latinos may well spend more on funerals because these ceremonies have been such important parts of their cultures. For both the African-American “homegoing” and the Latino “wake,” embalming and burial are essential elements of the ceremony. And there is research indicating that African-Americans are less likely than other Americans to choose cremation.² Furthermore, any affordability problems faced by African-American and Latino populations may be worsened by the fact that, overall, their incomes and wealth are lower than those of other Americans.

Consumers care a great deal about funeral prices, and lower-income consumers care the most. In late February 2020, Engine Group surveyed a representative sample of 1,000 adult Americans online about these prices and related disclosures.³ The first survey question was, “If you had to plan their funeral and also cover the cost, how important would this cost be in your decision about choosing a funeral home?” Ninety-three percent of respondents said that cost was important, with 62 percent saying it was “very important.” Those with household incomes under \$50,000 were more concerned about cost than were households with incomes \$100,000 and over. Sixty-seven percent of the low-income group, but only 51 percent of the high-income group, said that cost was a very important factor in choosing a funeral home.

II. The Funeral Rule has provided essential protections to consumers.

The FTC’s 1975 staff report on “Funeral industry practices” identified numerous unconscionable and deceptive practices.⁴ The 1984 Funeral Rule addressed many of these unfair practices not just through specific proscriptions but also by making the funeral home industry aware that the agency would be more closely monitoring funeral home practices. The Rule’s requirement that all funeral homes create and make available a General Price List (GPL) represented an important element of these new protections. Standardization of terms on these lists reduced consumer confusion, giving them a clearer idea of the services they were purchasing and their cost. Moreover, just the potential for consumers or third parties to compare prices among funeral homes acted as a restraint on price gouging.

III. The Funeral Rule has not significantly lowered barriers to price competition.

² Tom Buchanan, Paige Gabriel, “Race Differences in Acceptance of Cremation: Religion, Durkheim, and Death in the African-American Community,” *Social Compass* (March 2, 2015). Landi K. Conn, “Contemporary Death Practices in the Catholic Latino Community,” *Thanatos*, v. 5 (2016).

³ CFA commissioned the survey by Engine Group, known formerly as Opinion Research Corporation International. The survey was conducted February 26-28, 2020.

⁴ United States, Federal Trade Commission, Bureau of Consumer Protection, Division of Special Projects, “Funeral industry practices: Proposed trade regulation rule and staff memorandum (August, 1975), see especially pages 10-13.

A. Consumers do not have adequate opportunities to compare funeral prices because this comparison is difficult under any circumstance but especially those related to a recent death.

At present, the difficulty of collecting price information, and the condition of many persons planning funerals, make it difficult for them to collect prices from more than one funeral home. Price lists can be reviewed only after physically visiting funeral homes and requesting the lists. Funeral homes are required to provide accurate price information over the phone but not send out price lists. In the experience of the Funeral Consumers Alliance (FCA) and Consumer Federation of America (CFA), which have attempted to collect price lists by phone on several occasions, calling as consumers, it is often difficult to do so. Some funeral homes refuse to send the lists. And some funeral homes that provide the list also use the contact as an opportunity to aggressively market their services, including repeated phone calls.

As the FTC staff report noted: "...funeral arrangement decisions must often be made while under the emotional strain of bereavement, and ... consumers often lack familiarity with the funeral transaction."⁵ Moreover, "consumers are called upon to make several important and potentially costly decisions under tight time constraints." Those constraints often include insistence by a hospital of identification of a funeral home to which they can transfer the body. Under such pressure and strain, consumers are unlikely to make the effort to physically visit several funeral homes.⁶ Disabled spouses and out-of-town relatives would find it especially difficult to make these visits.⁷ And even if the bereaved did so in an urban area with dozens of funeral homes, the few homes they visited may well not offer the best price for service.

Some funeral homes do post their price lists on their websites. But the percentage of those who do this posting is small. In 2018, CFA and FCA surveyed the websites of 193 funeral homes located in 25 small and medium-sized state cities. We found that only 16

⁵ According to an AARP survey, only 34 percent of those 50 years or older have "engaged in some preplanning." Lona Choi-Allum, "Funeral and Burial Planners Survey," AARP (November 2007). Periodic surveys by the National Funeral Directors Association have found the percentage of adults of all ages who have preplanned funerals is, predictably, even lower.

⁶ Interviews with many bereaved persons reveal how difficult it would be for them to personally visit funeral homes to pick up price lists. James W. Gentry et al, "The vulnerability of those grieving the death of a loved one: Implications for public policy," *Journal of Public Policy and Marketing*, v. 14, n. 1 (Spring 1995).

⁷ According to data from the 2013 Panel Study of Income Dynamics, one-quarter (25%) of parents do not have an adult child living within 30 miles of them. HwaJung Choi, et al, *Spatial Distance Between Parents and Adult Children in the United States* (September 2018 report funded, in part, by the National Institute on Aging).

percent of these funeral homes posted their GPLs on their websites. In twelve of these cities, none of the funeral homes posted prices online.⁸

B. The Funeral Rule also makes it difficult for third parties to collect information about funeral prices that then can be summarized and made available to consumers.

Consumer awareness of price is greatly facilitated by trusted third parties collecting, analyzing, presenting, and disseminating price information. These third parties include journalists, consumer groups, consumer information services, and price aggregators. Yet, they have been greatly hindered by having to physically visit funeral homes to collect price lists. In 2018, for example, CFA spent about 15 hours trying to pick up price lists at the some 60 funeral homes in the Baltimore MD area.⁹ These lists could have been downloaded from websites of these homes in less than an hour.

Even when price lists can be requested by phone, the time difference between making these lists and finding them online is significant, as illustrated by the 2019 experience of CFA and FCA in collecting price lists from California funeral homes in six major areas. Unique among states, California requires funeral homes to post GPLs on websites but allows them, as an alternative, to create a website page listing services and stating that prices are available on request. We called this exception a “legal loophole.” After being able to obtain only a few price lists from non-posting funeral homes through email requests, we called them to request their lists. The several hours we spent calling these 34 funeral homes greatly exceeded the time we spent downloading the lists of 86 homes that prominently posted their price lists.¹⁰

Consequently, there are few sources of funeral price information online. Consumer Checkbook has visited homes to collect GPLs in several areas, as have CFA and FCA. Yet, this task is so laborious that these groups have surveyed the prices of only a small percentage of the some 19,000 funeral homes nationwide and then very infrequently. The task of collection is so time-consuming that local FCA affiliates, comprised of volunteers, have found it challenging to collect, analyze, and summarize price information for funeral homes just in their own communities.

One company, Funeralocity, has collected price information, useful to consumers, from a large number of funeral homes and makes this information available for free on their

⁸ Joshua Slocum, Stephen Brobeck, A Needle in a Haystack – Finding Funeral Prices Online in 26 State Capitals, report from Funeral Consumers Alliance/Consumer Federation of America (January 2018).

⁹ CFA tried to pick up price lists from all active funeral homes inside the “Baltimore Beltway.” We did not succeed with several funeral homes because they did not answer their doors when we visited them during business hours.

¹⁰ Joshua Slocum, Stephen Brobeck, The Relationship between Funeral Price Disclosure and Funeral Prices: A California Case Study, report from Consumer Federation of America/Funeral Consumers Alliance (February 2020).

website. They have employed staff to call funeral homes and persuade the homes to send their price lists. The Funeral Rule does not require funeral homes to mail price lists to callers and says nothing about emailing these lists. The existence of this information source does not, however, obviate the need for online price posting by individual funeral homes.

- As a for-profit company funded initially by venture capital, the survival of this information source depends ultimately on the profitability of the company.
- The company's profitability depends on its ability not only to collect price information efficiently but also to sell services back to listed funeral homes.
- Having to call funeral homes is a much less efficient way to collect price information than finding it on websites, and in our experience calling funeral homes, not all homes are willing to supply this information.¹¹ Accordingly, price information collected by phone is more likely to be dated than information taken from websites.¹²
- Success in selling services, chiefly different forms of advertising, is related to advantages that accrue to purchasers of the services.
- The company offers "memberships" to funeral homes, markets the services of these member homes, and collects fees when the marketing generates sale of funeral services. It is not clear what this marketing consists of but it may well include favorable placement on their website.
- Similar companies often end up aggressively selling advertising opportunities to vendors, then strongly bias the presentation of consumer information to favor these advertisers.¹³

C. The huge range of funeral prices in individual markets strongly suggests lack of price competition.

Funeral services are heterogeneous products whose quality of service may vary among funeral homes. Nevertheless, the range of prices for basic funeral services is striking. In early 2020, CFA and FCA released information about prices charged by 120 California funeral homes located in six regions.¹⁴ The prices were for direct cremation, immediate burial without casket, and basic services fee. For each service, the highest price was at least eight times higher than the lowest price. For direct cremation, prices ranged from \$525 to \$4,370. For immediate burial without casket, prices ranged from \$495 to \$4,715. For the basic services fee, prices ranged from \$250 to \$4,370.

¹¹ See Slocum, Relationship, loc. cit., p. 1.

¹² Dated information may be one explanation for apparent differences in prices collected by FCA-CFA and by Funeralocity for a number of California funeral homes that did not post prices but supplied this information in response to calls.

¹³ A prominent example is Angie's List, which in the mid-1990s began as a quasi-cooperative accurately reporting information from customers yet today provides information strongly biased in favor of its advertisers. See: Stephen Brobeck and Jack Gillis, "Angie's List: An Evaluation of Its Usefulness for Consumers," Consumer Federation of America (April 2019).

¹⁴ Slocum, Relationship, loc. cit.

The range of prices charged by funeral homes on the Funeralocity website is also large. In Baltimore, for example, the price of a full-service funeral ranged from \$3,245 to \$9,760 while the price of direct cremation ranged from \$870 to \$3,665. In Indianapolis, the price of a full-service funeral ranged from \$2,375 to \$7,320 while the price of direct cremation ranged from \$695 to \$3,055. The price ranges for cremation were similar to those found by CFA and FCA in a ten-city survey in 2016, for example: \$850 to \$3,495 in Atlanta, \$589 to \$2,295 in Tucson, and \$495 to \$2,995 in Seattle.¹⁵

IV. Requiring online price posting would lower barriers to price competition and benefit consumers.

A. A larger number of consumers would compare funeral prices, allowing them to make more informed choices.

When the Funeral Rule was issued in 1984 and also when it was revised in 1992, information about prices charged by individual funeral homes was not available online. However, as the Nielsen Global Connected Commerce Survey reports, a large majority of consumers now use the Internet as part of their online search for products, and a significant number of these online searchers compare online prices.¹⁶ That is especially true when products are relatively expensive.¹⁷

The funeral industry acknowledges increasing use of the Internet by consumers. The website of the National Funeral Directors Association (NFDA) states: “In recent years, consumers rely on the internet as a leading source of information.” The NFDA website then goes on to say: “In response, businesses have increased their presence on the web and funeral service is no exception. In order to enhance service to families and community, most funeral homes now have their own website, which enables funeral homes to easily display their products and services and, in turn, offers consumers the freedom to conduct research at-will.” This statement raises two questions: Is not the “display” of products and services incomplete without information about their prices? And, how can consumers conduct effective research without this online price information?¹⁸

¹⁵ Joshua Slocum, Stephen Brobeck, Cremation Services: Highly Variable and Misleading Pricing, Lack of Disclosure, and Violation of Federal Rules, report from Funeral Consumers Alliance and Consumer Federation of America (September 2016).

¹⁶ Nielsen Global Connected Commerce Survey, <https://www.nielsen.com/us/en/insights/article/2016/what-are-connected-shoppers-doing-and-not-doing-online/>

¹⁷ Maarten C.W. Janssen, Jose Luis Morage-Gonzalez, Matthijs R. Wildenbeest, “Consumer Search and Pricing Behavior in Internet Markets” (online 2009), <https://doi.org/10.1017/CBO9780511493201.016>

¹⁸ National Funeral Directors Association, NFDA website page on “Trends in Funeral Service” within the “News” section.

But would many consumers planning funerals take advantage of online price posting? The February 2020 Engine Group online survey of 1,000 representative adult Americans asked: “If all funeral homes posted their price lists on their websites, would you be likely to compare the prices of at least several funeral homes before choosing a funeral home?” Ninety-one percent of respondents said they would be likely to make this comparison, with 61 percent saying that they would be “very likely” to do so.

B. Even individual consumers who did not compare prices could benefit directly from online posting.

Given consumer shopping behavior for other products, one can expect that a large number would consult the website of a home from which they planned to purchase funeral services. If a price list were prominently posted, one can also assume that many would view this list, accruing benefits that would not be available if they first saw the price list when visiting the funeral home. These assumptions are supported by the February 2020 Engine Group online survey. The survey asked if prices were posted online, “would you be likely to look at the price list of the funeral home you prefer before actually visiting the home?” Ninety-two percent said that they would be likely to, with 60 percent saying that they would be “very likely” to first check the price list. Those consumers who did so would be better able to assess the affordability of services to be purchased and also be better prepared to ask informed questions during the visit to the funeral home.

C. Many consumers would benefit from gaining useful information about funeral prices from trusted third parties.

Consumers who comparison shop by consulting prices displayed by individual vendors limit their search, often to several vendors. But these consumers can efficiently gain useful price information about many vendors when it is made available by trusted third parties such as journalists, Funeral Consumers Alliance, Consumer Reports, Consumers Checkbook, and other consumer groups.¹⁹ These third parties, given the inconvenience of collecting price lists through visits to funeral homes, are more likely to collect and disseminate information about prices charged by many funeral homes if the prices are posted online. Third party aggregators such as Funeralocity would also benefit by being able to collect price information more efficiently from websites directly, rather than from phone calls to request price lists. Online price posting would also increase the likelihood of the emergence of online buying services for funeral services. Research has shown that these buying services can “have a real effect on the prices paid by consumers.”²⁰

¹⁹ Scholarly research emphasizes the importance of search tool access to retail prices as a driver of price competition. See for example: Kirsten A. Passyn, Memo Diriker, Robert B. Settle, “Price Comparison, Price Competition, and the Effects of ShopBots,” *Journal of Business and Economics Research*, v. 11 (September 2013).

²⁰ Florian Zettelmeyer et al, “How the Internet Lowers Prices: Evidence from Matched Survey and Auto Transaction Data,” NBER working Paper No. 11515 (July 2005).

While many consumers do not consult these third party services, a significant number do. In the February 2020 online survey, Engine Group asked respondents if consumer information sources like Consumer Reports were able to “make available price information about many funeral homes in your region, would you review it before selecting a funeral home?” Ninety-two percent said they would be likely to, with 60 percent saying they would be “very likely” to consult this type of information source.

D. Consumers would benefit indirectly because the FTC would be able to more efficiently and effectively monitor compliance with the Funeral Rule.

In the past, the FTC has depended on-site visits to funeral homes (“sweeps”) to help ensure that they complied with the law. These sweeps have certainly had value. When CFA visited all funeral homes in the Baltimore area in 2018, each open home provided us with their GPL on request. (Several asked if we were working for the FTC.) But during the years from 2009 to 2018, the FTC sweeps revealed that between 20 and 30 percent of funeral homes have been in violation of pricing disclosure requirements. These averages disguise great variations among regions. In the April 2018 sweeps, for instance, in Odessa TX and in Lansing MI, 47 percent of funeral homes inspected had violations.²¹

Online price disclosure could greatly assist the FTC in its monitoring of compliance.

- In its recent 2020 research on California funeral home price disclosures, FCA and CFA found that 28 out of 126 price lists examined appeared to lack legally required consumer options, or appeared to violate the Funeral Rule by responding to our request for a GPL by offering only packaged options.²² Online price posting would better allow the FTC to identify these types of violations. This posting would also encourage funeral homes, knowing FTC monitoring was easier, to make a greater effort to be in compliance.
- It would become much easier for the FTC to identify funeral homes that failed to post prices. At more risk of being cited for non-compliance, and be subject to fines and bad publicity, a very high percentage of homes would be likely to make available their price list to consumers online.
- Rather than periodically devoting staff to onsite visits in a relatively few regions, the FTC could assign staff to more frequently or even continuously monitor compliance of all funeral homes. It could then focus individual attention on those funeral homes that appeared to be least in compliance with the Funeral Rule.

E. Online price information and its aggregation by third parties would indirectly benefit all consumers purchasing funeral services by promoting a more competitive marketplace offering lower prices.

As indicated earlier, online price posting would lower consumer search costs by making it much easier for them and for third parties to access the prices. As noted by one

²¹ Emily Albrecht, “A Detailed Analysis of How Funeral Homes Are Complying with the FTC Funeral Rule,” Funeral Service Insider (November 12, 2018).

²² Slocum, Relationship, loc. cit.

researcher: “Price search and non-price product information search increase when cross-site search and in-site search are made easy.”²³ Scholars are in general agreement that declining search costs increase price competition, lessen price dispersion, and lower prices.²⁴

- “Decreasing search costs reduce price dispersion, increase price competition, and will ultimately commoditize markets.”²⁵
- “The general consensus among academics seems to be that increased use of the Internet will lower consumers’ search costs and consequently intensify price competition.”²⁶

Even when information is available online, some consumers do not access it in their product search. Nielsen research found, for instance, that only 52 percent of shoppers checked and compared prices online when they were purchasing travel services and also electronic products.²⁷ Nevertheless, when a significant minority of purchasers is searching online for products, vendors are under pressure to price more competitively. Furthermore, over time after prices are made available online, consumer knowledge of and use of these prices increases. As one researcher observed: “Increased price competition is virtually inevitable, concomitant with growth in familiarity and experience with price comparison sites.”²⁸

We are not aware of any scholarly research that empirically assesses the impacts of funeral price posting taking into account potential quality differences. However, the findings of recent CFA-FCA research comparing the prices of California funeral homes that prominently posted prices with the prices of those homes that used the “legal loophole” to hide their prices are suggestive. For three bellwether prices – basic services fee, direct cremation with alternative container, and immediate burial without casket – those funeral homes hiding prices charged a median price that was one-third higher than the median price of homes posting prices. Furthermore, the homes posting prices were much more likely to charge low prices than those homes that hid them. For example, 57 percent of price posters, but only 18 percent of price hiders, charged a basic services fee that was less than \$1,500.²⁹

V. Consumers support mandatory online price disclosure.

²³ Bo-Chiuan Su, “Characteristics of Consumer Search On-Line: How Much Do We Search?” *International Journal of Electronic Commerce*, v. 13, n. 1 (Fall, 2008), p. 109.

²⁴ A useful summary of early research on the subject can be found in: Nanda Kumar, Karl Reiner Lang, Qian Peng, “Consumer Search Behavior in Online Shopping Environments,” *Proceedings of the 38th Hawaii Internal Conference on System Sciences* (2005), pp. 1-3.

²⁵ Passyn, loc. cit., p. 40.

²⁶ Janssen, loc. cit. p. 1.

²⁷ Nielsen, loc. cit.

²⁸ Passyn, loc. cit., p. 41.

²⁹ Slocum, *Relationship*, loc. cit., p. 4.

In 2017, CFA commissioned a survey undertaken by Opinion Research Corporation on February 16-19. The landline and cable phone survey of 1,004 representative adult Americans asked the following question about consumer support for mandatory online price posting: “For many years, funeral homes have been required by law to provide accurate information about prices both in person and over the phone. If the funeral home has a website, should it also be required to make this price information available on its website?” Nearly four out of five respondents (79%) agreed with this requirement. Fewer than one in five (18%) disagreed.

VI. Requiring online disclosure of price lists would impose minimal burdens on funeral homes.

It would be surprising to learn that any funeral home with a website in compliance with the Funeral Rule did not have a computer file with their GPL. It would be very easy for these funeral homes to place a PDF of their price list on their website. To comply with the California law requiring this disclosure, FCA-CFA research revealed that many funeral homes did exactly that. But we would add that a number of funeral homes chose to incur additional cost by making more significant changes in their websites to highlight their price lists. On the other hand, one-quarter of the funeral homes we surveyed chose to use the legal loophole to “hide” their prices. But to do so, they had to create a separate web page then be willing and able to handle individual requests for their price list. It would appear that these price hiders bore a higher compliance cost than did those which simply placed PDFs of their price list on their website.

VII. Posted prices must be clear and conspicuous.

When CFA and FCA evaluated the price disclosures of California funeral homes, we distinguished between homes posting prominently, homes posting not prominently, and homes using the legal loophole to not post at all. Our two organizations discussed and debated the criteria for a prominent disclosure and eventually decided that a link to “price list” or “General Price List” must very visible on the home page or in a dropdown on the main menu. A reference to a price list in tiny print at the bottom of the home page did not qualify as “prominent” nor did a reference that required two or more clicks. The FTC should consider requirements for language, type size, and placement in any required online disclosure.

VIII. CFA recommends that the FTC also consider other improvements to the Funeral Rule.

A. Require the cost of crematory fees to be included in the GPL.

The Funeral Rule allows funeral homes to treat crematory fees as “cash advance” items whose price is not included in the GPL. But these fees are substantial – usually at least several hundred dollars. While most funeral homes appear to disclose these fees, a minority do not. A 2016 survey by FCA and CFA of 142 representative funeral homes

nationwide found that 22 percent did not disclose these crematory fees.³⁰ The FTC should consider requiring that all funeral homes make this disclosure. As well as helping ensure that consumers have accurate pricing information, this disclosure would create a fairer “playing field” for all funeral homes. At present, those that do not disclose have an unfair advantage over those that do.

B. Clarify the embalming disclosure.

The current disclosure about embalming leads with the phrase “except in certain special cases.” However, there are no “special cases” except those imposed by individual funeral homes. No state requires that viewed bodies be embalmed. Affiliates of the Funeral Consumers Association report that some consumers who are told by a funeral home that they will not permit viewing without embalming mistakenly assume that this embalming is mandated by law. If the phrase is not dropped, it should at least be clarified by clearly indicating that the requirement is only that of the funeral home, not that of the state.

C. Standardize the format of the GPL.

Most importantly, there are some disclosures that logically and effectively precede others. For example, the right-of-selection disclosure should be placed before any goods or services are advertised. Similarly, packaged funerals should not be placed before itemized offerings. GPLs are relatively long, and there is a good chance that some customers will not scroll through the entire price list. It would be relatively easy for funeral homes to re-order their price lists.

D. Disallow non-declinable basic services fees.

The non-declinable basic services fees represent an atypical business practice that was not part of the original FTC draft of the Funeral Rule but was eventually included at the insistence of the industry. At present, nearly all funeral homes charge this fee, and in many instances the charge is exorbitant. According to 2017 data released by the National Funeral Directors Association (NFDA), the median basic services fee was \$2,100. Our recent survey of California funeral homes revealed that some homes charge a basic services fee exceeding \$4,000. This price may even exceed the cost of a casket. The NFDA’s 2017 data indicated that the median price of a casket was \$2,400. The FTC should consider prohibiting this fee.

E. Publish the names of funeral homes that fail to comply with Funeral Rule disclosure requirements.

³⁰ “New report on cremation services reports that some funeral homes violate federal consumer protection rules.” Press release from Funeral Consumers Alliance and Consumer Federation of America dated September 12, 2016.

As noted earlier, FTC's undercover inspections have identified a number of funeral homes, sometimes nearly half of those visited, that violate Funeral Rule disclosure requirements. The percentage of violators does not appear to have lessened over time. Since violators usually choose to participate in the Funeral Rule Offender Program and since they are usually visited a second time by undercover shoppers, it is likely that the violators will take steps to be in compliance. However, the low probability of being cited for a violation – given the inability of the FTC to visit more than a small fraction of all funeral homes – coupled with the small price to be paid for being cited – participation in the FROP -- appears to have persuaded a number of funeral homes to give compliance a low priority. If the FTC published the names of violators, that would significantly increase the cost of violation and likely persuade a much higher percentage of funeral homes to give compliance a much higher priority.

IX. Conclusion

The Consumer Federation of America urges the Federal Trade Commission to update the Funeral Rule to more effectively protect consumers and to promote price competition. Both of these goals would be advanced if the FTC simply, and in keeping with the intention and spirit of the original rule, required online price disclosure. To comply with this new requirement, funeral homes would bear minimal cost and inconvenience. The requirement may also benefit funeral homes that work hard to control costs and charge reasonable prices because it would be easier for consumers to identify these homes.