



January 17, 2023

Federal Trade Commission  
Ms. April Tabor  
Office of the Secretary  
400 7th St. SW, 5th Floor, Suite 5610  
Washington, DC 20024

Re: Funeral Rule ANPR, Project No. P034410

Dear Ms. Tabor,

On behalf of the Center for Data Innovation ([datainnovation.org](http://datainnovation.org)), I am pleased to submit this response to the Federal Trade Commission's (FTC) request for comments (RFC) on proposed changes to the Funeral Rule.<sup>1</sup>

The Center for Data Innovation studies the intersection of data, technology, and public policy. With staff in Washington, London, and Brussels, the Center formulates and promotes pragmatic public policies designed to maximize the benefits of data-driven innovation in the public and private sectors. It educates policymakers and the public about the opportunities and challenges associated with data, as well as technology trends such as open data, artificial intelligence, and the Internet of Things. The Center is part of the Information Technology and Innovation Foundation (ITIF), a nonprofit, nonpartisan think tank.

## SUMMARY

The FTC Act's prohibition on "unfair or deceptive acts or practices" works to protect consumers from deceptive business practices. Accordingly, the Commission has enacted rules to address specialty practices that affect commerce in an unfair or deceptive manner.

In pursuit of this goal, the Commission issued the Funeral Rule in 1984, to lower barriers to price competition in the funeral goods and services market and to facilitate informed consumer

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<sup>1</sup> Federal Trade Commission, "FTC Seeks to Improve the American Public's Access to Funeral Service Prices Online," news release, October 20, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/10/ftc-seeks-improve-american-publics-access-funeral-service-prices-online>.



choice for funeral services.<sup>2</sup> Among other requirements, the Rule specifies that funeral providers must disclose the cost of specific funeral goods and services to the purchaser.<sup>3</sup> The rule also specifies that the funeral provider must give consumers who visit the funeral home in-person an itemized price list for goods and services and provide consumers who inquire over the phone with accurate information regarding funeral home offerings or prices.<sup>4</sup>

The Commission is considering amending the Funeral Rule to require funeral providers to display or distribute their price information online and through electronic media. The Center supports this change and offers the following key takeaways:

1. **The updated Funeral Rule should require funeral providers to display pricing information for funeral services online, if a provider maintains a web presence.** The Commission should require pricing information to be clearly labeled, prominently displayed, and easily accessible from the funeral providers' websites and social media accounts.
2. **Public price lists should indicate what funeral services and products, if any, are legally required.** Disclosing what services are legally required would help consumers make informed decisions regarding funeral preparations.
3. **Providing pricing information online would allow consumers to more easily compare prices across the funeral services industry.** Making comparison shopping easier would likely lead to cost savings because pricing can vary dramatically depending on the funeral provider.
4. **Funeral services providers have not unilaterally increased price transparency, despite the shift to e-commerce over the past two decades.** Research indicates that funeral providers are unwilling to provide general price lists (GPLs) to consumers who request information without visiting a funeral provider in person.

Please find responses to the FTC's questions below.

Sincerely,

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<sup>2</sup> Federal Trade Commission, "The FTC's Funeral Rule: Helping Consumers Make Informed Decisions During Difficult Times," <https://www.ftc.gov/news-events/topics/truth-advertising/funeral-rule>.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.



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**(1) Should the Rule be changed to require (a) all funeral providers (b) funeral providers that maintain websites or (c) funeral providers who sell funeral products or services online, to prominently display their GPLs, or a clearly labeled link to their GPLs, on their websites? If so, how should such a change be implemented to maximize the benefits to consumers and minimize the costs to businesses? Should the Rule specify how the GPL or the link to the GPL should be prominently displayed on the website? Why or why not, and, if so, how?**

The Commission should modernize the Funeral Rule to require all funeral providers who maintain an online presence to publicly display pricing disclosures online, including the GPL, casket price list (CPL), and outer burial container price list (OBCPL). Without directly specifying how information should be displayed online, the Commission should require that pricing information is clearly labeled, prominently featured, and easily accessible from the funeral provider's homepage and featured alongside any information regarding funeral service offerings. The Commission should also require that pricing disclosure lists indicate what products and services, if any, are legally required. Requiring relevant pricing information to be available online will provide all consumers with equal access to the funeral services market, benefit consumers, and keep the rule relevant for modern times.

Currently, the rule requires that pricing information is provided to purchasers in person or accurately summarized over the phone. The need to contact or visit multiple funeral providers limits who can compare prices for funeral services. Individuals planning a funeral remotely, people with disabilities, and ill or elderly people often cannot visit multiple providers to access information on pricing.<sup>5</sup> Moreover, many hospitals require that a funeral provider is contacted immediately after determining the cause of death.<sup>6</sup> If a purchaser is unable to contact or visit a funeral provider before death or shortly after, they may be forced to select a provider without any pricing information.

Posting pricing information online would also improve comparison shopping and reflect modern consumer behavior. While consumers did rely on visiting and calling various providers when the Funeral Rule was enacted in 1984, consumers now overwhelmingly rely on the Internet to research prices before making a purchase.<sup>7</sup> Listing information online would allow consumers to compare prices for funeral services in the same manner as other products and help them make

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<sup>5</sup> Funeral Industry Practices Rule, 87 Fed. Reg. 66096 (proposed November 2, 2022).

<sup>6</sup> Funeral Consumers Alliance of Utah, "Comments on FTC Funeral Rule Regulatory Review," March 17, 2020.

<sup>7</sup> Nielsen, "Nielsen Global Connected Commerce Survey," December 2018.



informed decisions. The ability to compare prices is critical, as pricing for the same funeral service can vary dramatically by provider. Consumers' Checkbook found in a 2020 study that cremation services in Washington, D.C. range from \$995 to \$7,495, and traditional funeral services range from \$6,100 to nearly \$20,000.<sup>8</sup> They also determined higher pricing was not related to service quality—often, well-reviewed funeral providers charged less when compared to poorly reviewed funeral providers.<sup>9</sup>

Finally, many funeral providers have not unilaterally chosen to list their prices online. Consumers report that providers are unwilling to provide GPLs in any method except in person, and ignore requests for pricing information submitted by mail, email, fax, over the phone, or using contact forms on the providers' websites.<sup>10</sup> Research from the Consumer Federation of America and the Funeral Consumers Alliance found that only 16 percent of funeral homes currently post the GPL on their websites.<sup>11</sup> For these reasons, the Commission should move forward with the modernization of the Funeral Rule and require funeral providers to display their GPLs on their websites.

The majority of funeral providers already maintain websites so adding pricing information online should not present any undue burden. Those who do not have their own website, but maintain an active online presence, such as an active profile on a social network platform or an updated business listing on Google Search and Maps, should also be expected to provide their pricing information on these platforms.

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<sup>8</sup> Consumers' Checkbook, "Comment on FTC Funeral Rule by the Center for the Study of Services," June 11, 2020.

<sup>9</sup> Ibid.

<sup>10</sup> Funeral Industry Practices Rule, 85 Fed. Reg. 8490, (proposed February 14, 2020).

<sup>11</sup> Funeral Industry Rule Practices Rule, 87 Fed. Reg. 66096, (proposed November 2, 2022).



(5) In addition to the proposed requirements in Questions 1 & 2, should a funeral provider that maintains a presence on social media be required to post the provider's GPL and/or clearly-labeled links to the provider's CPL and OBCPL on its social media account? Why or why not? If not, should a funeral provider be required to link its social media account to its main website if it has one, or, provide an email address or other online mechanism that will allow visitors to request the provider's GPL, CPL, or OBCPL, and a statement that consumers can request the price lists, and should the funeral provider be required to respond to such requests within any particular time?

In addition to requiring pricing disclosures on websites, the Commission should require funeral providers that maintain a presence on social media to publish all pricing information online in a manner similar to funeral providers' websites. The Commission should require that pricing information is clearly labeled, prominently featured, and easily accessible from the social media account, without requiring consumers to contact the funeral provider.

However, if a funeral provider maintains a social media presence and a website, the Commission should allow a prominently displayed link to the funeral provider's main website to serve as a pricing disclosure, if pricing disclosures on the website meet the requirements outlined in the updated Funeral Rule.