



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

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T. Scott Gilligan, Esq.
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Dear Mr. Gilligan:

You have questioned whether a funeral provider violates the Funeral Rule by placing a consumer in its casket display room to wait to speak with a funeral director without first showing the consumer a casket price list (“CPL”).

As you note, Section 453.2(b)(2)(i) of the rule requires a “funeral provider” to show consumers a CPL “upon beginning discussion of, but in any event before showing caskets.” You take the position that until a funeral director arrives in the casket display room or other arrangement room that also contains a display to meet with the consumer, there can be no violation of this provision. You posit that prior to the funeral director’s appearance, the consumer cannot inquire about caskets, and there can be no discussion of caskets or their prices to trigger the obligation to show the consumer a CPL. We disagree with your interpretation because it ignores the plain and direct requirement that the CPL be shown “in any event before showing caskets.”

First, we note that the rule places the obligation to show the CPL on the “funeral provider,” not on an individual funeral director, and it is the funeral provider that is responsible for training its personnel in rule compliance. Thus, the funeral provider’s obligation to provide the CPL starts before the arrival of the funeral director in the casket display room.

Second, as is the case with the Commission’s trade regulation rules and other rules that impose disclosure requirements, the timing of the disclosure is critical.¹ In this context, the Commission deliberately sought to ensure that cost disclosure would be made “before showing the caskets.” Significantly, the required price disclosure does not apply only to those caskets the provider chooses to display. It also requires the provider to list the cost of other caskets it offers.² This enables consumers to identify the least expensive options as they consider the

¹ For example, the 1984 Used Car Rule requires dealers to display a “Buyers Guide” on each vehicle’s window stating, *inter alia*, whether it comes with or without a warranty and the duration of any warranty offered. 16 C.F.R. §455.2.

² The funeral provider “need list only those caskets that it *usually offers* for sale that do not require special ordering. ‘Special ordering’ means purchasing a casket or container that is not in stock and not part of [the

favorable qualities of displayed models.³ The absence of a funeral director from the room is not relevant to whether the consumer can review her purchase options.

Accordingly, it is staff's opinion that a funeral provider violates the rule when placing a consumer in its casket display or other arrangement room containing such items to wait for a funeral director without first showing the consumer a CPL.

Please be advised that the views expressed in this letter are those of the FTC staff. They have not been reviewed, approved, or adopted by the Commission, and they are not binding upon the Commission. However, they do reflect the opinions of those staff members charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are now routinely posted on the FTC website currently located at https://www.ftc.gov/tips-advice/business-center/legal-resources?type=advisory_opinion&field_industry_tid=315.

Respectfully yours,

/s/

Craig Tregillus
Funeral Rule Coordinator

provider's] regular offerings to [its] customers." *Complying With the Funeral Rule*, 12 (FTC April 2015), available at <https://www.ftc.gov/tips-advice/business-center/guidance/complying-funeral-rule>.

³ In rejecting a proposal that funeral providers should be required to display their least expensive caskets, the Commission stated that the rule's advance price list disclosures "would let consumers know what merchandise and services the funeral providers sell, including the three least expensive caskets." *Statement of Basis and Purpose*, 47 Fed. Reg. 42260, 42290 & n.317 (Sept. 24, 1982).