



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Marketing Practices

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Gentlemen:

You have inquired whether the Funeral Rule permits a funeral provider to charge clients a mark-up above the price stated on its General Price List (“GPL”) where there are special circumstances that impose additional costs on the provider. In particular, you ask whether funeral homes and crematories may charge extra for handling obese bodies requiring additional personnel or equipment, or for very large funeral services necessitating additional personnel. You also request advice on how any such additional charges should appear on the Statement of Funeral Goods and Services Selected (“SFGSS”).

It is staff’s view, for the reasons stated below, that the Rule allows a funeral provider to charge only the prices that are listed on its GPL or other price lists required by the Rule, and does not permit additional charges that have not been disclosed on the price lists. Funeral providers are free, however, to place reasonable limitations on the availability of any listed GPL item at a particular price, provided they also disclose sufficient information for a consumer to determine the additional cost if the stated limitation is exceeded.

It is not uncommon, for example, for a GPL to include a mileage limitation within which the provider will transfer remains to the funeral home for the flat fee stated, and to disclose an additional cost per mile for removals from beyond the mileage limit. This is expressly permitted by Section 453.2(b)(4)(ii) of the Rule which states that a GPL may include “retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation). . . .”¹

¹ 16 C.F.R. § 453.2(b)(4)(ii).

Thus, nothing in the Rule prevents a funeral provider from including in its GPL an express weight limit for its flat fee for transferring remains to the funeral home, so long as the provider also discloses the additional cost for removals that exceed the weight limitation.² Similarly, a crematory covered by the Rule may include an express weight limit for the flat fee for cremation in its GPL if it also discloses the additional cost for cremations that exceed that weight limit.

By the same token, a funeral provider may limit its stated GPL price for funeral ceremonies or memorial services to a specified maximum number of people in attendance. In that case, the GPL must also make clear the additional cost for services exceeding the specified maximum.

Where any such limitations have been disclosed in the GPL, together with the additional cost if those limitations are exceeded, preparation of the SFGSS should present no difficulties for the provider nor unwelcome surprises for the client. The basic fee for each service with an express limitation in the GPL should be listed, followed by a separate entry showing the number of units by which the limitation has been exceeded, the price of each unit as listed on the GPL, and the total cost for the number of units exceeding the basic fee.

Staff's opinion that a funeral provider may charge its clients only the prices listed on its GPL follows from the Rule's fundamental stated goals of enhancing consumer choice and price competition by requiring itemized pre-sale price disclosure for funeral goods and services.³ Section 453.2(a) of the Rule therefore expressly prohibits any failure to furnish "accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies. . . ."⁴ Allowing additional charges not disclosed on the price lists required by the Rule would jeopardize the accuracy of itemized price information and stymie pre-need and at need comparison shopping. Staff cannot condone undisclosed charges for those reasons.

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

² Since Section 453.2(b)(4)(ii) permits any "other unit of computation," the additional cost can be priced in various weight increments, such as, for example, "\$ ___ for each additional 100 lbs."

³ See, e.g., Statement of Basis and Purpose, 53 Fed. Reg.1592, 1594 (Jan. 11, 1994) (reviewing consumer choice benefits from price competition), *available at* <http://www.ftc.gov/bcp/rulemaking/funeral/funrlprac2.pdf>; Statement of Basis and Purpose, 47 Fed. Reg.42260, 42270 (Sept. 24, 1982) (citing consumer injury from lack of itemized price disclosures and forced purchases of unwanted items), *available at* <http://www.ftc.gov/bcp/rulemaking/funeral/funrlprac.pdf>.

⁴ 16 C.F.R. § 453.2(a).

Mr. Harvey I. Lapin and Mr. Justin E. Huie
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enforcement of the Funeral Rule. Staff Funeral Rule opinions are now routinely posted on the FTC website at <http://business.ftc.gov/content/funeral-rule-opinions>.

Sincerely,

/s/

Craig Tregillus
Funeral Rule Coordinator

