



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

Division of Marketing Practices

Craig Tregillus
ctregillus@ftc.gov

Direct Dial: (202) 326-2970
Facsimile: (202) 326-3395

October 1, 2007

T. Scott Gilligan, Esq.
3734 Eastern Ave.
Cincinnati, OH 45225

Dear Mr. Gilligan:

This letter is in response to your request for an informal staff advisory opinion on whether the FTC Funeral Rule permits funeral providers to display casket information, including prices, on a computer instead of a printed price list. You state that in the past few years, several of the major casket companies have developed computer programs that allow funeral providers to show consumers pictures of caskets together with price information. Your inquiry notes that the ability to show caskets on the computer greatly reduces inventory costs for funeral homes and that many consumers prefer to look at casket information on a computer.

The Casket Price List ("CPL") provision in Section 453.2(b)(2) of the Funeral Rule requires funeral providers to "give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers," and to offer consumers the CPL "upon beginning discussion of, but in any event before showing caskets."¹ The CPL must include: (i) the retail price of all caskets and alternative containers offered by the provider that do not require special ordering with enough information to identify each of them;² (ii) the effective date of the CPL;³ (iii) the name of the funeral provider's place of business;⁴ and (iv) a caption describing the CPL as a

¹ 16 C.F.R. § 453.2(b)(2)(i). The Rule does not require a funeral provider to make the CPL available if the provider includes the required casket price information in its General Price List ("GPL"). The Rule also does not require funeral providers to give consumers the CPL to keep, unlike the GPL, which they must "give" consumers "for retention." 16 C.F.R. § 453.2(b)(4)(i)(A).

² 16 C.F.R. § 453.2(b)(2)(i).

³ Id.

⁴ 16 C.F.R. § 453.2(b)(2)(ii).

“casket price list.”⁵ Section 453.2(b)(2)(i) also specifies that “[i]n lieu of a written list, *other formats*, such as notebooks, brochures, or charts may be used if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner.”⁶

The purpose of the CPL, like the other remedial price list requirements of the Rule, is to “enhance the operation of market forces and cure the market failure . . . in the funeral industry” that was demonstrated in the rulemaking record “by giving consumers access to price information at a time and in a form which will permit them to consider price when making purchase decisions.”⁷

In conformity with the language of Section 453.2(b)(2)(i), the Statement of Basis and Purpose issued when the Funeral Rule was first promulgated states that “[t]he casket price list does not have to be prepared as a printed or written list” and “may be displayed in other formats, such as a looseleaf notebook with a page for each casket.”⁸ The Compliance Guide similarly notes that the Rule does not require that caskets or containers be listed in any particular format or order, and that the Casket Price List can be in any form as long as it contains the required information displayed in a clear and conspicuous manner.⁹

Accordingly, it is the opinion of staff that presenting casket and alternative container price information along with pictures of caskets offered by the funeral provider to consumers on a computer is consistent with the Rule’s provision permitting price information to be displayed “in other formats,” so long as all of the information required by the Rule is displayed in a clear and conspicuous manner.¹⁰

⁵ Id.

⁶ 16 C.F.R. § 453.2(b)(2)(i) (emphasis added).

⁷ Statement of Basis and Purpose, 47 Fed. Reg. at 42260, 42272 (Sept. 24, 1982).

⁸ 47 Fed. Reg. at 42273.

⁹ *Complying with the Funeral Rule*, FTC (June 2004) at 15.

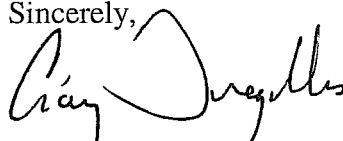
¹⁰ For a discussion of how the FTC determines whether a disclosure presented to consumers on a computer is “clear and conspicuous,” see e.g., *Dot Com Disclosures*, FTC (May 2000) available at <http://www.ftc.gov/bcp/online/pubs/buspubs/dotcom>.

T. Scott Gilligan, Esq.

Page 3 of 3

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 routinely posted on the FTC website at <http://www.ftc.gov/bcp/online/edcams/funerals/staffopinions.shtm>.

Sincerely,

A handwritten signature in black ink that reads "Craig Tregillus". The signature is written in a cursive style with a large, looping initial "C".

Craig Tregillus
Funeral Rule Coordinator