Comment Submitted in Response to Federal Trade Commission and Department of Justice's Request for Information Targeting Serial Acquisitions, Roll-Up Strategies Across U.S. Economy

Submitted to the Federal Trade Commission and the
Department of Justice Department's Antitrust Division
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The Honorable Lina M. Khan
Chair
Federal Trade Commission
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The Honorable Jonathan Kanter
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Dear Assistant Attorney General Kanter and Chair Khan,

Thank you for the opportunity to offer comments on the practices and impacts of serial acquisitions. The Institute for Local Self-Reliance is a 50-year-old research and advocacy organization. Our work examines how policy can structure the economy to foster thriving, equitable, and democratic communities.

We commend the Federal Trade Commission (FTC) and Department of Justice (DOJ) for recognizing that serial acquisitions, which often proceed without regulatory review, can lead to excessive market concentration, harming competition and negatively impacting entrepreneurs, workers, consumers, and communities. We applaud the steps the agencies have taken to better detect and address harmful deals, including the agencies' 2023 Merger Guidelines, which recognize that serial acquisitions may violate Section 7 of the Clayton Act, and the FTC's Section 5 policy statement, which notes that these acquisitions may constitute an unfair method of competition.

Serial acquisition strategies have become widespread across the economy as investors look for ways to extract returns without having to develop a product or a business from the ground up. This strategy has become particularly prevalent among private equity firms, which have a well-documented track record of liquidating the assets of firms and crippling entire industries, raising additional cause for concern and scrutiny of these acquisitions.

By zeroing in on the death care industry, which as researchers on local economies we have been observing, our comment letter highlights a troubling trend of private equity setting its sights on Main Street businesses and illustrates the harms and risks that serial acquisitions of small businesses pose. It outlines why these rollups should be a particular focus of the agencies' inquiry.

Rollup Firms are Increasingly Targeting Small Main Street Industries

Vilified as the "robber barons of the 80s," private equity has reemerged with a vengeance in pursuit of financial transactions that exist out of sight of regulatory scrutiny.[1] These firms have targeted hundreds of industries, from manufacturing to supermarkets to nursing homes and drug rehab centers to veterinary services and more. In 2000, private equity firms held about 4 percent of U.S. corporate equity. By 2021, it was almost 20 percent.[2]

Early in its trajectory, the private equity sector was lighthanded with acquiring small businesses and "founder-owned firms," because they didn't see a unique brand or product from which to profit.[3] However, they are now moving to roll up Main Street businesses with gusto. Small, founder-owned firms currently make up the highest share of private equity acquisitions in years.[4] Private equity firms are rolling up optometrists, accounting firms, daycare centers, eldercare services, car washes, and bowling alleys. Private equity is newly pursuing the trades, including plumbing/HVAC companies, roofing businesses, and lumber yards. Tim Clarke, a PitchBook's private equity analyst, told Bloomberg, "You just keep rolling, rolling, rolling and before you know it you've got 10-20% of the market."[5]

Several factors are driving this trajectory onto Main Street. Because higher interest rates have pushed corporate valuations down, there are fewer companies for sale, which is turning buyers toward smaller firms. Investors with excess capital are looking for new opportunities for returns, and are realizing that they can wring additional returns from these businesses by "professionalizing" them (for example, introducing billing systems, accounting services, human resources, etc.). However, as we discuss in more detail below, evidence suggests that these increased returns are in fact driven by cutting corners, liquidating physical capital, and raising prices. On the supply side of the equation, small business owners looking to retire or otherwise exit often have no other option for selling their business. Sometimes this is about not having family members who want to take the reins, as is the case with the funeral sector. However, it is worth noting that sometimes it stems from deficiencies in our banking system, which have made it difficult for would-be entrepreneurs to finance such an acquisition.

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[1] Brendan Ballou, "Plunder: Private Equity's Plan to Pillage America," *PublicAffairs*, 2023.
[2] Rogé Karma "The Secretive Industry Devouring the U.S. Economy," *The Atlantic*, 2023.
[3] Michael Sasso, "Why Private Equity is Chasing Plumbers and Lumber Yards," *Bloomberg*, July 12, 2023.
[4] Ibid.
[5] Ibid.

Private equity's intensified focus on Main Street is alarming given the industry's track record. The main strategies of private equity firms are to load up the companies they are buying with debt (leveraged buyouts—LBOs), cut labor and other costs, liquidate physical assets like real estate, charge the business fees for various services, and raise prices. They then offload the company after 3 to 5 years to maximize investor payout.[6]

The harms to consumers are multifold. Private equity has contributed to our housing shortage and increased health risks. It has gutted industries and killed real investment and innovation. Private equity acquisitions have led to bankruptcies, job losses, reduced competition, and diminished access to goods and services.

The Risks of Unchecked Rollups of Main Street Businesses — The Death Care Industry

The death care industry, which is currently worth approximately $23 billion, is illustrative of the harms and risks that serial acquisitions of small businesses pose.[7] We use it here as a case study to delineate some of the issues that the DOJ and FTC should study as part of their inquiry.

The death care industry encompasses funeral homes, crematoriums, cemeteries, casket manufacturers, florists, burial services, headstone manufacturers and carvers, chemical manufacturers and wholesalers, and much more.

Historically, funeral homes have been locally and independently owned, often passed down from generation to generation within a family. But recently the industry has become more concentrated, with several large private equity-backed and publicly traded players rolling up family-owned funeral homes, cemeteries, and crematoriums. The year 2022 was one of the busiest for funeral home mergers in two decades.[8] Some of these acquiring firms are also building vertically integrated corporations by buying businesses that provide flowers, grave markers, caskets, urns, and other funeral supplies and equipment.

Two major serial acquirers are publicly listed: Service Corporation International (SCI) and Carriage Services, Inc.[9] SCI, which was launched as a small network of funeral homes in Texas in 1962, is by far the largest. SCI operated 1,483 funeral homes and 489 cemeteries in 44 states, eight provinces, the District of Columbia, and Puerto Rico in 2023, generating $2.3 billion in revenue from its funeral business, with a gross profit of 21.6 percent.[10] The company estimates that it controls approximately 15 percent of the deathcare market.[11]

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[6] Eileen Applebaum and Rosemary Batt, "*Private Equity at Work: When Wall Street Manages Main Street*," Russell Sage Foundation, 2014.
[7] Markian Hawryluk and Kaiser Health News, "Death is anything but a dying business as private equity cashes in on the $23 billion funeral home industry," *Fortune*, September 22, 2022.
[8] Mark Andress, "Deathcare M&A hits two-decade high," *ION Analytics*, July 25, 2023.
[9] Madison Taylor, "Funeral industry in the US – Research and Statistics 2021," *ROK Financial*, February 19, 2024.
[10] Service Corporation International, *2024 Proxy Statement and Annual Meeting Notice*.
[11] Ibid.

Private equity firms began turning their attention to the death care industry as early as 1996. That year, Blackstone Partners, a private equity firm, and the Loewen Group, the second-largest funeral service company in North America, teamed up to buy Prime Succession, which owned 146 funeral homes and 16 cemeteries across the US.[12] StoneMor (now known as Everstory Partners) was bought and taken private in 2022 by Axar Capital Management. Axar / Everstory now owns 469 deathcare properties in the U.S. and Puerto Rico.[13] In June 2024, a partnership between Birch Hill Equity Partners Management and Homesteaders Life bought the publicly traded Park Lawn Corporation, taking it private.[14] Foundation Partners Group, backed by Access Holdings, is a major presence, as well, with more than 230 locations.

As serial acquisitions have accelerated in the funeral industry, so have complaints about skyrocketing costs, hidden fees, lack of pricing transparency, and even mistreatment of corpses. Evidence in the funeral industry highlights several consequences of allowing unchecked serial acquisitions of small businesses that deserve scrutiny by the antitrust agencies. These include reduced competition, access, and choice; failure to materialize efficiency gains; higher consumer prices, decline of good service, supply chain consolidation, and weaker local economies.

- **Higher Consumer Prices**

The Bureau of Labor Statistics reports that, between 1986 (when it began tracking funeral expenses) and 2017, funeral prices have increased almost twice as much as those of all other consumer goods.[15] These increases have been driven by the firms engaged in serial acquisitions. Based on a study of ten major metropolitan areas in 2017, the Funeral Consumers Alliance and the Consumer Federation of America found that SCI's prices are substantially higher than those of independently owned funeral homes, depending on the funeral services used. The median price of a full-service burial conducted by an independent funeral home was $5,241; that of an SCI-operated home was $7,705, 47 percent higher. SCI's median prices for a simple burial and a simple cremation were 50 percent and 72 percent higher, respectively.[16]

Similarly, when examining information compiled by Everest Funeral Package, a concierge funeral planning service, journalist Paul Barrett found that SCI's average prices were 42 percent higher than that of independently owned funeral homes for traditional funerals and 30 percent higher for a cremation with a memorial service.[17] And, despite the FTC's 1984 Funeral Rule, which mandated price transparency in the death care industry, compliance is erratic.

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[12] Dow Jones, "Loewen and Blackstone to Make Joint Purchase," *The New York Times*, June 18, 1996.
[13] Tom Anderson, "StoneMor Becomes Everstory Partners," *Funeral Director Daily*, April 13, 2023.
[14] Patricia Hartley, "Park Lawn Announces It's Going Private: Selling to Homesteaders Lie & Birch Hill Equity Partners for $26.50 Per Share," *Connecting Directors*, June 3, 2024.
[15] Bureau of Labor Statistics, U.S. Department of Labor, "The Rising Cost of Dying," *The Economics Daily*, October 31, 2017.
[16] Joshua Slocum, "Death with Dignity? A Report on SCI/Dignity Memorial High Prices and Refusal to Disclose These Prices," Funeral Consumers Alliance and Consumer Federation of America, March 2017.
[17] Paul M. Barrett, "Is Funeral Home Chain SCI's Growth Coming at the Expense of Mourners?," *Bloomberg Businessweek*, October 24, 2013.

- **Reduced Competition, Access, and Choice**

The number of funeral homes has declined for a few reasons, including a growing preference for cremation and green burials. Industry consolidation also plays a significant role. In 2004, there were 21,528 funeral homes in the U.S. By 2023, despite significant population growth, that number had dropped by 14.2 percent, to 18,872.[18] There are fewer choices and more geographic markets with no funeral home — adding to a broader problem of "deserts" that have emerged in numerous industries (e.g., grocery, banking, and hospital deserts) because of excess consolidation.

- **Claimed Efficiencies Have Not Materialized**

The firms rolling up funeral homes have made claims about creating economies of scale through consolidation. However, there is no evidence that this is the case. In fact, as we note below, these firms, whether publicly traded or private equity-backed, appear to have grown their revenue and margins primarily by increasing prices and reducing service.

Single-location funeral homes serving small markets inevitably involve some inefficiency, given that the business by nature must have staff and facilities on-call and available at all times, resulting in significant periods in which personnel and equipment are idle. But this capacity mismatch can and has been solved by combining two or three funeral homes within a region so that they can share hearses, vans, and personnel. Indeed, there are hundreds of examples of small, independently owned two- and three-home funeral businesses that have optimized their operations and cost-effectively serve their markets.

However, beyond these basic operational efficiencies, which both independent funeral homes and those owned by roll-ups can and have attained at a small scale, there's little additional efficiency that can be realized in such a service-intensive industry.

- **Loss of a Superior, Community-Oriented Service**

Evidence in many industries indicates that small independent businesses outperform their bigger competitors, providing superior services, higher-quality products, and more innovation.[19] By virtue of being locally owned, they are also able to orient their operations to meet the particular needs of the community they serve, including their cultural, social, economic, and other preferences. In contrast, national corporations take a cookie-cutter approach singularly oriented toward shareholder payouts, resulting in decisions made on Wall Street that often ignore community needs. This local orientation and differentiation is highly valuable to consumers. And yet, it's being lost in the sectors where private equity firms are rolling up local service providers.

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[18] Statista, "Number of Funeral Homes in the United States from 2004 to 2023," March 21, 2024.
[19] Stacy Mitchell, "Monopoly Power and the Decline of Small Business," Institute for Local Self-Reliance, 2016.

In the funeral sector, the impact of declining services is especially concerning. The industry's success relies heavily on the good standing of funeral directors within the community and on building and maintaining a positive reputation. Given how quickly grieving family and friends must make decisions about how to honor the memory and dispose of the body of a loved one, being able to trust the guidance of a respected member of the community is paramount.

Yet, there have been numerous reports of shocking business practices, which a locally owned business could not survive if they did. For example, in 2001, Service Corporation International was sued for overselling burial plots in one of its Florida cemeteries, tossing bodies and body parts in the woods to make room for new burials. In 2009, the company reached a $100 million settlement with the families of those whose bodies had been exhumed and discarded.[20] Several SCI employees were caught doing the same thing in an Illinois cemetery in 2009, exceeding the cemetery's capacity by more than 10,000 graves.[21] These are, unfortunately, not isolated incidences.

- **Supply Chain Consolidation**

Consolidation in the funeral home market appears to be spurring concentration among suppliers, perhaps owing to the heightened buyer power of SCI and other firms. For example, two companies — Batesville and Matthews International Corporation – now control 82 percent of all casket sales in the U.S.[22] As recently as 2012, 60 firms were serving this market.[23] In 2023, Batesville, a longstanding casket manufacturer, was bought and taken private by LongRange Capital, for $761.5 million.[24]

- **Weakened Local Economies**

Funeral homes use the services of numerous local and regional businesses, including catering, automobile sales and service, property and liability insurance, building maintenance, janitorial service, laundry service, advertising, printing, videography, and much more – so, money spent on a funeral, cremation, burial, or memorial service flows throughout the community, helping support a network of other small businesses and build local wealth.

Considerable evidence shows that small businesses are integral to the economic health of local communities. They foster more competitive labor markets by offering more employment choices and a pathway to entrepreneurship. They build a stronger tax base because they keep dollars

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[20] "Service Corporation International Sued for $200 million over Desecration of Burial Plots at Star of David Memorial Gardens," *Huffington Post*, April 6, 2012.
[21] Donovan Roudabush, "Service Corporation International: A Multi-Billion Dollar Company that Wants to Bury You," *The Wildcat Tribune*, November 4, 2016.
[22] "Coffin & Casket Manufacturing in the US Industry Trends (2017-2022)," *IBISWorld*.
[23] Casket & Funeral Supply Association of America; US Census Bureau.
[24] Chris Wack and Ted Bunker, "LongRange Capital Acquires Batesville Casket Unit of Hillenbrand," *Wall Street Journal*, December 15, 2022.

circulating locally, rather than going to remote investors. From a civic standpoint, the presence of small businesses in a community fosters political participation and community connection.

Conclusion

The pattern of rollups is now spreading rapidly, engulfing small businesses in the funeral industry, as well as many others. In light of the impacts detailed above, there is a crucial need for the antitrust agencies to scrutinize serial acquisitions, particularly the role of private equity firms, for their impact on competition and the health of our markets.

Thank you for the opportunity to respond to this information request.

Sincerely,

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