



SEAL-A-FRIDGE

13 14 79

Manufacturers & Suppliers of Refrigeration Seals

A.B.N. 49 403 753 147

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Nadia Cooke
Adjudication Branch
ACCC

July 6, 2007

Dear Nadia,

Further to our meeting with you regarding Exclusive dealing notification N50196 we are supplying the following information as requested.

We strongly oppose the exclusive dealing notification N50196 lodged by Seal-A-Fridge Pty. Ltd. and believe it will substantially lessen the competition in the market and have a detrimental effect on our business.

1. Our franchise is one of three Melbourne metropolitan franchises and one of 6 Victorian franchises. Known as Seal-A-Fridge South East Melbourne we service suburbs from Elsternwick down to Mt. Eliza along the bay, across to Frankston, Cranbourne, Berwick, Harkaway, Belgrave, Femtree Gully, Scoresby, Rowville, Mulgrave, Glen Waverley, Mt. Waverley, Glen Iris, Murumbeena, Caulfield and all suburbs within this boundary. Our area borders with North East Melbourne, West Melbourne and South East Victorian (which comprises Mornington Peninsula and Gippsland) Franchises. As per our franchise agreement we are confined to work within our area.

2. Major competitors in our area:

Fridge Seal
Seals-R-U's
Austwide
The Fridge Guy
Seal-All-Fridges
Westinghouse
Electrolux Fisher & Paykel
and various refrigeration mechanics.

3. These are just the ones that advertise and work in our geographic area. Our competitors are independent business therefore are not restricted to work within certain areas therefore the above mentioned businesses may go further into other areas and of course there may be other competitors who vie for our business who come from areas out of the geographic area we service.

4. Our service is unique because we are equipped to manufacture seals for replacement on site. There are several advantages for the customers because of this set up. From the point of first contact, we are able to fit their new

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seal/s within 1 to 3 days. This time frame could extend up to 5 – 7 days in Summer, during our busiest period. Our customers are quoted the price at the time of booking the job, they are given an appointment with a 2 hour time frame and the seal or seals are fitted on site with a minimum disruption to the running of the refrigerator and/or freezer. As far as we can determine, the majority of our competitors need to order ready made seals, ie from Austwide, therefore they are not able to provide a service as efficient as ours.

We pride ourselves with the efficient service we provide. We are able to provide this service due greatly to the availability and reliability of our material supplies. In respect to the price, we remain competitive within the market. There are some in the market who are dearer and there are some who undercut our prices. We have not raised our prices for a number of years despite the rising costs that we have absorbed over the years – the GST, rising advertising costs, rising petrol costs and in general all the costs of running a business. We really will not be able to keep our prices down if our running costs keep going up.

5. It is difficult to say without doing a study or survey. We believe we hold approximately 40% of the seal replacement business in our area.

6. Again it is difficult so say what proportion of seals our major competitors replace in our area. As far as we are aware, all our competitors are independent businesses, therefore are not restricted by working within boundaries and it is difficult to estimate what percentage of their work is done in our area.

Customers

Our customer base consists of:

Households

Restaurants – La Porchetta, Pizza Hut, Hungry Jacks, McDonalds and many independent restaurants

Cafes

Bakeries

Schools

Take-away shops

Supermarkets

Butchers

Sporting Clubs

Milk bars

8. The majority of our business comes from servicing domestic clients. We approximate that 90% of our business is domestic and 10% commercial. We believe that due to the competition from refrigeration mechanics and maintenance groups that cater for large commercial properties, our main source of business are the domestic clients. With commercial work there is more repeat work because commercial seals need to be replaced more often due to more wear and tear with constant use. With domestic clients, we may get repeat work if they have another fridge or freezer that needs seal replacement. Occasionally we will get repeat clients if the seal replaced has been damaged. The damage to a seal is usually caused by spills of some sort. If spills are not cleaned up thoroughly, sticky residue left behind will eventually cause damage to the seal because it sticks to the fridge as the door is being opened causing the seal to stretch or come away.

Stock

9. We carry approximately 25 different profiles and some in different colours as well. The most commonly used profile is the D4M which we use on approximately 60% of our jobs. Fisher & Paykel – 5%, Sharp – 3% D144 – 6%. Various other profiles make up the rest of the percentage.

10. Less than 1% of customers require us to order in a ready made seal.

11. We order our stock as we require it. We don't like to have excess stock just sitting there. Our supplier, Austwide is a 40 minute drive away and within our working area so it is very convenient for us to work a pick-up time into our

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work schedule. We can ring up with an order in the morning and our order will be ready for pick-up by lunch. If the whole order cannot be filled for some reason, Peter is able to go in and pick up at least part of the order to keep him going until the rest of the order is ready.

12. Approximately 1% would be specialized product orders.

Seal-A-Fridge products.

13. When Seal-A-Fridge Pty Ltd first offered to supply materials, we did order 2 boxes from them. It wasn't beneficial for us to purchase our supplies from Seal-A-Fridge because the cost of freight made the seals more expensive for us to manufacture. For the same reason we do not order our supplies from RBM in NSW. We made the decision that we would continue to purchase our supplies from Austwide because it was more beneficial for us financially and we are very satisfied with the quality of the products.

14. When using the products from Seal-A-Fridge Pty. Ltd. Peter found that the welded corners were not very strong. On appearance the quality seems the same but the welded corners were definitely not as strong. Also where two different profiles needed to be used (hinged side requires a different profile) the colour and finish were different. Overall the quality of supplies from Austwide were better to use and were of consistent quality.

15. When we order products from Austwide we are able to pick them up on the same day or the next. Austwide stock most of the profiles we need therefore we consider them to be "on hand" at all times. When we ordered supplies from Seal-A-Fridge Pty Ltd, it took a week for the order to arrive. The crate used was of very poor quality.

Impact of purchasing products from Seal-A-Fridge Pty.Ltd.

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a) The cost of acquiring our supplies from Seal-A-Fridge P/L would increase initially because of the freight charges we would have to pay. We also believe that the actual price of stock will increase because we do not believe SAF will continue to give us cheaper prices for stock ordered through them once they are able to enforce exclusive dealing onto us. We would have to purchase and store extra stock because supply cannot be guaranteed and we would have to factor in delivery time and delays in receiving special orders.

b) This increase in our costs would have to be passed on to our customers.

c) As a result of our price increases, competitors would also raise their prices at this opportunity

d) We have worked hard over the past eight and a half years to streamline our business so we can provide an efficient and cost effective service to our customers. We are unique in the way we are set up to provide a seal replacement service in the shortest time possible. Ordering and purchasing stock from SAF will not only cut into our costs but will also affect our response time to our customers. Seal-A-Fridge do not and will not provide all the profiles we use. If we are to wait for written permission from our Franchisor, as will be the requirement, to be able to purchase stock from other suppliers, the time delay would most certainly lose us our customers. This will prove very detrimental to our business, especially in the very competitive commercial area. Also, if Austwide is to lose Seal-A-Fridge franchises as its clients, it will no longer stock all the seal profiles that it currently does. If we were to order from Austwide after obtaining permission from our Franchisor, we would end up paying a higher price for the extrusion because by then it will be a specialized order for Austwide which it won't hold as normal stock anymore. Again there will be an extra time delay by the time Austwide will be able to produce it.

e) The services our competitors are likely to provide will depend on what opportunity they can see in our demise. Obviously, if the materials are available to them, they will then be able to provide a quicker service. Also, as usual, they will undercut our prices, but at the same time their prices will increase from the current ones if they are to follow our lead in raising prices.

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17. With a price increase it is obvious that most customers will look for cheaper prices. If we are not able to provide an efficient service with a quick turnaround time, customers will find someone else to replace their seals. As it is there is a percentage of people who are really struggling to make ends meet with the price of everything going up and up. These people who cannot afford the cost of living increasing anymore will be the biggest losers. They will try to cut corners by buying seals and trying to fit them themselves (90% of the time they make a mess of it and ends up costing them more for someone to come out and fit it for them) or they will just put up with the problem seals that they have.

18. They will go to someone who will provide them with a cheaper price. Any of the competitors we listed will be more than willing to pick up any work that we lose as a result of higher prices and/or inefficient service.

Having to purchase from Seal-A-Fridge will increase our cost for purchasing stock. We have not increased our prices for many years. We even absorbed the GST when it was introduced. The cost of advertising has tripled since we first started. Of course the cost of petrol and other running costs have all increased. We will be forced to increase our prices if the costs of running our business goes up.

We have competitors so we cannot dictate the price of seal replacement. We have to stay competitive. If our running cost increase and we do not pass these increases on to customers, we strongly believe we will go under.

**EXCLUDED FROM
PUBLIC REGISTER**

If you require any further information from us, please let us know.

Yours sincerely,

Peter and Irene Malishev
Seal-A-Fridge
South East Melbourne.

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