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# AUSTWIDE PLASTICS PTY. LTD.

47 CAPELLA CRES.MOORABBIN 3189

PH: 03 9553-2871/9553-0533 FAX: 9555-0740

Website: [www.austplas.com.au](http://www.austplas.com.au)

Email: [mary@austplas.com.au](mailto:mary@austplas.com.au)

24th. January 2007

The General Manager  
 Adjudication Branch  
 Australian Competition & Consumer Commission  
 PO Box 1199  
 Dickson ACT 2602

Email [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au) or Fax 02 6243 1211

Dear Sir/Madam,

**EXCLUSIVE DEALING NOTIFICATIONS LODGED BY SEAL-A-FRIDGE PTY LTD  
 AND OTHERS - INTERESTED PARTY CONSULTATION  
 ACCC REF C2006/1981**

My name is Mary Siah and I am the General Manager/Director of Austwide Plastics Pty Ltd located at 47 Capella Crescent, Moorabbin Vic 3189.

We started manufacturing fridge seals in the 1980s. Our Moorabbin manufacturing plant extrudes PVC extrusions, which include refrigerator door gaskets. Our manufacturing experience and technology trace back to our Malaysian connections, which is one of the biggest suppliers of similar products to the white goods market in S.E. Asia. In our local operation, we also manufacture and supply welding machines to our customers.

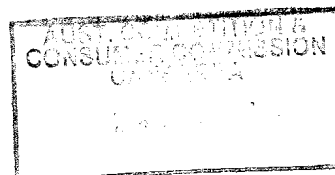
We supply our fridge gaskets to not only hundreds of after service agencies and fridge mechanics, we supply all major commercial and industrial refrigeration cabinet and fridge door manufacturers throughout all the states. We supply to manufacturers such as Tom Stoddart in Queensland, William Refrigeration in Melbourne, which are some of the major OEM manufacturers in Australia.

We have supplied seals to domestic fridge users and commercial-industrial fridge manufacturers all over Australia for over 20 years. We use PVC compounds from the accredited compound manufacturers with quality systems conforming to accepted industrial standards. (Read certification letter from our supplier Polvin Compound Pty Ltd).

In all these years of professional commitment to our after service and manufacturing customers, we have never had any major complaints regarding our materials, namely the gaskets and the PVC compound used to extrude them.

It may help the ACCC decide whether Nigel Rooney will carry out any undertakings he may have given by knowing something of his background.

Before starting the Seal-A-Fridge franchise he sold two mobile fridge seal service businesses one in Cairns, one in Perth. When he subsequently started the Seal-A-Fridge franchise, for large fees he granted (exclusive) licences to a new franchisee in Cairns (Ross and Lynette Rolley) and two new franchisees in Perth without any mention of his previous then still existing competing arrangements in those cities. Under the Franchising Code of Conduct the history of any proposed



franchise territory should be disclosed (Schedule, para 11).

**EXCLUDED FROM  
PUBLIC REGISTER**

You may also seek further details or clarification from the Seal-A-Fridge franchisees in Cairns and Perth.

It now appears that Nigel Rooney has some connection with Patrick Products and the new operator King Seals who are advertising and/or operating in Queensland, Melbourne and Perth. Details and evidence has been supplied to Ian Brady at ACCC Brisbane. Nigel Rooney appears to be repeating his pattern of undisclosed and unfair competition.

When the Seal-A-Fridge franchising group was created by Nigel Rooney, we became one of the three suppliers. It was not an issue then for Seal-A-Fridge franchisees to source their materials from elsewhere because Nigel Rooney was not and did not purport to be a material supplier at all.

In fact we helped Nigel Rooney set up his Seal-A-Fridge franchise business by providing him with technical support and equipment.

When Nigel Rooney started his Seal-A-Fridge franchise business 12 years ago, he approached us to provide him with welding technologies and know-how. He subsequently acquired his first portable van based triangular shape fridge seal welding machine from us at Austwide Plastics on the commitment and understanding that he would buy all welding machines from us for his franchise business. But he copied the machine and manufactured them for his franchisees.

Until today many of the Seal-A-Fridge franchisees not only obtain gasket materials from us, they also come to us for technical support for their welding problems. We have even provided them with new sets of welding jigs for profiles they cannot weld with their existing equipment.

Seal-A-Fridge and Patricks only provide limited service to the overall market because their product range covers only about ten most common profiles for fridges. In this case they cannot fulfil needs for other less common profiles which of course are less profitable.

Austwide Plastics have available for the market a range of 50 profiles that provide for a wide variety of different makes of fridges. We provide services in the merit of services not just profitability.

Furthermore Seal-A-Fridge do not provide made up seals of obscure profiles for which Austwide is renowned. We also provide short run next day service which Seal-A-Fridge do not provide.

Seal-A-Fridge Pty Ltd rely on Patricks Products who import their products with the attendant problems of availability and reliability. As local manufacturers to local standards we can and do respond quickly to any requests from customers for product or advice.

We do not fear additional competition but we believe the Seal-A-Fridge franchisees will be greatly disadvantaged and so will their ultimate customers if Nigel Rooney / Seal-A-Fridge Pty Ltd has the right of exclusive supply.

Nigel Rooney states that he will negotiate favourable terms with us at Austwide for supply. This is highly unlikely given his previous record of unreliability and that he has not spoken to us for 12 years and has untruthfully informed his franchisees that our product "does not come up to standard".

Many of the franchisees are happy with our products, prices, service, delivery and technical support and we are happy to maintain this as they wish. If they are unhappy at any time they can always go elsewhere under the present arrangements and we realise that. If Nigel Rooney retains control over supply this is in jeopardy.

If Nigel Rooney has the power to be the sole supplier and/or determine who is allowed to supply to his franchisees this would significantly lessen competition for the franchisees' supplies without any public benefit, in fact to the detriment of the public. Franchisees would be totally dependent on Nigel Rooney for the delivery and availability of supplies, the reliability and quality of supplies and the price of those supplies rather than buy where they find the best price/service at present, negotiating with and changing suppliers to their own advantage - a free competition market has existed in fact.

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If Nigel Rooney were permitted to be the sole supplier and/or determine who was allowed to supply to his franchisees he would have the unprecedented power to cut off or threaten to cut off supplies to individual franchisees just as now he cuts off the central telephone enquiry number or threatens to do so.

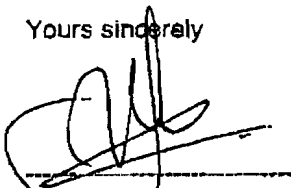
This could constitute unconscionable conduct under Section 51AC Trade Practices Act. Nigel Rooney would also have the power to raise prices to franchisees in future without the threat of competition. He has been assuring franchisees that the ACCC would stop him doing this but presumably this would only happen if the ACCC put a formal monitoring process in place.

In conclusion, competition would be considerably lessened and possibly eliminated entirely for the franchisees' supplies of essential materials to their detriment and the detriment of the public (for instance if he raised prices, had availability/quality problems or deliberately cut off supplies).

I very much hope for the franchisees' sakes you are able to revoke these notifications for third line forcing and exclusive dealing other than third line forcing.

Please contact me if you require any further information.

Yours sincerely



Mary Siah

General Manager  
Austwide Plastics P/L