

Whistleblower ended fuel price scam

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FOR Trevor Oliver, enough was enough.

A call from his petrol distributor telling him to jack up fuel prices 10c a litre – or else – was the final straw.

Just before Easter 1999, Mr Oliver picked up the phone and blew the whistle on a price-fixing scam that had been robbing Ballarat motorists for years – a scam that this week cost its participants a staggering \$23.3 million in fines.

Mr Oliver owns a two-bowser service station on the Western Highway halfway between Beaufort and Ararat.

"I used to get phone calls all the time telling me ... what price to sell the fuel for," he said today.

"They rang up and said I had to put it up at 10 o'clock that morning by 10c a litre and I refused to do it.

"Then they said they were going to cut my supply off.

During 1999 and 2000, 37 of Ballarat's 40 petrol stations colluded to raise prices by between 4c and 12c a litre whenever the deep discounting became too much for one or other to bear.

The price fix involved the companies running BP, Shell, Ampol/Caltex, Swift, Apco and Mobil outlets in the greater Ballarat area.

The fallout from Mr Oliver's phone call reached a conclusion in the Federal Court in Melbourne yesterday afternoon, when judges Ron Merkel and Alan Goldberg meted out justice to the corporate crooks behind the scam.

Justice Goldberg described the conduct as "regular, repetitive, covert and clandestine and ... engaged in without regard to its unlawfulness".

The scam was simple and blatant.

When a senior manager at one of the companies wanted to jack up prices he would ring their counterparts and arrange the size and timing of the increase.

Sometimes, the communications took the form of coded expressions like "the market has changed" or "go for a drive".

The managers would then contact their petrol stations and prices would go up.

Those who did not enforce a price rise quickly enough would get a follow-up call asking why not.

The court found that price fixing arrangements in the Ballarat market dated back to the early 1990s.

The scam had its genesis in price fixing calls between a couple of old school friends who were rival wholesale petrol distributors in the town.

As it gathered momentum it drew in more participants.

The scam evolved in phone calls and secret meetings at private homes and in offices, at a cafe and in the front seat of a car in the regional Victorian city.

The Australian Competition and Consumer Commission (ACCC) brought action against 16 companies and individuals. Nine admitted their involvement and were rewarded with some leniency.

Nobody knows how much the crooks made from the conduct – but what it's going to cost them is very public knowledge.

Mobil service station operator Cavallo Volante Pty Ltd, (formerly Balgee Oil Pty Ltd), Shell service station operator Brumar Pty Ltd, Swift and Apco service station operator Justco Pty Ltd, Apco service station operator Apco Service Stations Pty Ltd, Ampol and Caltex service station operator J Chisholm Pty Ltd, BP service station operators Leahy Retail Pty Ltd and Leahy Petroleum Pty Ltd and Shell service station operator Triton 2001 Pty Ltd were fined a total of \$22.5 million.

Apco Service Stations director and general manager Peter Joseph Anderson, Justco director and sole shareholder Justin Matthew Bentley, Triton Ballarat area manager Anthony Brian Rosenow, Brumar retail area manager Garry Victor Dalton, Lahey petroleum and Lahey Retail general manager Robin Herbert Palmer, Balgee general manager John Robert Gourley, Balgee Sales Operations Manager Peter Robert Muller and Balgee sales representative Robert Andrew Levick were fined a total of \$805,000.

The maximum penalties under the Trade Practices Act is \$10 million for companies and \$500,000 for individuals, but no jail time.

At least one of the companies, Apco, plans an appeal.

ACCC chair Graeme Samuel said the case was a warning to cartels and price fixers that the penalties were harsh.

"All that we can do is use every tool at our disposal and currently the primary tool is our leniency policy, which says to those involved in cartels ... if you're the first to come in the door and tell the ACCC about your cartel – provided you're not the ringleader – then we will give you immunity from prosecution," he said.

The ACCC has gone after fuel price cartels before, but has found the pickings slim, a surprise for the many motorists befuddled by petrol price movements.

The man whose phone call dragged the conspirators before the courts is happy to be vindicated.

"I think the federal court is sending out a message to quite a few of the people and the oil industry that we're not going to wear this," Trevor Oliver said."

"I am pretty relieved really. It's been a long road and I'm finally glad it's all over."

Link: <http://www.news.com.au/story/0,10117,12584000-29277,00.html>