

The ACCC targets price fixing in Victoria

After a two-year investigation, prompted by a phone call from a whistleblower, the ACCC instituted court proceedings against seven companies and seven individuals in the Ballarat region alleging that they fixed retail petrol prices in breach of the *Trade Practices Act 1974*.

Just before Easter 2000, Mr Trevor Oliver, a Buangor service station owner, alleged that he had been telephoned by his supplier, Leahy Petroleum Pty Ltd, about a rise in retail petrol prices of about 10 cents at 10 am that day. Several weeks later, Leahy Petroleum ceased supplying Mr Oliver's business.

The ACCC then began its investigations. After two years of gathering information, it has instituted proceedings against the following companies and individuals:

- Leahy Petroleum Pty Ltd, Leahy Petroleum-Retail Pty Ltd and Mr Robin Palmer
- Triton 2001 Pty Ltd and Mr Anthony Rosenow
- Brumar (Vic) Pty Ltd and Mr Garry Dalton
- Justco Pty Ltd and Mr Justin Bentley
- Apco Service Stations Pty Ltd and Mr Peter Anderson
- J Chisholm Pty Ltd
- Mr John Gourley and Mr Robert Levick of Balgee Oil (Externally Administered) Pty Ltd.

The ACCC alleges the respondents were involved in distributing or retailing petrol in the Ballarat area under the Swift, Apco, Mobil, BP, Shell and Ampol/Caltex brands and that they were part of a long-standing price-fixing arrangement between distributors and retailers of petrol.

According to the ACCC, the companies arranged to raise prices by telephoning one another and communicating the size and approximate time of the price rise. It is alleged they then contacted retail sites to implement the rise. It is also alleged that when one became aware that a service station had not raised its price, further calls were made to try to have the site raise its prices.

Although the ACCC alleges the arrangement pre-dated June 1999 it is only seeking penalties for 69 occasions from June 1999 until December 2000 (when the arrangements came into effect) because the time period exceeds the 3-year statute of limitations for a civil case.

The ACCC also alleges that the arrangement involved several meetings between competitors, including one in the private home of an employee of Mobil Oil Australia.

The ACCC has also instituted legal proceedings against Leahy Petroleum and its general manager, Mr Robin Palmer, in relation to the termination of supply to Mr Oliver. The ACCC alleges that they made telephone calls to Mr Oliver about prices and withheld supply contravening the resale price maintenance provisions of the Act.

In both cases the ACCC is seeking penalties, injunctions, declarations, findings of fact, the implementation of a trade practices compliance program and costs.

A directions hearing was held on 14 June and the next is scheduled for 13 September 2002.

