The Coles and Woolies petrol discount saga – are they in trouble or not?

This is getting confusing, so let’s clear it up.

• Woolies and Coles have for ages offered their customers 4c a litre petrol discounts at Caltex and Shell respectively.

• Then they started upping the discount to 8c or more if you also bought stuff at the petrol station.

• The ACCC got worried about this, and coerced undertakings out of Woolies and Coles that they’d limit the discounts to 4c. Everyone went back to sleep. But…

• The bigger discounts continued, up to 14c at Shell stations. To the punters, it looked like the undertakings were being ignored.

• As the Federal Court found when the ACCC complained, in Woolies’ case that was true. By continuing to offer an extra 4c discount to its own shoppers who also made additional purchases at Caltex, Woolies was in blatant breach of its undertaking. But as for Coles…

• Coles was not so stupid. Or more sneaky. Shell was offering an extra 10c discount to anyone who spent $20 or more at the Coles Express outlet in the Shell servo. As this was on offer to anyone, not just the Coles shoppers brandishing their 4c discount card, it was technically within the terms of Coles’ undertaking.

• In the meantime, after getting busted but before the Court smacked it, Woolies had seen the light and modified its offer to look very much like Coles’.

The Federal Court says yep, that’s all A-OK. Woolies and Coles both have the green tick of approval to go on discounting, provided the extra discount above the first 4c is available to anyone, not just their own shoppers.

Does this strike you as something only lawyers could dream up and then approve with a self-satisfied and somewhat cynical smirk? If so, you’d be right.

Because, in reality, for all the ACCC-investigating, undertaking-giving and Federal Court-prosecuting, in real practical terms nothing has changed at all. Woolies and Coles are still leveraging their market position to savagely undercut the petrol prices charged by anyone other than their captive fuel retailers.

Not that what they’re doing is illegal, by the way, and we don’t expect the next wave of changes to the Competition and Consumer Act will change that. It’s just interesting to watch oligopolists in action and the inability of regulators to rein them in.

Questions? Give us a call.