

MARKETPLACE

Advertising: Sharper Image looks to infomercials to tout its gadgets

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Who's News: Robert Haft and Phar-Mor to attempt a comeback

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High-Court Business: From Car Paint to Cable

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL
Can a state ban local laws protecting homosexuals? That is one of the questions the U.S. Supreme Court faces when it begins its 1995-96 term next month.

The justices will scrutinize an antigay amendment to the Colorado state constitution, marking the first time in a decade that the high court will consider gay rights. The case has been typically portrayed as an abstract clash of principles: the majority's prerogative to define social standards vs. a disfavored minority's claim to equal treatment. It is that. But it also touches on relations in the workplace, the housing market and other parts of the economy and thus belongs on the Supreme Court's dollars-and-cents docket—the business cases that in the coming term will include disputes over whether there are constitutional limits on punitive damages in civil suits and whether states can ban retail price advertising for liquor.

Following is a look at some of the business-related issues facing the court.

Punitive Damages

The debate about punitive jury awards designed to punish corporate or professional misbehavior also arrives at the Supreme Court next month. The justices will hear an appeal by Bayerische Motoren Werke AG of a \$2 million punitive award won by a Birmingham, Ala., doctor who sued the German auto maker when he

LEGAL BEAT

The Dollars-and-Cents Docket

- **Gay Rights** Does Colorado's ban on laws protecting homosexuals violate the U.S. Constitution? (*Romer vs. Evans*)
- **Punitive Damages** Is a \$2 million punitive award for \$4,000 in auto-paint damage unconstitutionally excessive? (*BMW vs. Gore*)
- **First Amendment & Cable TV** Can local phone companies be barred from offering video to their customers? (*U.S. vs. C&P Telephone Co.*)
- **First Amendment & Advertising** Can states ban liquor price ads to cut alcohol consumption? (*44 Liquormart Inc. vs. Rhode Island*)
- **Unions** Do union operatives applying for or holding jobs with a company in order to organize workers get the protection of federal labor laws? (*National Labor Relations Board vs. Town & Country Electric Inc.*)
- **Health Benefits** May retirees sue their former employer for using a corporate restructuring to deny them health benefits? (*Vanity Corp. vs. Howe*)
- **Government Contractors** Can makers of Agent Orange force the U.S. to reimburse them for settlement of injury claims related to the Vietnam War defoliant? (*Hercules Inc. vs. U.S.*)

found that the paint on his new \$40,000 sedan had been damaged and retouched on the way from factory to showroom. The doctor, Ira Gore, won \$4,000 in compensatory damages for the actual diminution of his car's value.

The BMW case has stirred fervent emotions among business advocates, who have been pleading with the justices for years to rein in multimillion-dollar verdicts. Consumer activists counter that big

punitive-damage awards are needed to deter harmful practices. Last year, the high court for the first time reversed a punitive award but did so on narrow procedural grounds.

BMW thinks it has a new pitch that will catch the justices' attention. The Alabama jury apparently based its punitive-damages calculation on the notion of punishing BMW for all of the cars nationwide that it repainted and then sold as

new. BMW contends that a state-court jury should only be able to punish a defendant based on the case before it or, at most, on the defendant's behavior within the state.

BMW is also arguing that it violates a defendant's constitutional right to "due process" to penalize it in one suit for alleged wrongdoing that theoretically could be punished in subsequent suits. This is a defense that companies have tried—unsuccessfully—in massive litigation over such widely used and potentially dangerous products as asbestos-filled insulation.

Phones & Cable TV

The justices may play a role in shaping the telecommunications and entertainment markets in an appeal by the Justice Department. The department seeks reinstatement of a law banning local phone companies from offering video programming to customers in their service areas. A federal appeals court in Richmond, Va., last year struck down the ban on First Amendment free-speech grounds in a case involving Bell Atlantic Corp. Other lower federal courts have issued similar rulings.

The Justice Department asks the Supreme Court to revive the 1984 law, which was supposed to prevent the seven regional Baby Bells from dominating cable markets. The department contends that lower courts have exaggerated the degree of

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TELECOMMUNICATIONS

Lowly Beeper May Finally Get Respect As Two-Way Paging Services Emerge

By GAUTAM NAIK

Staff Reporter of THE WALL STREET JOURNAL

Gary Garrison was driving home from his Houston office recently when his pager went off. A message glowed on the tiny screen: "Are you coming home? Love, Darcel." Mr. Garrison punched a couple of buttons on the paging unit. Seconds later, a similar device in his wife's purse beeped and flashed an answer: "Stuck in traffic. Will arrive in 30 minutes."

Mr. Garrison and his wife are trial customers of a long-awaited wireless technology that could transform the archaic and somewhat scorned "beeper" into a sophisticated data messenger. Not only will users receive phone numbers and simple text messages, but for the first time they will be able to reply.

The service is called two-way paging. Companies plan to offer a host of services, from palmtop devices that retrieve electronic mail to tiny, wireless "answering" machines that can be hung on a user's belt.

Today, Mobile Telecommunication Technologies Corp., of Mtel, of Jackson, Miss., which recruited Mr. Garrison for its trial, expects to begin offering the first such service.

Competition will be fierce. About 16 other carriers expect to offer similar services in coming months. While that is good news for consumers, service providers could face a huge price war, and the weaker ones among them could be razed.

In an industry shakeout.

Paging has struggled in low-tech obscurity for almost half a century while its potential was ignored by investors and technology concerns. But a wave of consolidations in the past year has created a handful of giant players eager to exploit what they envision as an almost limitless mass consumer market for the devices.

Last week, in the largest paging deal ever, MobileMedia Corp. agreed to buy BellSouth Corp.'s paging business for almost \$1 billion—a lofty price, considering revenues for the entire industry were \$2.2 billion in 1994. Emboldened by their newfound nationwide reach and two-way technology, companies such as Mtel and MobileMedia hope to woo white-collar workers and residential users.

"Paging was the ultimate schlock in the '80s," says P. William Bane, a vice president of Mercer Management Consulting Inc. "The service was poor, and large numbers of users were bookers and drug addicts. That's about to change radically."

Not too fast, though. The new devices are still somewhat cumbersome, and some users may find their messaging ability too restrictive. One trial customer of the new Mtel service complains that the device is "50% fatter" than the beeper he had been using, making it uncomfortable to carry around. Moreover, communication is limited: There isn't a keyboard to type in a

given a menu of canned responses stored in the pager, such as "stuck in traffic," which Mr. Garrison transmitted to his wife's pager.

The new two-way system is still being perfected and could run into transmission glitches. Paging companies must also erect entirely separate multimillion-dollar transmission systems to run the new services. And even if the systems work, the paging networks will be challenged by wireless phone companies that will offer their own brand of "short messaging."

More likely, though, two-way technology will find a niche. And consumers can expect a blitz from numerous high-tech giants. Hewlett-Packard Co. and Apple Computer Inc. have struck alliances with paging companies to make their computers work with the new two-way paging networks.

Mtel plans to offer software that lets users of almost any desktop or Hewlett-Packard palmtop computer send paging messages. Another new product, Motorola Inc.'s Message Duet, lets an Mtel user send short messages over the airwaves from a "kitchen top" or desktop device, bypassing more expensive local and long-distance phone services. In each case, the recipient can reply instantly.

Pagers take advantage of a remarkably simple—and reliable—radio technology. In the original system, when a caller paged someone, a central computer broadcast the

WORKPLACE

More Diversity In Agriculture: A Hard Row

By RICHARD THOMPSON

Staff Reporter of THE WALL STREET JOURNAL

Big agricultural companies are trying to sow the seeds of diversity.

DuPont Co. and Cargill Inc. are among the corporations increasing their recruiting presence on college campuses and encouraging universities to introduce more minority students to modern agricultural life, including agribusiness.

But it's a hard sell. Many students from urban areas, including minority students, think of jobs in agriculture as harvesting crops and milking cows. "They think they're going to be working in the fields," says Jesse Thompson, an assistant dean at the College of Agriculture of the University of Illinois at Urbana-Champaign. (In fact, at Ohio State University, site of that state's largest agriculture school, fewer than 10% of the agricultural graduates become farmers; most go into agribusiness.)

For students being recruited for other fields, salaries in agriculture aren't very enticing: Agri-engineers make about \$41,000 a year on average, compared with \$46,000 for civil engineers and \$56,000 for chemical engineers, according to the 1990 Census.

But for many minority students there's an additional hurdle: agriculture's link to the hard labor endured by their ancestors.

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More Disasters In Agriculture A Hard

By RICHARD

Staff Reporter of THE

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New Paging Network Emerges

Continued From Page B1

signal using hundreds of antennas in the service's region. The proper pager then picked up the signal.

Two-way pagers work similarly, but use twice the radio spectrum. And the transmission method has been perfected. Mtel's new system targets specific antennas, freeing up the others to handle many more paging messages.

This new capacity will allow **Paging Network Inc.**, the largest paging company, with nearly six million subscribers, to offer a very unbeeper-like service. Its VoiceNow product essentially transforms a pager into a wireless "pocket answering machine." Users can actually listen to voice messages left for them by holding a pager close to the ear. The service will be available early next year in San Francisco, Dallas, Fort Worth and New York for \$19.95 a month.

H-P offers a service called StarLink, providing news, weather and sports updates that can be downloaded to H-P Palmtop and laptop computers via Page-it's network. On-the-road users of Apple's PowerBook and Newton MessagePad products can similarly pull up e-mail and calendar updates from anywhere.

AirTouch Communications' paging

business, the third largest, is collaborating with **Casio Computer Co.** and **Sharp Corp.** to develop a pocket organizer that lets a user wirelessly retrieve or send updated information to a distant computer. The product, which could be available late next year, will initially retail for more than \$200.

Such services work. When Robert Kricheff's secretary needs to send him confidential information, she pages him directly through the digital services of MobileMedia instead of using an operator to type in the message and relay it. The message is typed on the company's e-mail system and routed directly through the MobileMedia paging network to Mr. Kricheff's pager.

"As people become more mobile and increasingly use laptops and organizers, there will be an increase in demand to send data wirelessly. There will be more white-collar users," says Mr. Kricheff, an analyst at CS First Boston Corp.

In fact, the number of paging subscribers is growing 20% annually, and the average paging stock has soared 80% in the past 15 months, says John Bauer, analyst at Lehman Brothers. In 1992, there were only three publicly traded paging companies. Since then, 11 new carriers have answered the page from investors.

CORPORATE DIVIDEND NEWS