MIT Optimistic About Appeal of Overlap Group Antitrust Suit

Overlap, from Page 7

one Overlap school.

"The Justice Department view of higher education as an industry con-

spiring to offer discounts to unmeri-

torious students is simply wrong," Vest said this week. "We are dis-

missing charitable funds to assist the

students who most need financial

help. All of our students are meri-

tuous," Michael Gass, an attorney with

Palmor and Dodge, the Boston law

firm representing MIT, estimated that

a decision on the appeal would be

announced this September.

David Seidman, who is repre-

senting the government in the

appeal, refused to comment on the

case. Spokesmen from the Justice

Department did not return repeated

phone calls.

Better chance in higher courts

Gass said MIT's prospects will

improve as the case moves to higher

courts. "We're optimistic. The high-

er up we go, the more optimistic we

get," he said.

Vest agreed: "I am optimistic that we ultimately will prevail in this

case. The higher one goes in the appellate process, the more likely

the court is to examine the social

policy implications of the case."

Gass said Bechtle applied stan-

dard antitrust principles to this case

without addressing the larger ques-

tion of whether those laws were

applicable to financial aid transac-

tions. In contrast, appellate court

judges are more willing to "really

roll up their sleeves and dig into

what the real purpose of the statute

is," and this should be to MIT's

advantage, he said.

Three briefs were filed on MIT's

behalf for the appeal, Gass said.

One is signed by the American

Council on Education, the American

Negro College Fund, and other edu-
cational groups. Another was filed by a

number of minority associa-
tions, and supports the Overlap

Group meetings because they allow

colleges to remain accessible to

underprivileged students.

A third brief was filed by a group of charitable foundations

headed by members of the Rocke-

feller family, which might be sub-

ject to antitrust laws if the appellate
court upholds Bechtle's decision.

"The theme of that brief is in trying

to apply the Sherman Act to [finan-
cial aid], the government is really

micromanaging the function of edu-
cational institutions in society," Gass

said. No independent briefs were filed

on behalf of the Justice Department.

If MIT loses this appeal, Vest

said he would definitely consider

appealing again to the Supreme

Court. "It is very important to stand

up for the principles and implemen-
tation of need-based financial aid

and the independence of universi-
dies from unreasonable government

interference," he said.

Vest said the legal costs of the

suit have been "substantial," but did

not give a specific figure.

Suit is now two years old

The suit was announced in May

1991 by then-Attorney General

Richard Thornburgh and originally

included the eight Ivy League

schools as well as MIT. The Ivy

League schools signed a consent

decree, agreeing not to continue

Overlap meetings but admitting no

liability. MIT refused to settle and

was the only defendant in last year's

trial.

"The issues in the appeal will be

the same issues that have been alive

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that is, whether the Sherman Act, a

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deciding how much charity money to

allocate to students based on

need," Gass said.

Normally, each side has 15 min-

utes to argue its case in an appeal,

but MIT's lawyers have requested

30 minutes for each side to allow

for a more complete hearing of all

the issues in the case. Lawyers for

the government have backed this

proposal, but the court has not
decided whether to accept it.

In the trial, Bechtle ruled that the

Overlap Group's financial aid deci-
dions constituted price-fixing and

were therefore illegal, regardless of

whether they raised prices for stu-
dents or increased revenues for

MIT.

"Few aspects of higher education

are more commercial than the price

charged to students," Beechle wrote

in a 49-page decision. The Overlap

Group meetings "interfered with the

natural functioning of the market-

place by eliminating students' abil-

ity to consider price differences

when choosing a school," and the

economic impact on students was

"not germane to the resolution of

this case," he wrote.

In the trial, MIT's lawyers argued that Overlap meetings

allowed member schools to main-

tain need-blind admissions. Without

an agreement not to offer merit-

based scholarships, schools would

engage in bidding wars over partic-

ular students, leaving less money

available for students with demon-

strated financial need.

Mitigation program

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Institute to compete against other top

schools which may offer merit

scholarships. "It's a heavier decision

for students to make," he said.

Although the deadline for accepting or declining admission to

MIT was May 1, 45 admitted students have

been given extensions until their financial aid packages are settled, Bechtle said. Extensions were given to

NEWSEDITOR

"The main thing affecting admissions at MIT is the combination of a continuing poor economy and a

declining interest in engineering as a career," said Director of Admissions Michael C. Behnke. The decline in

interest was reflected in the nationwide pre-Scholastic Aptitude Test questionnaires administered to the

incoming Class of 1997, he said.

Although the percentage of admitted students eligible for aid remained about the same, there was "an

increase in the number of appeals" to the financial aid packages MIT offered, according to Stanley

G. Hudson, director of student financial aid.

Hudson added that the average need of students was about 6 percent higher than last year. But this was on

par with the targeted increase, based on inflation and MIT's budget deficit.

Hudson said that although MIT is "committed to meeting the full needs of the class, "it is still difficult for

the Institute to compete against other top schools which may offer merit scholarships. "It's a heavier decision

for students to make," he said.

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890 Accept Admission to Class of 1997; Financial Aid Keeps 100 Others Waiting

By Eva May

NEWSLINE

Four weeks after the deadline for accepting or declining admission to MIT, 980 of the 2,120 students

admitted to the Class of 1997 have decided to enroll here in the fall. Another 100 students are expected to

accept offers of admission to MIT. Most of the delay in these students' decisions is due to financial consider-

ations facing the incoming freshmen.

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