

## Supreme Court curbs actions against companies

By Patti Waldmeir in Washington

Investors will find it harder to bring lawsuits against US companies under a Supreme Court ruling yesterday that could improve the competitiveness of domestic markets by reducing the costs of shareholder litigation.

The ruling was the second big victory for corporate America in the past week from a court that has made clear its concern about what it called "frivolous, lawyer-driven litigation". Leading administration policymakers believe that excessive litigation costs are making US capital markets less competitive.

Ruling 8-1 in *Tellabs v Makor*, the justices set a high barrier that investors must clear to get their cases heard by the court.

The majority said investors had to do more than simply allege it was plausible that company officials knew what they were doing was wrong. Courts had to consider possible innocent explanations for apparently fraudulent behaviour, and the suggestion of wrongdoing must be "at least as compelling" as the innocent explanation, the court said. The majority said a lower court used too

lax a standard in allowing investors to pursue a lawsuit accusing Tellabs, a telecoms equipment maker, of fraudulently inflating revenue.

Corporate America welcomed the tougher standard, which will give companies a new tool to get lawsuits dismissed before they have spent large sums of money fighting them off.

"This will go a long way in weeding out frivolous securities class actions," said Robin Conrad of the National Chamber Litigation Center, the legal arm of the US Chamber of Commerce. Thomas Dubbs, of law firm Labaton Sucharow, which represents investors, said the standard set by the court was roughly in line with one used by most district courts now. "We're dealing with a somewhat hostile court so the preservation of the status quo is a win for plaintiffs," he said.

The majority opinion displayed the court's concern over shareholder litigation. "Private securities fraud actions . . . if not adequately contained, can be employed abusively to impose substantial costs on companies and individuals whose conduct conforms to the law."