



## EUROPEAN COMMISSION - PRESS RELEASE

### **Antitrust: Commission market tests IBM's commitments on mainframe maintenance and closes separate case into alleged unlawful tying**

Brussels, 20 September 2011- The European Commission invites comments on commitments offered by International Business Machines Corporation (IBM) to ensure the availability of certain spare parts and technical information on reasonable and non-discriminatory terms over five years. These commitments aim to resolve concerns that IBM may have imposed unreasonable conditions for supplying competing mainframe maintenance service providers with such inputs, in breach of European Union antitrust rules prohibiting the abuse of a dominant market position in Europe. Mainframes are powerful computers which are used by large companies and governments to store and process critical information. The probe was opened in July 2010 (see [MEMO/10/1006](#)).

*"I commend IBM's readiness to address our concerns about fair competition in the market for large computers which are crucial for the functioning of today's economy,"* said Commission Vice President and Competition Commissioner Joaquín Almunia.

In August this year, the Commission informed IBM of its concerns that the company may have abused a dominant position in breach of Article 102 of the Treaty on the Functioning of the EU and Article 54 of the European Economic Area (EEA) agreement by imposing 'unreasonable' supply conditions for certain inputs to competing suppliers of mainframe maintenance services. To address the concerns, IBM committed to ensure the expeditious availability of certain spare parts and technical information to Third Party Maintainers (TPMs) in the EEA, on reasonable and non-discriminatory terms and conditions over a period of five years.

A summary of the draft commitments is published in the EU's Official Journal. The full version is available at:

[http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=1\\_39692](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39692)

Interested parties are invited to comment within one month. Under Article 9 of Regulation 1/2003, the Commission may make the commitments legally binding on IBM, without concluding whether or not there was an infringement of EU rules.

### **The tying case**

Separately, the Commission examined allegations of alleged tying of IBM's mainframe hardware with its operating system after complaints made by rival software vendors T3 and Turbo Hercules and a related later complaint by Neon Enterprise Software (see [MEMO/10/1006](#)). Following an in-depth investigation of these allegations, the Commission has decided to close these proceedings. The three complaints have been withdrawn.

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