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### Antitrust: Commission makes IBM's commitments legally binding to ensure competition in mainframe maintenance market

Reference: IP/11/1539 Date: 14/12/2011

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EUROPEAN COMMISSION - PRESS RELEASE

### Antitrust: Commission makes IBM's commitments legally binding to ensure competition in mainframe maintenance market

Brussels, 14 December 2011 - The European Commission has made legally binding commitments offered by International Business Machines Corporation (IBM) in the mainframe maintenance market. IBM commits to make spare parts and technical information swiftly available, under commercially reasonable and non-discriminatory terms, to independent mainframe maintainers.

Mainframes are powerful computers used by large companies and public institutions to store and process critical business information. The Commission had concerns that IBM may have imposed unreasonable conditions for supplying its competitors in the market of mainframe maintenance services in breach of EU antitrust rules prohibiting the abuse of a dominant market position. The Commission is satisfied that the commitments, revised in light of observations received in the course of a market test (see [IP/11/1044](#)), are suitable to solve these competition concerns.

Commissioner Vice-President in charge of competition policy Joaquín Almunia commented: *"I am pleased that we could find a swift solution with IBM to our competition concerns. Timely interventions are crucial in fast moving technology markets."*

Mainframes are commonly used to perform mission-critical business processes. In order to ensure business continuity, expeditious maintenance is therefore essential. Maintenance services for IBM's mainframes are offered both by IBM and by third party maintainers. Independent maintainers need rapid access to spare parts and technical information in order to compete effectively on this market.

This concludes an investigation on the initiative of the Commission over concerns that IBM might have been abusing a dominant position on the mainframe maintenance market. The Commission's decision is based on Article 9 of the Antitrust Regulation 1/2003. It makes the commitments legally binding on IBM without concluding whether there is an infringement of EU competition rules.

#### Background

In July 2010 the Commission opened an investigation over concerns that IBM might be abusing a dominant position on the mainframe maintenance market by hindering the access of independent maintenance service providers to critical spare parts. Such behaviour would potentially place those providers at a competitive disadvantage and breach Article 102 of the Treaty on the Functioning of the European Union and Article 54 of the European Economic Area (EEA) agreement (see [IP/10/1006](#)).

In September 2011, the Commission consulted stakeholders on commitments that IBM had proposed to remedy these concerns (see [IP/11/1044](#)). Today's decision makes the commitments offered by IBM, revised in light of the market test results, legally binding and ends the Commission's investigation.

If IBM were to breach its commitments, the Commission could impose a fine of up to 10 per cent of IBM's total turnover without having to prove a violation of EU competition rules.

A non confidential version of today's decision will be 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)

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