

EC COMMISSION SUSPENDS ITS ACTION AGAINST IBM

Mr. Frans Andriessen, the Commissioner responsible for competition policy, has obtained an undertaking from IBM to modify its practices in the EEC, following a period of intense negotiation between IBM and a team of senior officials of the Commission. As a result, the Commission has decided to suspend its current proceeding against IBM for breaches of the EEC competition rules.

The Proceedings and the Issues involved

The case, which is one of the most extensive ever handled by the Competition Directorate-General, was opened at the end of 1980 after investigations into IBM's behaviour in the common market. During the investigations a number of competitors made complaints to the Commission.

In the formal statement of objections addressed to IBM in December 1980, the Commission alleged that IBM holds a dominant position in the common market for the supply of the key products for its most powerful range of computers, the IBM System/370, and that IBM had abused this position contrary to Article 86 of the EEC Treaty in four ways:

- by failing to supply other manufacturers in sufficient time with the technical information needed to permit competitive products to be used with System/370 ("interface information");
- by not offering System/370 central processing units ("CPUs") without a capacity of main memory included in the price ("memory bundling")
- by not offering System/370 CPUs without the basic software included in the price ("software bundling"), and
- by discriminating between users of IBM software in that IBM refused to supply certain software installation services ("Installation Productivity Options" = IPOs) to users of non-IBM CPUs.

Following a period of protracted negotiation and the personal interventions of Mr. Andriessen, a final solution acceptable to the Commission was reached.

(verso)

IBM's Undertaking

IBM has undertaken to offer its System/370 CPUs in the EEC either without main memory or with only such capacity as is strictly required for testing. IBM has further undertaken to disclose sufficient interface information to enable competing companies in the EEC to attach both hardware and software products of their design to System/370. Finally IBM has undertaken to disclose adequate and timely information to competitors to enable them to interconnect their systems or networks with IBM's System/370 using Systems Network Architecture.

For interfaces to hardware products information will be made available by IBM within 4 months of the date of announcement of the product concerned or at the general availability of the product if earlier. For interfaces between software products the information will now be made available as soon as the interface is reasonably stable but no later than general availability.

In order to protect IBM's legitimate interests, the Commission has accepted that IBM should not have to disclose unique interfaces between a subsystem of two specific products. These interfaces are those most likely to reveal product design. This exception will not, however, exclude competition from suppliers who themselves offer both products as a subsystem.

"This settlement will bring new opportunities for competition in this sector, which becomes every day more important. The European industry has now a chance to increase its share in this market," stated Mr. Andriessen.

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