

I.B.M. CALLS FIELD MOST COMPETITIVE

Initial Company Statement at Trial Ties Success to General Superiority

By WILLIAM D. SMITH

The International Business Machines Corporation made its opening statement yesterday in the Justice Department's antitrust suit against the company. Lawyers for the computer manufacturer argued that its success in the electronic data processing market was based on "better products, greater production efficiency, better service, right judgments at key periods of time and the willingness of management to back these judgments."

The company's statement was made by Thomas D. Barr, who contended that the electronic data processing market, rather than being a monopoly situation as charged by the Government, was "the most changing, dynamic, competitive industry that has ever existed in this country."

The Justice Department's suit, which was filed in January, 1969, as the last official act of the Justice Department during the Johnson Administration, charges I.B.M. with deliberately monopolizing and attempting to monopolize the general purpose electronic data processing systems market and asks that I.B.M. be broken up into "several, discrete, separate, independent and competitively bal-

Continued on Page 65, Column 1

I.B.M. Field 'Competitive'

Continued From Page 61

anced entities."

Mr. Barr challenged the Government's definition of the relevant market, which I.B.M. is accused of monopolizing, but said that even within the Government's "narrow definition" of the market I.B.M. did not hold a monopoly position.

The Government in its opening statement on Monday in the United States District Court at Foley Square here defined the market as made up of those companies that put together and sold computer systems that included hardware, software and services. The Justice Department attorneys contended that between 1961 and 1972 the general purpose systems market consisted of I.B.M. and seven competitors.

I.B.M., which is represented by the law firm of Cravath, Swaine & Moore, contends that the Government's market definition is artificial and that the electronic data processing market consists of thousands of competitors.

Most industry and legal experts expect the question of relevant market to be a major issue of the trial.

Chief Judge David N. Edelstein, who is presiding at the trial, sharply criticized Mr. Barr's opening statement for not following proper procedure for nonjury trials. Judge Edelstein, who is the sole arbitrator in the case, had instructed both sides that the only purpose of an opening statement in a nonjury trial was to enable the court to follow the

evidence more easily.

On Monday, Judge Edelstein had made similar sharp criticism of Justice Department lawyers. At the noon recess one Justice Department lawyer was heard to remark to another about the judge's admonition to Mr. Barr, "He gave it to him much worse than he gave it to you yesterday."

Judge Edelstein commented later in the day that he "could strike the opening statements of both I.B.M. and the Government and nothing much would have been lost."

Mr. Barr said he welcomed the Government's contention that the General Electric Company and the RCA Corporation were forced out of the computer industry by I.B.M. He commented, "As defendant's lawyer I could not welcome any issue more than I welcome this one."

Mr. Barr said that in the nineteen-fifties, before the start of the computer industry, G.E. was eight times I.B.M.'s size and RCA twice I.B.M.'s size, adding: "I.B.M. was the pygmy; they were the giants."

"They didn't see what I.B.M.'s management saw," he added. "Those companies chose a different course." Mr. Barr said that G.E. concentrated on turbine generators, aircraft and atomic energy while RCA gave emphasis to color television.

Gold Price

Foreign and domestic gold prices:
London afternoon fixing \$156.50 down \$0.85
New York Handy and Harman, \$166.90 down
\$0.85. Engelhard \$167.45 down \$0.85 per
troy ounce.