



Republic of Serbia  
**COMMISSION FOR  
PROTECTION OF COMPETITION**

25/IV Savska St., Belgrade

Number: 4/0-02-717/2018-1

Date: October 10, 2018

Pursuant to Article 35(2) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), President of the Commission for Protection of Competition enacts the following

### **CONCLUSION**

- I PROCEEDINGS IS INSTITUTED** *ex officio* against company Konica Minolta Poslovna Rešenja SE d.o.o. Beograd, 11a Mulutina Milankovića Blvd., Belgrade, in order to investigate the infringement of competition from Article 10 of the Law on Protection of Competition.
- II** All persons in possession of data, documents or other relevant information which could contribute to the accurate fact-finding in this proceedings are called upon to submit said to the Commission for Protection of Competition to the address 25 Savska St., Belgrade.
- III** This conclusion shall be published in the Official Gazette of the Republic of Serbia and on the website of the Commission for Protection of Competition.

### **R a t i o n a l e**

Based on the Conclusion 4/0-02-427/2018-01 of May 28, 2018 enacted by the President of the Commission for Protection of Competition, the Commission has instituted proceedings against the following companies: Original preduzeće za spoljnu i unutrašnju trgovinu i usluge doo Beograd (Novi Beograd), 21ž Antifašističke borbe St., New Belgrade (hereinafter, Original); Mikops doo Export-Import za proizvodnju, trgovinu i usluge Niš, 6 Vojvode Tankosića St., office no. 5, 18000 Niš (hereinafter, Mikops); Preduzeće za usluge i trgovinu Birolinija društvo sa ograničenom odgovornošću Beograd, 16 Bitoljska St., Belgrade (hereinafter, Birolinija); Biro print sistemi doo Beograd-Savski venac, 3 Velisava Vulovića St., Belgrade (hereinafter, Biro print sistemi); Preduzeće za trgovinu i usluge Dikti Line doo, Beograd, 24 Alekse Nenadovića St., Belgrade (hereinafter, Dikti Line); Društvo za spoljašnju i unutrašnju trgovinu Birodeveloping doo Niš, BC Dušanov Bazar-kula, 54-72 Dušanova St.,

office no. 108, Niš (hereinafter, Birodeveloping); and, Društvo za proizvodnju, promet i usluge Birotehnika Export-Import doo, Jagodina, 1 Novosadska St., Jagodina (hereinafter, Birotehnika), in order to establish the existence of infringement of competition from Article 10 of the Law on Protection of Competition (hereinafter, the Law).

Company Konica Minolta Poslovna Rešenja SE d.o.o. Beograd (hereinafter, Konica Minolta), as a manufacturer's representative is at the top of the vertical supply chain of office equipment and apparatus in the territory of the Republic of Serbia, selling the equipment manufactured by Konica Minolta via company Original, which does not exclude the independent sales of the equipment concerned. On the company's webpage ([www.konicaminolta.co.rs](http://www.konicaminolta.co.rs)), company Original is listed as a platinum partner of Konica Minolta manufacturing company, while companies Birotehnika and Mikops are listed as gold partners and company Birolinija as a silver partner. Company Konica Minolta acting as a manufacturer's representative of the Develop brand name office equipment has published on the webpage [www.develop.rs](http://www.develop.rs) that authorized distributors and aftermarket service providers of the Develop brand name office equipment are companies Birodeveloping and Dikti line.

The Commission for Protection of Competition (hereinafter, the Commission) has gained knowledge indicating that company Konica Minolta has electronically informed other partners via company Original, namely Birotehnika, Mikops, Birolinija, Birodeveloping and Dikti line, that it will present an offer for aftermarket services and rental of Konica Minolta equipment to a particular undertaking. From the documentation available derives that company Original has also forwarded a letter of notification to company Konica Minolta and partners informing them of its intent to present an offer in a specific case. Also, individual partners have addressed company Original and company Konica Minolta informing them on their respective preparations and plans to submit bids in particular public procurements. Furthermore, company Konica Minolta was informed via company Original on the argument put forward by a partner, who acting on an announcement of company Original that one of the partners is preparing a bid for a particular public procurement has noted that the case concerns the division of market which is a practice contrary to the Law on Protection of Competition.

From the documentation available derives that such notifications shared between competing undertakings were aimed at making the rest of them to withhold from submitting a bid upon the receipt of information on potential bidding by a particular competitor in order to restrict competition.

An agreement or concerted practice between competing undertakings aimed to directly or indirectly set prices or other conditions of trade, that is, to share public procurement and other markets or to in some other manner exert influence on the ordering party's decision or request for proposals, represent a form of restrictive agreement from Article 10, paragraphs 1 and 2, items 1) and 5) of the Law, which is prohibited and cannot be exempt from the prohibition pursuant to the provision of Article 14(2) of the Law.

In light of the above, the Commission reasonably assumed that company Konica Minolta has infringed the competition from Article 10 of the Law.

Article 35 of the Law stipulates that the Commission institutes an *ex officio* proceedings for investigation of competition infringement, when based on submitted initiatives, information and other available data reasonably assumes the existence of competition infringement.

In view of the assessment of the fulfilment of conditions from Article 35 of the Law for instituting *ex officio* proceedings, it is decided as in Paragraph I of enacting terms herein.

Pursuant to the provisions of Article 35(2) of the Law, it is decided as in Paragraph II of enacting terms herein.

Pursuant to the provisions of Article 40(1) of the Law, it is decided as in Paragraph III of enacting terms herein.

**Instruction on legal remedy:**

This conclusion is not susceptible to special appeal, but is permitted to institute an administrative dispute by appealing to the Administrative Court against the final decision of the Commission.

**PRESIDENT OF THE COMMISSION**

(Sgd.)Dr Miloje Obradović