



## Trade Secrets: Efficient harmonization crucial to SMEs' growth

MEPS will soon be asked to adopt a position on the **Trade Secrets Directive**. SMEs place great hopes on this harmonization initiative as it provides an opportunity to preserve SME's innovative potential. Effective protection of SMEs' trade secrets is imperative to foster SMEs' growth.

The new Directive should enhance and not hinder SMEs' competitiveness. To avoid obstacles to SMEs, here are some suggested positions you may wish to adopt:

### **Support Maximum Harmonization**

ESBA is in favor of a maximum harmonization, and does not side with the Council general approach for a minimum harmonization. Throughout the harmonization process, the proportionality principle needs to be respected.

### **Apply the Think Small First Principle to define what is 'unlawful'**

The knowledge criteria should be maintained to establish the unlawfulness of disclosing confidential business information. Awareness raising is crucial as small companies are not always aware of the rules. Hence, a more lenient approach should be adopted for micro and small businesses, taking into consideration the Small Think First Principle.

### **Ensure a protective harmonization for SMEs**

The current level of protection in the Member States should not be lowered by the Directive. Here again, the specificity of SMEs should be taken into consideration.

### **Establish a common minimum limitation period**

ESBA supports an EU-wide minimum limitation period as this is essential to ensure legal certainty for SMEs.