

Citizens summary

EU proposal – Protecting trade secrets

What's the problem/issue?

- Trade secret **theft is a growing problem**. 1 in 4 European companies reported at least one case of information theft in 2013 (up from 18% in 2012).
- The level of **protection** for trade secrets **varies substantially** between EU countries, due to differences in national laws and the lack of an EU-wide notion of trade secrets.
- The EU legal system for trade secret protection is **not clear** for users.

What are trade secrets?

This is **key information** that companies, researchers and innovators in general keep confidential – either within their own organisation or within networks of partners – to obtain or keep a **competitive advantage**.

Broadly, trade secrets are 2 types of information:

- **technical** (manufacturing processes, recipes, chemical compounds, etc.)
- **commercial** (lists of customers, results of marketing studies, product launch data, etc.).

What exactly will change?

The new EU proposal aims to **align national legislation** to ensure that, if competitors steal or otherwise unlawfully acquire (or use) this information, the victim will:

- be able to defend their rights in court
- have access to sufficient and comparable redress across the EU.

Specifically, the proposal:

- establishes which **remedies** are available (e.g. the possibility to prevent competitors using stolen information)
- improves victims' ability to seek **compensation**
- lays down rules protecting the confidential information during **litigation**.

Who will benefit and how?

- **All of us** – safer trade secrets increase incentives to invest in research & development, which means more jobs and new and better products.
- All **companies** – although especially:
 - **small and mid-sized firms & start-ups**, who tend to rely even more than large companies on confidentiality.
 - innovative firms & those specialising in **knowledge-based capital** (know-how, R&D, creative products).

Why does action have to be taken by the EU?

- Currently, the protection of trade secrets is governed by **national laws only**, and there are major differences between them. Some EU countries do not have specific legislation on trade secrets.
- This **hampers trade** (acquiring, sharing or licensing know-how and technology) and **research** throughout the EU, rendering innovation unnecessarily risky and complex.
- It also **hinders collaboration** between companies, researchers and innovators in different EU countries.

When is the proposal likely to come into effect?

No later than **4 years from now** – but possibly sooner. It depends how fast EU and national legislative processes work.