



# Navigating Unfamiliar Legal Ground

How small business attorneys can deliver sound guidance as they manage a never-ending, always changing workload



## Navigating Unfamiliar Legal Ground

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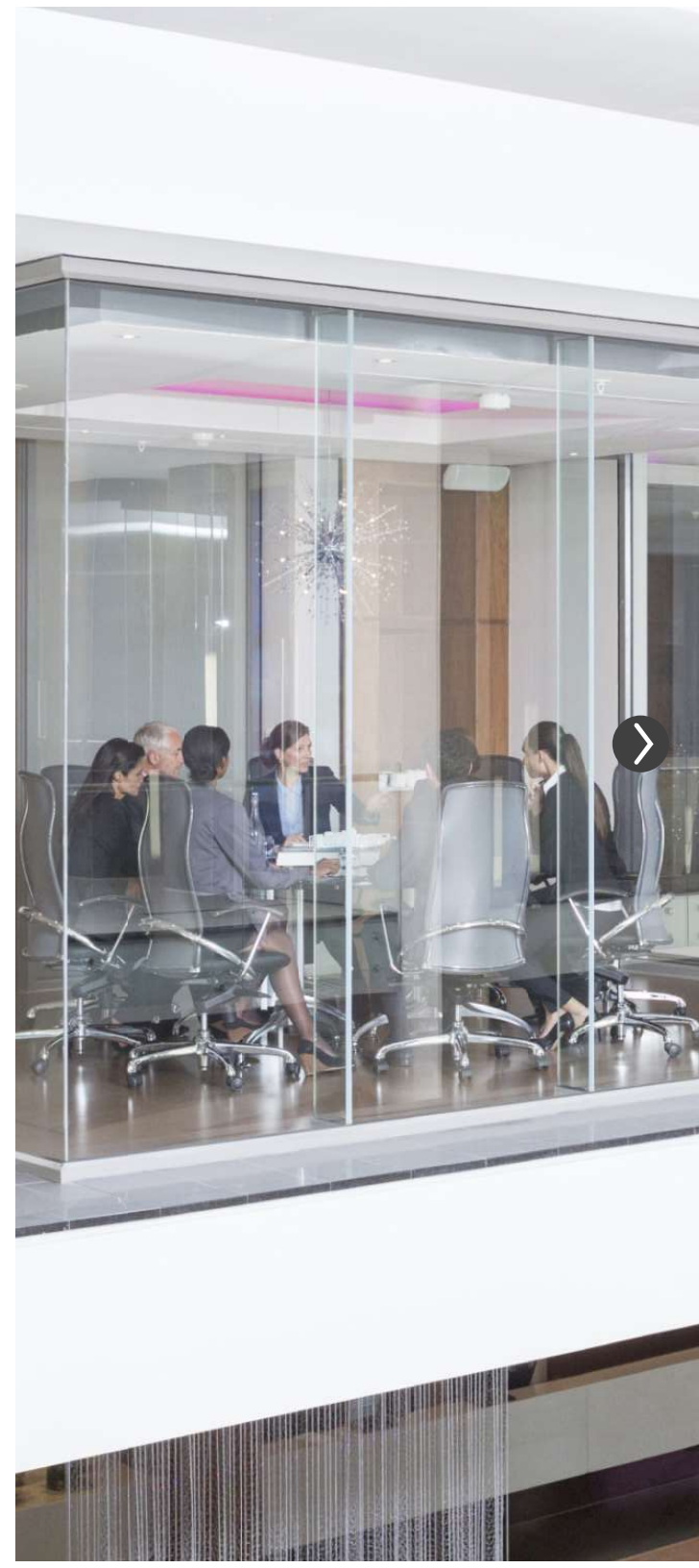
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## Challenge 1: Small business lawyers are generalists who need to cover multiple areas of law/expert generalists



Lawyers for startups and small companies may find themselves, in rapid succession, advising on an acquisition, assessing an intellectual property issue, considering a lease issue, evaluating the risks inherent in a proposed business expansion — all while juggling assorted crises, HR and compliance questions, and ad hoc requests from around the company. Each matter requires rapid command of the latest know-how, legislation, regulations, cases and rulings across jurisdictions.



The role of the in-house counsel has evolved dramatically in recent years. It's no longer enough to be a great lawyer — protecting the company and managing risk are now the bare minimum. Due to disruptions in the legal profession and business at large, the in-house lawyer must encompass leadership and diplomacy and serve multiple roles: business partner, corporate officer, company representative in third-party dealings, and key negotiator in a range of strategic transactions.



**For in-house counsel in growing businesses, the need to move quickly and to deliver sound, on-target guidance across a broad expanse of legal ground is nothing new — but the pace of change is intensifying, and the terrain is expanding.**







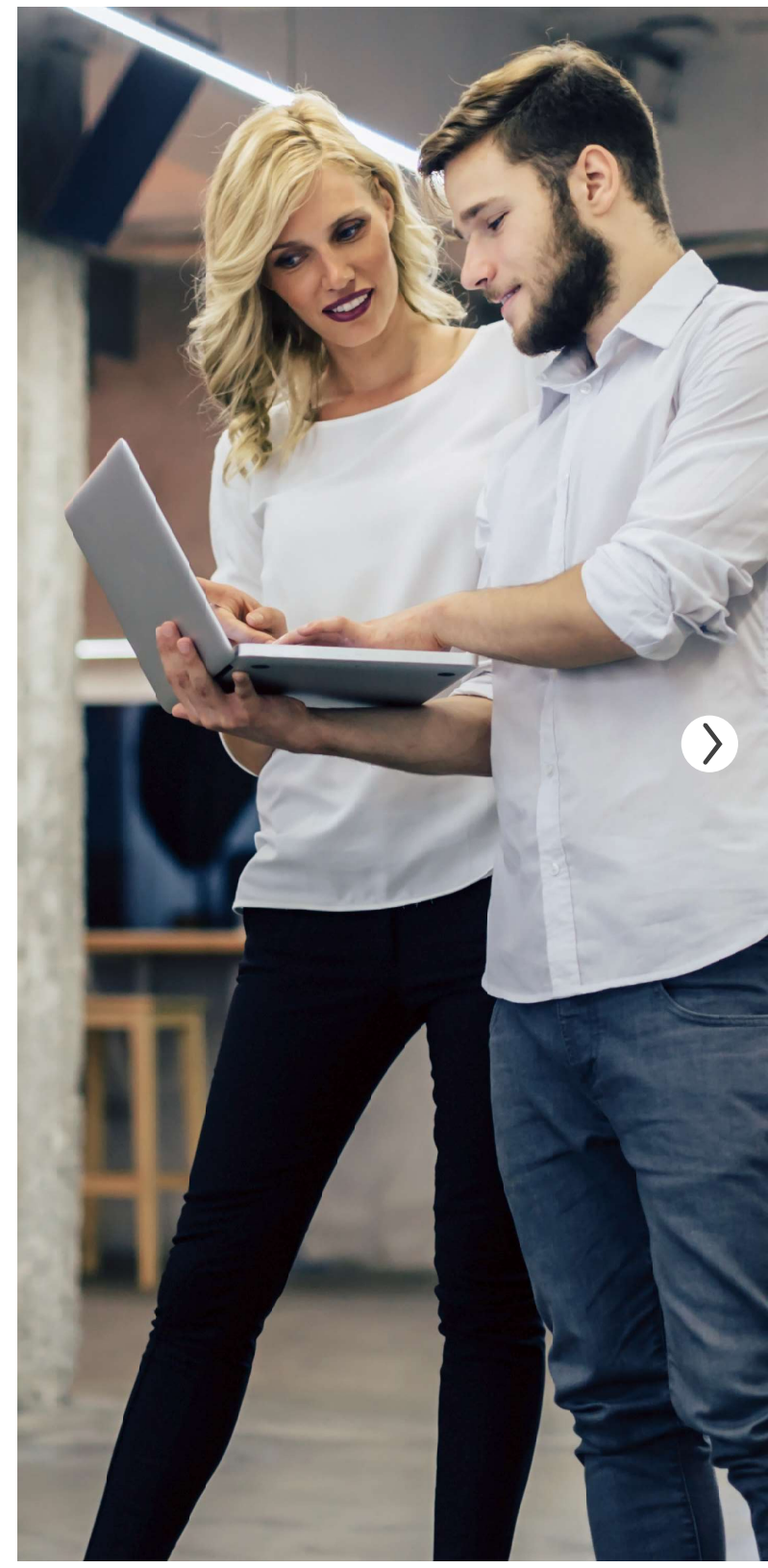
## Challenge 2: In-house counsel must understand and align with other functions in the organization/business enablers



Especially for a startup or small business, in-house counsel is more involved in the company's core strategic initiatives and business activities and so dives more deeply into a range of work including audit, compliance, executive management, social responsibility, HR, and investor and media relations. These varied responsibilities demand extraordinary know-how and increased flexibility to work across business units and specializations.



General counsel for growing companies serve as advisors to the CEO and the C-suite on business issues and to the Board of Directors on corporate governance. In many cases, they are the company secretary, a role that is evolving from administrator to advisor. Many also serve as Chief Governance Officer (CGO), responsible for the design, implementation and maintenance of a governance framework that meets the company's obligations and stakeholders' expectations. GCs also are involved with regulatory issues, government affairs, and lobbying. Within this expansive, overlapping set of responsibilities, they are deeply involved in every major issue, challenge, and opportunity facing their organizations.





## Challenge 3: Legal departments are under continuing pressures to deliver more with less



The [Thomson Reuters 2021 State of Corporate Law Departments](#) report documents the following trends that are turning up the pressure on in-house counsel:

- **More with less:** In 2020, 58% of corporate law departments experienced increased workload as a result of the COVID-19 pandemic — and 30% experienced budget cuts.
- **More ground to cover:** In 2020, corporate lawyers shifted focus to ensure their companies effectively responded to the legal effects of the pandemic, which affected employment, the safety of workers and customers, supply chain resilience, operations and more.
- **More pressure:** Legal budgets will likely be stretched further in 2021 as ‘business-as-usual’ work ramps back up while the heightened demands of the COVID-19 environment continue to demand time and attention.





## Challenge 4: Legal departments face unprecedented disruptions with deep legal implications/unprecedented legal change



With so many areas of law and policy in a state of flux, corporate law departments are responsible for an ever-expanding legal terrain. Year over year one of the top priorities for legal departments has been risk mitigation and that role is only expanding as new crises surface that threaten the business.

Inevitably, the fallout from COVID-19 will continue to present uncertainty and challenges to companies. It is likely that 2021 will see more disputes, and perhaps even litigation, over whether the pandemic frustrated a contract or triggered a force majeure or material adverse change clause. Understandably, these issues have prompted businesses to reconsider how their supply contracts are drafted, with many customers and suppliers now insisting on more flexible terms with regard to payment structure, sourcing from third parties, and managing unforeseen difficulties.

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*"My CEO thinks that we're covered on the legal side now that she's hired a lawyer. She expects me to know everything and to be able to lawyer anything. I wake up in the middle of the night worrying about the risks."*

**In-house lawyer at a media start-up**

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COVID-19 understandably took the spotlight away from the need to tackle climate change, but 2020 taught us that crises originating in the natural world can have a devastating impact on our everyday lives. Immediately upon taking office, President Biden signed several [executive orders related to climate, energy and environmental issues](#). As such, climate change will return to many boardroom agendas in the coming months. For example, the Biden-Harris Administration seeks to ensure every federal infrastructure investment project reduces climate pollution. As government aims for a greener post-COVID economic recovery, the associated policy and legislative changes will certainly affect business.



**60%** of Chief Legal Officers believe that new industry specific regulations and data protection and privacy rules are likely to be the cause for future legal concerns.



Source: Association of Corporate Counsel 2020.



## Challenge 5: Legal departments face new challenges arising from political tensions and social unrest/culture champions



Most in-house legal departments in growing businesses are already at the center of their organizations' corporate social responsibility (CSR) initiatives, and this is unlikely to change any time soon. Companies are facing increased pressure from governments, regulators, investors, and consumers to develop and maintain

effective CSR policies and mandates, and to embed these measures into their wider business operations. In recent years, much of the focus has centred around issues emanating from the Me Too and Black Lives Matter movements, which will continue to affect the social agenda. In addition, it is likely that legal departments will see more activity requiring transparency in supply chains, particularly as it relates to climate change, human trafficking, and modern-day slavery, and other human rights abuses.

Of course, there are other changes affecting in-house lawyers that will require time and attention above and beyond legal departments' day-to-day operations, including the need to ensure sound data protection and proposals to reform corporate governance. Further, with increasing and ever-changing regulation, regulatory divergence, and legal turf to master, the information that lawyers need today is more complex than ever and scattered across a multitude of sources. And, as 2020 showed us, we must strive to ensure we're equipped to navigate the unexpected.

With an inbox like this, it is no surprise that the in-house lawyer in a growing business is often referred to as the jack of all trades. The need to be instant experts across a vast range of matters and specializations can be a daunting prospect, especially when you're a legal department of one. Traditional approaches to acquiring the needed expertise — such as increased use of outside counsel — are not practical when budgets are squeezed. Nevertheless, it remains vital for legal departments to stay abreast of changes so they can continue delivering value to their organizations.

Responsibilities of the small business attorney working across an expansive legal terrain, today's in-house lawyers are expected to:



Deliver sound guidance that reflects the latest legal and regulatory developments.

Respond to crises, safeguard against risk, serve as strategic advisors to the entire business, and facilitate growth.



Ensure operational efficiency, rely less on outside counsel, and avoid turning to inadequate online resources when new issues emerge.

Quickly develop solid foundational knowledge of unfamiliar areas of law for the times when they are working with and directing outside counsel.







## User beware



Given the pressures on time and costs, in-house lawyers in startups and small businesses may be tempted to turn to free online resources. The problem is these are generally unreliable, time-consuming to navigate, and built upon sources that are not properly vetted or regularly updated. These tools are sometimes contradictory and often intentionally less-than-comprehensive to spur users to buy legal services from the firms that provide the free resources. This is not legal guidance to build a successful career on. Additionally, time spent searching is time spent away from tasks that add real value to your organization's bottom line. Cumbersome free resources that aren't authoritative make your research journey longer and don't give you the confidence needed when advising on important matters or completing transactions.



Indeed, confidence in your legal answers to novel questions can present a challenge to the most capable of lawyers. Once you have become oriented and spent time on research, second-guessing, and double-checking, you expect to have a complete picture. However, it can be challenging to form a high-confidence interpretation when you're working in an unfamiliar area of the law and the quality of your data sources is unknown.



How can in-house counsel of growing businesses meet these challenges? Fortunately, there is a better way:

**Thomson Reuters® Practical Law.**

Learn how the Practical Law [Startups and Small Businesses collection](#) can do your legal work more efficiently, adding time to your day.

