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Legal



From vision to value:
How your legal department
can help deploy and scale
your Generative AI program
with speed and confidence



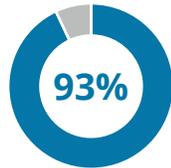
An opportunity—and a risk—like no other

Since the growth of generative artificial intelligence (GenAI) started to accelerate in 2022, it has remained high on the list of strategic priorities for most leading organizations, many of whom want to implement the technology at pace and scale to secure a competitive advantage. However, organizations may find it difficult to balance speed and risk, as the complex and constantly changing legal and regulatory environment governing this new technology is evolving every day alongside its practical technological development.

It's tempting to approach scaling GenAI as you would any other business transformation project. But this technology is different in several ways. As we are currently witnessing, it will impact all of society—it's already being used by both companies and individuals alike, affecting how we work, run our lives, the products we use, and the jobs we have. GenAI is far more pervasive and unstructured than its predecessors—like cloud and blockchain—with complex, multifaceted implications, only some of which we now understand. Yet, with all of the risks associated with GenAI solution implementation, one of the biggest is not using it at all, given the



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competitive, cost, and strategic advantages the technology can bring to an organization.

In fact, **79% of CEOs expect GenAI to transform their organizations in the next three years**—and a full **93% of CLOs believe GenAI has the potential to bring value to their organizations in the next 12 months**—but the ability to bring a pilot into full-scale production is a barrier. Nearly **70% of CEOs say their organization has only been able to move 30% or less of their GenAI experiments into production.**

GenAI implementation at scale won't—and arguably shouldn't—be easy. As Deloitte's [2024 State of Generative AI in](#)

[the Enterprise Q3 report](#) points out, “Lack of trust and related risks have thus far not prevented organizations from rapidly adopting GenAI for experiments and proofs of concept; however, this will likely change as organizations transition to large-scale deployment.”

In short, while GenAI's competitive advantage is incredibly enticing, any organization looking to scale the technology must pay equal attention to risks that could imperil its brand, reputation, stakeholder trust, and clients' interests.



A necessity: Giving legal departments a central role in the GenAI operating model

At least 80% of CLOs surveyed across the United States, Europe, Australia, and Canada say they are comfortable providing legal advice on issues involving GenAI.

That means C-suite leaders can be at the forefront of taking conscious and deliberate steps to bring their legal counsel into the strategic planning process as early as possible in order to achieve large-scale GenAI deployment at pace.

Legal departments play a crucial role in scaling GenAI solutions due to their unique position within the organization and their ability to manage compliance, ethical considerations, and risk management. CLOs and their teams operate horizontally across various functions, including HR, sales, marketing, accounting, tax, IT, data, and research and development (R&D), giving them a distinctive and central view.

By being involved early in GenAI transformation programs, legal departments can address potential legal issues proactively, ensuring smooth implementation and reducing delays and additional costs, which are the main roadblocks to moving from pilot to production.



How to operate to move at pace

From a strategic perspective, C-suite leaders will need to think differently about:

- **Governance.** It's the legal department's job to ensure that the organization is compliant with the complex and evolving laws and regulations that govern GenAI, including overseeing data privacy, intellectual property (IP) management, and ethical adherence. Given the strategic nature of this technology and the need to move quickly, legal leaders will need to advise the C-suite on a pragmatic and commercial approach to risk and compliance. Developing and implementing effective risk frameworks is essential. Your legal team can help evaluate risk, identify risk controls, execute mitigation plans when needed, and continually evaluate protections around data, IP law, breach of contract, and third-party risk—setting up a framework that balances the need for regulatory compliance and legal certainty with the flexibility required for innovation. For example, if a provider is using data with a GenAI large language model (LLM), what is the company's exposure for IP, material risk, confidentiality, and valuation risk, and how can efficient management of these risks be augmented with legal instruments?

While businesses are often wary of regulators, when it comes to new technologies, working with them can be surprisingly fruitful. Listen to regulators' concerns about GenAI, share insights, explore potential solutions that meet the needs of all parties and, along the way, look for opportunities to educate and influence the development of AI standards.

Effective regulations should encourage safe and responsible innovation, rather than stifle experimentation. For example, Article 57 of the EU AI Act mandates



of **corporate board members** reported having **little to no experience with AI**



of **CLOs** believe the **C-suite has the requisite understanding to oversee GenAI efforts**

that providers of high-risk AI systems implement a quality management system and maintain comprehensive technical documentation to ensure compliance, including conducting conformity assessments before being deployed in the market. It also introduces the concept of regulatory “sandboxes,” allowing organizations to test their GenAI solutions in a controlled real-world environment under the supervision of competent authorities, which can help facilitate R&D innovation while ensuring compliance with regulatory requirements.

- **Leadership.** Legal departments provide critical insights into the legal and ethical implications of AI technologies, helping leadership make informed decisions about investments and implementations. Company leaders and board members need a solid understanding of the nuts and bolts of GenAI, as well as its potential risks for both the business (in data, innovation, and cybersecurity) and the wider community. The regulatory landscape also varies by industry, geography, scope, and enforcement, which can make it hard to stay up to date, especially for leaders of multinationals.

In a recent [Deloitte survey](#), 75% of corporate board members reported having little to no experience with AI. And CLOs have noticed: only 35% believe the

[C-suite has the requisite understanding to oversee GenAI efforts](#). To improve these numbers, the legal department can help educate both boards and executives on trends in AI regulation, including issues of personal liability, and help develop guidelines that balance innovation, risk, and compliance. The EU AI Act also addresses AI literacy in Article 4, emphasizing its importance by promoting awareness and understanding of the technology among the general public, users, and providers. The goal is for all users to be well-informed about its capabilities, limitations, and potential risks, fostering a more knowledgeable and responsible ecosystem. While there is no one-size-fits-all solution for GenAI education, an organization's board could be better prepared when provided with continuing GenAI education per the Act's requirement.

- **Technology infrastructure.** Only 45% of organizations think their technology infrastructure is highly prepared for GenAI implementation. That's why it's critical to maintain the integrity and reliability of AI systems by conducting risk assessments and identifying potential vulnerabilities. Legal departments can collaborate with IT, risk, and cybersecurity teams to establish robust security protocols that protect sensitive and personal data and AI models from

breaches and cyberattacks. This includes complying with cybersecurity regulations and standards.

Additionally, legal advisors can help ensure that tools and platforms comply with IP laws and data protection regulations—and that appropriate security measures are in place. Legal can check AI vendor compliance, work with IT teams to audit AI systems, and develop processes that mitigate legal risks associated with data licensing and third-party engagements.

- **Talent management.** A mere 20% of organizations say they think their talent is highly prepared for GenAI, and only 34% have hired new talent to fill data-related skill gaps. Basic AI training and awareness, like those required in Article 4 of the EU AI Act, can help employees use GenAI tools and, just as important, understand their capabilities, risks, and controls. Legal departments often lead the development and implementation of training programs to ensure that employees understand the risks and opportunities associated

with AI. These programs help build the necessary skills and knowledge for effective AI use. Highlighting this point, 60% of organizations say they have employee training to improve oversight and to help enable their GenAI strategy.

By creating an environment that encourages experimentation and innovation while managing risks, employees can feel more confident in using GenAI. This fosters a culture of innovation and accelerates its adoption.

- **Data management and protection.**

Any development and use of AI requires access to quality data that doesn't infringe on IP or privacy laws. Legal departments can help assess the accuracy, robustness, and security of data as they help develop pragmatic, effective policies that comply with global and regional regulations, such as the EU's General Data Protection Regulation (GDPR), as well as other cross-border data transfers and data retention policies.

The questions get even more complicated when it comes to customer and partner data access, especially in third-party contracts. How are GenAI models being trained? How is the data being used? Consider this example: Does a car manufacturer have the right to access data its cars collect about traffic conditions, driving patterns, and tire wear? Under what conditions can it use, sell, or license that data?

- **Ethics and compliance.** GenAI is only as good as its data—and data produced by humans is going to have some degree of human bias. What happens when that bias, propagated at scale, reinforces discrimination, or supports (intentional or unintentional) ethical breaches? To mitigate such effects, Legal can work with IT and HR teams to assess all current and proposed uses of GenAI, including data sources, training models, and user access, and then establish controls that both assess and address bias.



Scaling successfully

Here's how an organization's legal team can help scale a successful GenAI project:

Don't wait to bring in legal. Business leaders can identify promising GenAI use cases and perhaps identify major legal issues, but the complexities and nuances of AI demand deep legal expertise. Bringing the CLO in early sets a firm foundation for any GenAI project, enabling you to identify risks upfront, develop appropriate guidelines, and experiment and test with confidence. Legal issues often arise at the end of transformation programs if not addressed early. This can cause delays, additional costs, and complications in GenAI implementation.

Highlight what GenAI can do. A major function of a legal department is to foresee potential problems and establish rules to help avoid them—and Legal can help set clear guidelines for how *not* to use AI. However, focusing only on the negative can scare employees and stifle innovation. Put the primary focus on what *can* be done and instill confidence by providing the guardrails people need to work responsibly—and productively—with GenAI. This creates a culture of innovation, so your company can move quickly from prototyping to a successful production phase.

Invest in training. AI education and awareness are critical to getting early buy-in from stakeholders at all levels. While emerging talent tends to be comfortable with new technologies, others may need more of a push to try out GenAI. And without appropriate education and safeguards, any team member could use it as they see fit. Your organization can set firm policies and guidelines for GenAI use, and make it clear that they can and



will be evolving over time, with user input being an important part of the process. With Article 4 of the EU AI Act highlighting the necessity for organizations to ensure that their employees receive adequate training on the use and management of GenAI, training can be deployed that helps them understand the ethical implications, operational procedures, and compliance requirements associated with GenAI to promote responsible and informed usage.

Delegate decision-making. Clear, firm control is essential to any GenAI project. But overly restrictive controls, at too high a level, can backfire. Legal teams can collaborate with HR and corporate leadership to think through how to best manage risk and at what levels, with the goal of placing responsibility for

many aspects of use closer to the GenAI application owner. There are a host of tools, settings, and systems that can build a solid governance for the use of GenAI in your organization. Even a control library of five to 10 highly effective controls can make all the difference in how an organization uses GenAI to generate content, interact with users, and ensure ethical and safe results.

Plan to avoid and confront problems. Legal can help develop a robust incident response plan for AI-related issues, such as data breaches or biased outputs, which can be essential for quick action—and under the EU AI Act, this is a requirement. If an organization does not provide internal GenAI solutions, employees might use AI solutions available to the general public and even possibly upload sensitive items.

Seizing the opportunity

Currently, only 36% of CLOs say their organizations have cross-functional teams executing on GenAI issues. That means now is the time to gain a competitive advantage and work with your legal department to lay a strong foundation for GenAI use—an investment that will pay off many times over when it comes time to scale adoption across the enterprise.

Relying on your legal team from the beginning to foster cross-functional collaboration, calibrate risks, and set clear guidelines positions you to move faster, capture opportunities, and minimize risk—and ultimately, scale GenAI successfully and responsibly.

The greatest risk a company faces with GenAI is not using it at all.



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