

Chapter 5

Governance core for entrepreneurs: Marketing and Legal

Learning objectives

- Protect intellectual property rights.
- The legal structure for Entrepreneurial Ventures.
- Marketing research.
- Social Media Marketing.
- Pricing Strategies.

1. Protect intellectual property rights

Major Legal Concepts and Entrepreneurial Ventures

I. Inception of an Entrepreneurial Venture

A. Laws governing intellectual property

- Patents
- Copyrights
- Trademarks

B. Forms of business organization

- Sole proprietorship
- Partnership
- Corporation
- Franchise

C. Tax considerations

D. Capital formation

E. Liability questions

II. An Ongoing Venture: Business Development and Transactions

A. Personnel law

- Hiring and firing policies
- Equal Employment Opportunity Commission
- Collective bargaining

B. Contract law

- Legal contracts
- Sales contracts
- Leases

III. Growth and Continuity of a Successful Entrepreneurial Venture

A. Tax considerations

- Federal, state, local
- Payroll
- Incentives

B. Governmental regulations

- Zoning (property)
- Administrative agencies (regulatory)
- Consumer law

C. Continuity of ownership rights

- Property laws and ownership
- Wills, trusts, estates
- Bankruptcy

Patents

- A patent provides the owner with exclusive rights to hold, transfer, and license the production and sale of the patented product or process.
- A patent is an intellectual property right. It is the result of a unique discovery, and patent holders are provided protection against infringement by others.
- A few items can qualify for patent protection, including processes, machines, products, plants, etc.

Copyrights

- A copyright provides exclusive rights to creative individuals for the protection of their literary or artistic productions.
- It is not possible to copyright an idea, but the particular mode of expression of that idea can often be copyrighted.
 - ❖ Books, periodicals, dramatic or musical compositions, art, motion pictures, lectures, sound recordings, and computer programs

Trademarks

- A trademark is a distinctive name, mark, symbol, or motto identified with a company's product(s) and registered with the authorities.
 - ❖ For example, trademarks identify and distinguish goods. Service marks identify and distinguish services.
- Certification marks denote the quality, materials, or other aspects of goods and services. They are used by someone other than the mark's owner.

Laws are related to patents, copyrights, and trademarks in Vietnam

- Amendments to some articles of the Law on Intellectual property in 2022 (*No. 07/2022/QH15, dated June 16, 2022*).
- Law on Intellectual property in 2022 (*No. 11/VBHN-VPQH, dated July 08, 2022*).

Responsibility for state management of intellectual property in Vietnam

- Based on Article 11 of Law on Intellectual Property, responsibility for state management of intellectual property.
 2. The Ministry of Science and Technology is responsible for to the Government to preside over and coordinate with the Ministry of Culture, Sports and Tourism, and the Ministry of Agriculture and Rural Development to carry out state management of intellectual property and industrial property rights.

The Ministry of Culture, Sports and Tourism, within the scope of its duties and powers, performs state management of copyright and related rights.

The Ministry of Agriculture and Rural Development, within the scope of its duties and powers, performs state management of rights to plant varieties.
 4. People's Committees at all levels carry out state management of intellectual property locally according to their authority.

2. The legal structure for Entrepreneurial Ventures

How many types of enterprise are there?

- Based on the Law on Enterprises in 2020, Vietnam currently has 05 types of enterprises:
 - ❖ Sole proprietorships.
 - ❖ Limited liability companies
 - Single-member limited liability companies.
 - Multi-member limited liability companies.
 - ❖ Joint stock companies.
 - ❖ Partnerships.
 - ❖ State-owned enterprises. They can be
 - Limited liability companies.
 - Joint stock companies.

Sole proprietorships

- Based on Article 188 of Law on Enterprise, Sole proprietorship.
 - ❖ 1. A sole proprietorship is an enterprise owned by a single individual whose liability for its entire operation is equal to his/her total assets.
 - ❖ 2. A sole proprietorship must not issue any kind of securities.
 - ❖ 3. An individual may only establish one sole proprietorship. The owner of a sole proprietorship must not concurrently own a household business or hold the position of general partner of a partnership.
 - ❖ 4. A sole proprietorship must not contribute capital upon establishment or purchase shares or stakes of partnerships, limited liability companies or joint stock companies.

Advantages of Sole proprietorships

- Because a sole proprietorship is owned by only one individual, the owner has full authority to decide on all business activities within the enterprise.
- The capital of the enterprise can be registered by the owner himself and there is no need to carry out procedures to transfer ownership to the enterprise (*Article 189 of the Law on Enterprise*).
- Because the liability regime of a sole proprietorship is unlimited, it is easier to gain trust from customers and partners when cooperating.
- A sole proprietorship is less strictly bound by law and can control risks because there is only one person as the legal representative of the enterprise.

Disadvantages of Sole proprietorships

- Because a sole proprietorship is owned by only one individual, there is no capital contribution;
 - ❖ It is difficult to immediately meet the need for large capital for business.
 - ❖ There is only one person, so one-sided decisions can easily happen and lack of objectivity.
- The fact that a sole proprietorship is not allowed to issue any type of securities (*Clause 2, Article 188 of the Law on Enterprises*) is also a restriction for mobilizing the business capital of enterprises.
- The owner of a sole proprietorship cannot simultaneously be the owner of a business household, a member of a partnership, or the owner of another sole proprietorship (*Article 188 of the Law on Enterprises*).

Disadvantages of Sole proprietorships (Cont.)

- Sole proprietorships do not have a juridical person, so they are not allowed to carry out some transactions themselves as prescribed by law.
- Enterprise owners must be responsible before the law for all business activities of private enterprises.
- The owner has unlimited liability for all his assets.
 - ❖ if the company's assets are not enough to pay debts and other financial obligations, the owner will have to use his or her assets to settle these debts, even if the company has declared bankruptcy.

Single-member limited liability companies

- Based on Article 74 of Law on Enterprise, Single-member limited liability companies.
 - ❖ 1. A single-member limited liability company is an enterprise owned by a single organization or individual ((hereinafter referred to as “owner”). The owner’s liability for the company’s debts and other liabilities shall be equal to the company’s charter capital.
 - ❖ 2. A single-member limited liability company has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.

Single-member limited liability companies (Cont.)

- Based on Article 74 of Law on Enterprise, Single-member limited liability companies.
 - ❖ 3. A single-member limited liability company must not issue shares except for equitization.
 - ❖ 4. Single-member limited liability companies may issue bonds in accordance with this Law and relevant laws; private placement of bonds shall comply with Article 128 and Article 129 of this Law.

Advantages of single-member limited liability companies

- Owned by an organization or individual, the owner will have full authority to decide on all issues related to the company's operations and does not need to ask for opinions or suggestions from other entities.
- Having a juridical person, the enterprise is recognized as a legal entity and can independently participate in relationships on its behalf.
- The owner only has limited liability within the scope of the company's charter capital (*Clause 1, Article 74 of the Law on Enterprises*).

Advantages of single-member limited liability companies (Cont.)

- Having a strict organizational structure with a company President, Director, or General Director.
 - If a company is owned by an organization, it can also be organized according to the model of a Board of Members (which elects a person to be the Chairman of the Board of Members), Director, or General Director (*Article 79 of the Law on Enterprises*).
- The company owner has the full right to transfer all or part of the company's charter capital (*Article 76 of the Law on Enterprises*).

Advantages of single-member limited liability companies (Cont.)

- It is possible to increase charter capital by contributing additional capital from owner, mobilizing additional investment capital from other individuals and organizations (*Article 87 of the Law on Enterprise*), or issuing bonds.
- **Note:** In the event of mobilizing additional investment capital from other individuals or organizations, the one-member limited liability company must convert the business type to a limited liability company with two or more members or a joint stock company.

Disadvantages of single-member limited liability companies

- The legal system regulating single-member limited liability companies is stricter than that of sole proprietorships.
- Restricted in raising capital because the limited liability company is not allowed to issue shares.
- If there is a demand to mobilize additional capital from other individuals or organizations, procedures for converting the business type to multi-member limited liability companies or a joint stock company will have to be carried out.

Multi-member limited liability companies

- Based on Article 46 of Law on Enterprise, Multi-member limited liability companies.
 - ❖ 1. A multiple-member limited liability company means an enterprise that has 02 – 50 members that are organizations or individuals. A member's liability for the enterprise's debts and other liabilities shall be equal to the amount of capital that member contributed to the enterprise, except for the cases specified in Clause 4 Article 47 of this Law. The member's stake (contributed capital) may only be transferred in accordance with Articles 51, 52 and 53 of this Law.

Multi-member limited liability companies (Cont.)

- Based on Article 46 of Law on Enterprise, Multi-member limited liability companies.
 - ❖ 2. A multiple-member limited liability company has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.
 - ❖ 3. Multiple-member limited liability companies must not issue shares except for equitization.
 - ❖ 4. Multiple-member limited liability companies may issue bonds in accordance with this Law and relevant laws; private placement of bonds shall comply with Article 128 and Article 129 of this Law.

Advantages of multi-member limited liability companies

- Having a juridical person (*Clause 2, Article 46 of the Law on Enterprises*), the enterprise is recognized as a legal subject and can independently participate in relationships on its behalf.
- Company members only have limited liability within the amount of capital contributed to the company (*Clause 1, Article 46 of the Law on Enterprise*).
- Charter capital can be increased by increasing member capital contributions, receiving additional capital contributions from new members (*Clause 1, Article 68 of the Enterprise Law*), or issuing bonds (*Clause 4, Article 46 of the Enterprise Law*).

Advantages of multi-member limited liability companies (Cont.)

- The transfer regime (*Article 52 of the Law on Enterprise*) and redemption of capital contributions (*Article 51 of the Law on Enterprise*) are strictly regulated so investors can easily control the change of members.
- There are more owners than sole proprietorships and limited liability companies, so they can have more capital.
 - ❖ Having a financial position creates growth potential for businesses.
 - ❖ Comprehensive management capabilities due to more people involved in running the business; etc.

Disadvantages of multi-member limited liability companies

- The number of members is limited from 02 to 50 members (*Clause 1, Article 46 of the Law on Enterprises*).
- Any increase or decrease in charter capital must be notified to the Business Registration Authority (*Clause 4, Article 68 of the Law on Enterprises*).
- The organizational structure and operations of multi-member limited liability companies are more strictly controlled by law than sole proprietorships and partnerships.
- The fact that multi-member limited liability companies are not allowed to issue shares (*Clause 3, Article 46 of the Law on Enterprise*) is also a restriction for mobilizing the business capital of enterprises.

Joint Stock Company

- Based on Article 111 of Law on Enterprise, Joint Stock companies.
 - ❖ 1. A joint stock company is an enterprise in which:
 - a) The charter capital is divided into units of equal value called shares;
 - b) Shareholders can be organizations and individuals; the minimum number of shareholders is 03; there is no limit on the maximum number of shareholders;
 - c) A shareholder's liability for the company's debts and liabilities is equal to the amount of capital contributed to the company by the shareholder;
 - d) Shareholders may transfer their shares to other persons except for the cases specified in Clause 3 Article 120 and Clause 1 Article 127 of this Law.

Joint Stock Company (Cont.)

- Based on Article 111 of Law on Enterprise, Joint Stock companies.
 - ❖ 2. A joint stock company has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.
 - ❖ 3. A joint stock company may issue shares, bonds and other kinds of securities.

Advantages of Joint Stock Company

- Shareholders only have limited liability for debt and other property obligations of the company within the scope of their capital contribution.
- The ability to raise capital is very high through issuing shares to the public.
- A joint stock company does not limit the number of shareholders and can mobilize capital all over the world.
- Shareholders can easily and freely transfer, buy, sell, and inherit shares based on the stock market;

Advantages of Joint Stock Company (Cont.)

- Large scale of operations and ability to expand business in most industry fields.
- The company's operations are highly effective due to the independence between management and ownership.
- A joint stock company allows the salaries and bonuses of shareholders with the role of management to be included in the company's operating expenses to reduce corporate income tax payable.
- All business decisions are collected with the opinions of shareholders, so management and operations are very transparent.

Disadvantages of Joint Stock Company

- The management and operation of a joint stock company is very complicated because the number of shareholders can be very large.
 - ❖ Many people do not know each other and there will even be division into opposing shareholder groups about benefits;.
- Business and financial security risk is limited because the company must disclose and report to shareholders.
- The management and operation of joint stock companies are also more complicated, especially the financial and accounting regime.

Partnerships

- Based on Article 177 of Law on Enterprise, Partnerships.
 - ❖ 1. A partnership is an enterprise in which:
 - a) There are least 02 partners that are joint owners of the company and do business under the same name ((hereinafter referred to as “general partner”). There can be limited partners in addition to general partners;
 - b) A general partner shall be an individual whose liability for the company’s obligations is equal to all of his/her assets;
 - c) A limited partner can be an organization or an individual whose liability for the company’s debts is equal to the promised capital contribution.

Partnerships (Cont.)

- Based on Article 177 of Law on Enterprise, Partnerships.
 - ❖ 2. A partnership has the status of a juridical person from the day on which the Certificate of Enterprise Registration is issued.
 - ❖ 3. A partnership must not issue any kind of securities.

Advantages of Partnerships

- A partnership company combines the personal reputation of many people.
 - ❖ Due to the partnership regime, the partnership members have unlimited liability.
 - ❖ Partnership companies easily create the trust of customers and business partners.
- Managing the company is not too complicated.
 - ❖ Due to the small number of members, they are reputable people who trust each other.
- Partnership members are usually individuals with high professional qualifications and reputations.

Advantages of Partnerships (Cont.)

- Banks are easier to lend capital and postpone debt due to the unlimited liability regime of partnership members.
- Compact and easy-to-manage organizational structure. Suitable for small and medium businesses.
- Having a juridical person (*Clause 2, Article 177 of the Law on Enterprises*).

Disadvantages of Partnerships

- Due to the unlimited liability (Point đ, Clause 2, Article 181 of the Law on Enterprise), the risk level of partnership members is very high.
- The general partners are the legal representatives of the company and jointly organize the company's daily business operations (*Clause 1, Article 184 of the Law on Enterprise*), so if they cannot agree on their opinions, will cause difficulties for business operations.
- Partnership members are not allowed to own private enterprises; Not allowed to be general partners of another partnership unless agreed by the remaining partners (*Clause 1, Article 180 of the Law on Enterprises*).

Disadvantages of Partnerships (Cont.)

- Partnership companies are not allowed to issue any type of securities (*Clause 3, Article 177 of the Law on Enterprise*).
- A general partner who withdraws from the company is still responsible for the partnership's debts arising before the date of termination of membership within 02 years (*Clause 5, Article 185 of the Law on Enterprises*).
- A partnership company does not have a clear distinction between company assets and personal assets, so even though it has a juridical person, the partnership company is not independent in being responsible for the company's debts.

3. Marketing Research

What is Marketing Research?

- Marketing research involves the gathering of information about a particular market, followed by analysis of that information.
- A knowledge and understanding of the procedures involved in marketing research can be very helpful to the entrepreneur in gathering, processing, and interpreting market information.

Research Purpose and Objectives

- Specific objectives should be established.
- For example, one study has suggested the following set of questions to establish objectives for general marketing research:
 - ❖ Where do potential customers go to purchase the good or service in question?
 - ❖ Why do they choose to go there?
 - ❖ What is the size of the market? How much of it can the business capture?
 - ❖ How does the business compare with competitors?
 - ❖ What impact does the business's promotion have on customers?
 - ❖ What types of products or services are desired by potential customers?

Gathering Secondary Data

- Information that has already been compiled is known as secondary data.
- Secondary data are less expensive to gather than are new, or primary, data.
- The entrepreneur should exhaust all the available sources of secondary data before going further into the research process.
- Marketing decisions can often be made entirely with secondary data.
- Secondary data may be internal or external.

Gathering Primary Data

- If secondary data are insufficient, a search for new information, or primary data, is the next step.
- Several techniques can be used to accumulate primary data; these are often classified as observational methods or questioning methods.
- Observational methods avoid contact with respondents. A major disadvantage of observational methods, however, is that they are limited to descriptive studies.
- Questioning methods involve respondents to varying degrees. Surveys and experimentation are two questioning methods that involve contact with respondents.

Quantitative vs Qualitative Marketing Research

- Quantitative research involves empirical assessments that use numerical measurements and analytical approaches to compare the results in some way. The researcher is an uninvolved observer, so the results are “**objective**.” However, larger samples are needed to be able to perform the statistical analyses effectively.
- Qualitative research needs a far smaller sample size as it involves the researcher in the process and can go deeper into the questions with the respondents. Since it relies less on analytical testing and the researcher is engaged in the process, the results are thus considered “**subjective**.”

Interpreting and Reporting Information

- After the necessary data has been accumulated, it should be developed into usable information.
- To be useful, they must be organized and molded into meaningful information.
- The methods of summarizing and simplifying information for users include tables, charts, and other graphic methods.
- Descriptive statistics—such as the mean, mode, and median—are most helpful in this step of the research procedure.

Marketing Research Questions

- The need for marketing research before and during a venture will depend on the type of venture.
- However, typical research questions might include the following, which are divided by subject:

❖ Sales

- Do you know all you need to know about your competitors' sales performance by type of product and territory?
- Do you know which accounts are profitable and how to recognize a potentially profitable one?
- Is your sales power deployed where it can do the best and maximize your investment in selling costs?

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Marketing Research Questions (Cont.)

- **Distribution**

1. If you are considering introducing a new product or line of products, do you know all you should about distributors' and dealers' attitudes toward it?
2. Are your distributors' and dealers' salespeople saying the right things about your products or services?
3. Has your distribution pattern changed along with the geographic shifts of your markets?

- **Markets**

1. Do you know all that would be useful about the differences in buying habits and tastes by territory and kind of product?
2. Do you have as much information as you need on brand or manufacturer loyalty and repeat purchasing in your product category?
3. Can you now plot, from period to period, your market share of sales by products?

Marketing Research Questions (Cont.)

- **Advertising**

1. Is your advertising reaching the right people?
2. Do you know how effective your advertising is compared to that of your competitors?
3. Is your budget allocated appropriately for greater profit—according to products, territories, and market potentials?

- **Products**

1. Do you have a reliable quantitative method for testing the market acceptability of new products and product changes?
2. Do you have a reliable method for testing the effect on sales of new or changed packaging?
3. Do you know whether adding higher or lower quality levels would make new profitable markets for your products?

3. Social Media Marketing

Key Distinctions of Social Media Marketing

- The traditional marketing approach, emphasizing the *4Ps (product, price, place, and promotion)* and *7Ps (Product, Price, Place, Promotion, People, Process and Physical evidence)*, still has some important lessons for marketing, but in social media, it must be adapted or in some areas changed completely.
- The first distinction is referred to as control versus contributions.
 - ❖ Traditional marketing seeks to control the content seen by the audience and attempts to dominate the territory by excluding their competitors' message.
 - ❖ Social media marketing emphasizes audience contribution and relinquishes control over large parts of the content.

Key Distinctions of Social Media Marketing (Cont.)

- A second important distinction is trust building.
 - ❖ Firms cannot fully control the content that users will create, so a venture must develop trusting relationships with the customer audience.
- A third distinction is in how social media messages are consumed.
 - ❖ Traditional marketing was “one-way” from the firm to the customers.
 - ❖ Social media involves two-way communication to an audience that is interested in responding.

Developing a Social Media Marketing Plan

- A social media marketing plan details an organization's social media goals and the actions necessary to achieve them.
 - ❖ **Listen:** What people are saying about a company. It enables the organization to determine its current social media presence. It guides the setting of social media goals and strategies to achieve them.
 - ❖ **Identify:** The target market (niche) so marketing strategies can be organized to efficiently reach those most receptive customers and eventually advocates.
 - ❖ **Categorize:** social media platforms by target market relevancy. In other words, a company should focus its efforts on the social media sites where its target audience resides in the greatest numbers, resulting in a higher return on investment (ROI).

Developing a Social Media Marketing Plan (Cont.)

- **Appraise:** The location, behavior, tastes, and needs of the target audience, as well as the competition, based on the SWOT Analysis.
- **Implement:** Choosing the right tools is accomplished by finding the social media sites where the target audience resides.
- **Collaborate:** with platform members as a means of establishing a mutually beneficial relationship with the platform participants.
 - ❖ Social media is a key way to build relationships.
 - ❖ People who feel a personal connection with a company are apt to like and trust the associated brand or product.

Developing a Social Media Marketing Plan (Cont.)

- **Contribute:** content to build a reputation and become a valued member, helping to improve the community.
 - ❖ A brand or company can be positioned as thought leaders or experts in an industry by showcasing their unique knowledge.
- **Convert:** strategy execution into desired outcomes, as follows:
 - ❖ Brand building, increasing customer satisfaction, driving word-of-mouth recommendations, producing new product ideas, generating leads, handling crisis reputation management, etc.
- ❖ **Monitor:** Evaluate the organization's social media marketing initiatives.

Mobile Marketing

- Mobile computing is the use of portable wireless devices to connect to the Internet.
- It enables people to access data and to interact on the social web while on the move if they are in range of a cellular or Wi-Fi network.
- Common mobile computing devices include cell phones, PDAs, smartphones, tablet PCs, and netbooks.
- Mobile social media marketing is a fast-paced and high-impact marketing tool that many companies have started to use very successfully as part of their overall marketing strategy.

Mobile Marketing (Cont.)

- The overall mobile social media strategy.
 - ❖ **Integrate:** The best way to integrate the application into the daily life of the user is to offer incentives, prizes, or discounts to the user of the application.
 - ❖ **Individualize:** Mobile marketing allows for an even higher level of individualized company-to-consumer communication based on location, taste preferences, and shopping habits.
 - ❖ **Involve.** Effective mobile campaigns involve the user interactively with a type of story or game. Mobile social media games often involve prizes for the winners, often in the form of discounts, coupons, or gift cards.
 - ❖ **Initiate.** Companies sometimes need to initiate the creation of user-generated content to start a meaningful dialogue between different consumers as they communicate online.

4. Pricing Strategies

Views of Pricing

- Pricing can be viewed as value, variable, variety, visible, and virtual.
 - ❖ When seen as **value**, the amount a customer is willing to pay is, in the final analysis, a statement of the amount of value they perceive in the product or service.
 - ❖ Pricing can be **variable**, such as by varying the components of payment, what is being paid for, the time of payment, the form of payment, etc.
 - ❖ There is a **variety** of pricing because firms typically sell multiple products and services, and they may use the price of some items to influence the sales of others.
 - ❖ The **visible** nature of pricing means that customers see and are aware of the prices of most things that they buy.
 - ❖ **Pricing** is virtual because it is the easiest and quickest to change in response to market conditions.

Product Life Cycle Pricing

- Pricing for the Product Life Cycle.

Product Life-Cycle Stage	Pricing Strategy	Reasons/Effects
Introductory Stage		
Unique product	<u>Skimming</u> —deliberately setting a high price to maximize short-term profits	Initial price set high to establish a quality image, to provide capital to offset development costs, and to allow for future price reductions to handle competition
Nonunique product	<u>Penetration</u> —setting prices at such a low level that products are sold at a loss	Allows quick gains in market share by setting a price below competitors' prices

Product Life Cycle Pricing (Cont.)

- Pricing for the Product Life Cycle.

Growth Stage	Consumer pricing — combining penetration and competitive pricing to gain market share; depends on consumer's perceived value of product	Depends on the number of potential competitors, size of total market, and distribution of that market
Maturity Stage	Demand-oriented pricing — a flexible strategy that bases pricing decisions on the demand level for the product	Sales growth declines; customers are very price-sensitive
Decline Stage	Loss leader pricing — pricing the product below cost in an attempt to attract customers to other products	Product possesses little or no attraction to customers; the idea is to have low prices bring customers to newer product lines

Source: Adapted from Colleen Green, "Strategic Pricing," *Small Business Reports* (August 1989): 27–33; updated for accuracy February, 2015.

Pricing in the Social Media Age

- Today's social media start-ups are finding unique ways of generating revenue from the very beginning.
- There are numerous variations of revenue models.
 - ❖ Freemium.
 - ❖ Affiliate.
 - ❖ Subscription.
 - ❖ Virtual goods.
 - ❖ Advertising.

In conclusion

- Protect intellectual property rights.
- The legal structure for Entrepreneurial Ventures.
- Marketing research.
- Social Media Marketing.
- Pricing Strategies.

Understand



**THANK YOU
FOR YOUR ATTENTION**

Q&A