

LEGAL FOUNDATIONS FOR STARTUPS: BEYOND INCORPORATION AND INTO GROWTH.

Nigeria has experienced a remarkable surge in startup activity, but many of these startups do not survive beyond their formative years. This is because entrepreneurs often focus on two priorities: funding and talent, while neglecting the critical place of legal advice that sustains long term growth.

While many startups in Nigeria celebrate incorporation with the Corporate Affairs Commission (CAC) as a major milestone, it is merely the first step in a long legal journey. This is because incorporation on its own does not protect brands/trademarks, prevent disputes over intellectual property, ownership, or ensure regulatory compliance.

Without a sound legal framework, startups risk losing their brand identity, investor confidence, and even control of their company.

This paper explores the role of lawyers at each different stage of the startup journey, identifies common pitfalls, and highlights key lessons from the Nigerian business environment.

Incorporation Is Not the End

- **Trademark vulnerability**

CAC registration allows a business to operate legally, open bank accounts, and pay taxes, but it does not grant exclusive ownership or rights to a brand name or identity. The recent and well-known Fastest Cakes dispute best illustrates this. In that dispute, the company, though incorporated under the name Fastest Cakes Limited, faced a trademark battle against another party that had successfully registered Fastest Cakes as a trademark. Because trademark law takes precedence over mere incorporation, Fastest Cakes Limited lost the right to operate under that name. Trademark registration provides an exclusive commercial right to a brand name across the entire country, allowing the owner to prevent others from using the name.

- **Ownership disputes**

In the absence of clearly drafted founders' agreements, many startups struggle with disagreements over equity distribution, decision-making authority, or exit rights. Such conflicts have derailed otherwise promising ventures, especially when early-stage handshake deals fail under investor scrutiny.

- **Regulatory blind spots**

Startups in sensitive sectors such as fintech, healthtech, and edtech are subject to industry-specific licensing and compliance obligations that incorporation alone does not address. For instance, a fintech business must obtain approval from the Central Bank of Nigeria, while a healthtech company must comply with medical data protection standards amongst other applicable regulations.

In essence, incorporation should be viewed as the first step in a company's legal journey, not the finish line.

The Lawyer's Role in the Startup Lifecycle

1. Pre-Seed and Seed Stage

At this stage, startups typically rely on founders' savings, contributions from friends and family, and support from angel investors. The priority is to develop a minimum viable product (MVP) and build early traction; therefore, associated challenges include informal co-founder relationships, unregistered intellectual property such as logos, software, and brand assets, and the absence of shareholder agreements to clarify rights and obligations.

To avoid these, lawyers guarantee protection through carefully drafted agreements, as well as secure intellectual property rights with trademarks and confidentiality arrangements. Their involvement ensures that the startup is legally protected and reduces the likelihood of conflicts when early contributors depart or later seek additional ownership claims.

Some common activities of lawyers at this stage include:

- Draft co-founder and shareholder agreements.
- Register trademarks and secure IP rights for logos, software, and brand assets.
- Prepare confidentiality and non-compete agreements.

Negotiate or mediate amicable founder exit or equity claim.

2. Early-Stage Venture Capital (Series A/B)

Here, startups begin attracting institutional investors and conducting legal due diligence become very paramount to both parties. On the one hand, investors refuse to risk reputational damage and thus demand certainty on structure, ownership, and compliance. Conversely, founders require due diligence to confirm financial stability, aligned vision, and a trustworthy long-term partnership. Therefore, the lawyer's role metamorphoses into getting your business "investor-ready" through drafting and reviewing of formal contracts, managing regulatory compliance across relevant sectors, and identifying potential risks that may surface during due diligence.

An excellent deal, with a lawyer's involvement, will secure a fair valuation, protects founders from excessive dilution, and preserve founders' control over the company's direction. A well-structured deal will also ensure that investors are committed not only to funding but to providing strategic support, while setting out clear and workable exit terms.

Some common activities of lawyers at this stage include:

- Prepare the business for investor due diligence.
- Draft and review contracts with investors, partners, and suppliers.
- Design governance structure that protects founders from excessive dilution and balance governance rights.
- Ensure compliance with sector-specific regulations.
- Identify and address legal risks that could derail a deal
- Negotiate clear exit and investment terms.

3. Growth Stage (Expansion and Later Rounds)

At this point, startups are raising larger sums, scaling across regions, and attracting foreign investors. Hence, legal complexity increases significantly. Typical issues include cross-border tax planning and transfer pricing, structuring employee stock option plans (ESOPs), as well as governance frameworks for boards and audits; therefore, a lawyer's advisory role remains relevant.

Some common activities of lawyers at this stage include:

- Negotiating cross border agreements to ensure that they are enforceable and protect the company's interests in the new jurisdiction
- Manage cross-border tax planning and transfer pricing.
- Structure Employee Stock Option Plans to attract and retain talent.
- Establish governance frameworks for boards, audits, and decision-making.
- Handle foreign investment approvals and capital importation certificates.
- Compliance with foreign regulations to avoid penalties and reputational damage.

4. Exit Stage (Acquisition or IPO)

Exit events—whether through mergers, acquisitions, or listing on a stock exchange—bring the highest level of scrutiny. Any unresolved legal issue from earlier stages will resurface here. Risks include disputes over equity or intellectual property, regulatory penalties or non-compliance, and poorly documented shareholding arrangements. Nonetheless, legal advice is critical to all exit positions. Lawyers prepare the company for due diligence, negotiate favourable terms for founders, and ensure compliance with listing or merger regulations.

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- Prepare the company for intense due diligence.
- Resolve outstanding issues on equity, IP, or regulatory compliance.
- Negotiate favorable terms for founders in mergers or acquisitions.
- Ensure compliance with listing or merger regulations

Conclusion

To startup founders, the temptation to cut corners is strong, especially when time and resources feel scarce. But every shortcut taken today can create bigger problems tomorrow. Building a sustainable business requires doing things the right way from the start. This includes protecting your intellectual property, putting agreements in writing, complying with regulations, and choosing investors wisely.

These foundational steps may seem tedious in the beginning, but they are what will allow your company to grow with confidence, attract serious investors, and withstand future challenges.

At Abe and Asotie LP, we remain committed to supporting entrepreneurs and investors by providing insights on the evolving business and regulatory environment in Nigeria and across Africa, while helping to build resilient legal structures that drive innovation and promote sustainable growth.



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