

# UP TO SPEED



The fast-evolving technology industry can leave lawyers quickly feeling disoriented, as a result practitioners need to become ultra-specialised

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The pace of change in the technology sector is frantic. As a result lawyers often find themselves wrong-footed by new innovations that do not have a relevant legal framework. As a result, it's vital that technology lawyers are familiar with all the latest ground-breaking concepts and products, but this is no easy task. Consequently, there is a growing trend for technology lawyers to become ultra-specialised.

The technology media and telecommunications (TMT)

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& new technologies sector is changing so rapidly that new problems are continually emerging that need resolving with the help of legal advisers. Ecija's IT/IP manager **Carolina Garcia de la Rasilla** says the TMT landscape is changing dramatically. "As previous embryonic technologies are experiencing exponential growth, the greatest opportunities for law firms in the TMT sector arise from the development of these new technologies," she says. Meanwhile law firms themselves will also be able to benefit from these technological developments, according to Garcia de la Rasilla. "Law firms will be able to use more precise tools to offer the best advice to clients as artificial intelligence (AI) will naturally help to solve legal issues," she argues. Garcia de la Rasilla says that the media industry, in particular, will be impacted by the latest technological trends. "Over-the-top technology providers have taken the lead in choosing Spain for producing series and cinema, for example, and this will definitely represent new work for firms," says Garcia de la Rasilla. She adds that, as a result of all the opportunities emerging, there are more mergers between law firms that want to succeed in an extraordinarily competitive market. Such mergers help firms grow in terms of clients, practice areas and new territories, which enable them to better help clients to drive innovation in new segments of the market.

### NEED FOR AGILITY

Uría Menéndez partner **Leticia López-Lapuente**, says the



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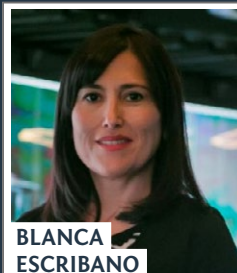
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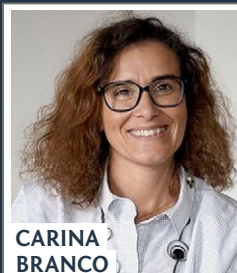
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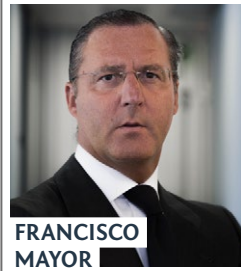


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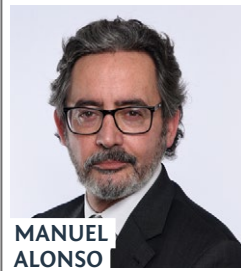


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establishment of new types of digital rights are creating legal challenges for companies that “require specialised legal analysis”. With regard to the biggest challenges TMT & New Technologies lawyers face, López-Lapiente says that technology-related businesses are becoming more and more complex so legal advice may require very different areas of law to be taken into account. “In many cases, TMT and privacy rules need to be combined with a labour law, criminal law or tax law perspective,” she explains. García de la Rasilla believes that the challenges being posed by the TMT sector are exciting for any lawyer that appreciates the potential of technology. She adds that lawyers will need to be “flexible, agile and quick, and be willing to adapt to changes, understand new businesses, and specialise in new practice areas in order to ensure they offer the best advice to clients”.

CCA Law partner **Filipe Mayer** says developments such as the ‘Internet of Things’ (IOT), Fintech, Insurtech and AI continually pose new challenges for lawyers. However, he adds that there are more traditional areas of TMT that are also constantly evolving. “See 5G, as well as personal data that has been generated by the publication of the national legislation that implements the General Data Protection Regulation,” he says. The complexity of the issues raised by these sub-sectors explains why TMT lawyers are increasingly specialising. “It is precisely in the area of TMT that we are increasingly witnessing the ultra-specialisation of lawyers, that is a great opportunity for legal professionals in this field,” Mayer says.

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Examples of areas in which lawyers in Portugal are going down the path of ultra-specialisation are online games and eSports. "The constant discovery of new areas, with new topics, where specialisation is a necessity, are the greatest opportunities," adds Mayer.

### RAISING QUESTIONS

Morais Leitão partner **Gonçalo Machado Borges** says the run-up to 5G is generating significant regulatory work for lawyers in Portugal – this includes advice on spectrum availability and the terms under which the frequency bands will be awarded. "The ongoing tender procedure for the installation and management of a spaceport on the island of Santa Maria (Azores) is a challenging matter and is expected to generate a significant amount of legal work relating to space activities in the near future". Machado adds: "The implementation of the European Electronic Communications Code will raise questions related to the qualification of specific applications and connected services as electronic communications services." A range of industries, including banking, insurance, agriculture, oil and gas, sports, energy and health are being disrupted by technology, according to **Magda Cocco**, partner at Vieira de Almeida and head of the firm's information, communication and technology practice. Examples of the new opportunities being created as result of this disruption include the "use of AI in the



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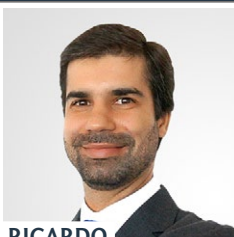
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sport sector to assess player performance, the use of remote sensing satellites for agricultural purposes, autonomous cars, the use of drones to supervise energy networks, IOT solutions in the insurance sector, facial recognition technology in the banking sector, gaming, gambling, the 5G roll out, media services and sophisticated new features of digital marketing".

### RECESSION LOOKING MORE LIKELY

Firms need lawyers in all sectors and departments to have a digital perspective and the appropriate expertise. Machado Borges warns that the "possible weakening of economic conditions, with some form of recession looking increasingly likely", could prove to be a significant challenge for law firms over the next two years. He adds that anticipating, and helping to shape, policy and regulation in fields such as artificial intelligence and blockchain will be an interesting,

but very challenging, process. However, the biggest challenge for lawyers is keeping fully up to date with the latest developments. This not only involves keeping abreast with the applicable legal framework, but also the market to which it applies. This can be difficult for TMT lawyers, especially in a market that is changing at a breakneck pace, says Mayer. "In fact, the very concept of keeping up to date has changed because it is becoming more crucial to keep abreast of technology developments than to be up to date with the applicable legal regime because often there is still no applicable law." Another challenge for lawyers is realising that in order to successfully evolve, they need to integrate multidisciplinary teams that include technicians from other sectors – such as engineers – and even machines. Mayer says: "We have to take into account the technological solutions that are emerging every day in the legal market, as they will be also part of the TMT legal teams of the future".



**FILIFE  
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## FIRMS MUST PREPARE TO TAKE ON ULTRA-SPECIALISED LAWYERS AS DEVELOPMENTS IN TMT CREATE NEW OPPORTUNITIES

Lawyers must keep up-to-date with new changes and advances in the TMT field in order to provide a reliable, specialised service to clients.

The TMT sector is creating, faster than any other sector, a constant emergence of new realities and new opportunities for law firms, according to **Filipe Mayer**, Partner at CCA. "Apart from these new phenomena, such as IoT, Fintech, Insurtech, and AI, revolution is also constant within more traditional areas of TMT," he explains. With the introduction and expansion of 5G and the boost in personal data by national legislation, complex new issues are arising, justifying an enhanced need for ultra-specialised

lawyers. "It is precisely in the area of TMT & IT that we are assisting more and more in the ultra-specialisation of lawyers; it is a huge opportunity for legal professionals in this field," Mayer states.

Particularly in Portugal, the growing Online Gaming field requires ultra-specialisation, to which CCA has now exclusively dedicated a team of lawyers. Similarly, the world of eSports also calls for a heightened level of expertise. "The discovery of new areas, with new issues where specialisation is essential, is the greatest opportunity for legal professionals in these sectors," Mayer explains.

However, these developments bring inevitable challenges; the main difficulty for firms will be ensuring that they are kept up-to-date. "When I say updated, I mean not only the legal framework that is applicable, but also the market in which it operates," Mayer expands. This market in particular is changing rapidly, unparalleled by any other sector; "in fact, the very concept of keeping up-to-date has changed because it is becoming more crucial to keep up with technological developments than with the relevant legal regime – often, there is still no applicable law." Lawyers must also be prepared to integrate multidisciplinary teams, composed of technicians from varying sectors. "We have to take into account the technological solutions that are emerging every day on the legal market, as they will be also part of the TMT teams of the future," Mayer concludes.



**FRANCISCO  
MAYOR**

## COMPANIES' GROWING USE OF BLOCKCHAIN, 5G AND AI DRIVING DEMAND FOR TMT-RELATED LEGAL SERVICES

TMT lawyers have major role to play helping clients to face technology development

Technology is currently a priority for every company and the demand for technology-related legal services is increasing. "Blockchain, Artificial Intelligent (AI), machine learning, IoT, collaborative platforms and data analysis are all very powerful tools for companies, but at the same time they present new legal problems, some of them of complex solution", explains **Francisco Mayor**, Partner at Deloitte Legal.

According to Mayor, "the new scenario shows there are huge opportunities for those law firms that can offer the expertise and deliver the experienced and specialized advice".

The implementation of 5G technology will also generate a great deal of work for lawyers. The rollout of 5G over the next few years will inevitably prompt a cascade of legal challenges and legislative actions and "5G technology will become a driving factor in wireless technology growth".

Meanwhile, there are also challenges for legal advisors, as **Dulce Miranda**, Partner at Deloitte Legal, says. "One of the main challenges is the need to understand new technologies. TMT lawyers will need the technical background necessary to be able to respond to the new legal problems facing companies. To ensure a thorough understanding of the issues involved, we are increasingly creating interdisciplinary teams that enable lawyers to look for advice from other professionals with a more technical profile in different areas such as cybersecurity, risks, etc.". However, "legal services with low added value will gradually be digitized."

Miranda believes that most of these technologies will continue their maturation process in the coming year, specially AI, machine learning, IoT and blockchain. "For instance, analytics tools utilizing AI and machine learning will be needed to make sense of the data, identify issues, and even recommend action", she adds.



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## LAW FIRMS WILL HAVE THE OPPORTUNITY TO EXPAND THEIR SECTRUM, AS TMT AND NEW TECHNOLOGIES BECOME MORE WIDESPREAD

Whilst a knowledge of new technologies and developments was once required only of clients within the TMT industry, its expansion into many other markets is presenting firms with a variety of new opportunities

According to **Blanca Escribano**, the lawyer responsible for Digital Law at EY Abogados, firms are adapting their areas of expertise to the new technological developments, which are seeping through to a variety of other industries. "In the digital economy, technology underpins every sector, every company, every client. The advice that, in the past, was demanded mainly by clients within the TMT industry is now requested by organizations in any industry, such as energy, pharmaceutical and financial, amongst

others," explains Escribano. Because of this, law firms must be prepared for this area of practice to become more decisive, and to remain this way for the foreseeable, medium-term future.

Over the course of the coming year, Escribano expects this only to develop further. "My view is that data has more edges that we have already seen," she states. "We have been discussing only the personal side of data, but will start to deal with data in a wider sense." The idea of data as an asset, and the ways in which non-personal data ownership can be protected, will become growing issues for firms and their clients. Artificial Intelligence will also present a host of opportunities for which law firms must be prepared.

But, as expected, these developments will present also a number of hurdles for firms to overcome. "The biggest challenges are keeping track of all the technological developments and the regulations that follow," explains Escribano. The speed of change within the TMT market is exponential, meaning that lawyers must understand first the technology itself and from that understanding, interpret the legal framework in which they operate. "They will also need to impart this knowledge onto various stakeholders, allowing them to avoid the legal vacuums often created by these changes."



**MANUEL  
ALONSO**

## A DEEPER UNDERSTANDING OF NEW TECHNOLOGIES WILL BECOME CRITICAL FOR LAW FIRMS AS DEVELOPMENTS ARE MADE IN THE TMT SECTOR

Law firms will need to ensure that they have a detailed understanding of new technologies, and the ways in which their related services must be approached legally

With the TMT & New Technology market continually expanding and developing, **Manuel Alonso**, Partner at Fieldfisher JAUSAS explains that law firms must be prepared to go digital, in order to provide the best possible service to clients. "[Firms] need to assume new business scenarios where digitalization is a critical project," he explains. "The client's General Counsel may feel out of their depth with emerging technologies, and be unsure of how to handle their implementation within their companies." Because of this, Alonso warns that law firms must step up to this particular challenge, arming themselves with the necessary knowledge and expertise to keep up with changes such as blockchain and RPA, and the way in which these changes must be addressed from a legal perspective.

But the development of new technology means also new opportunities within the TMT market; something that firms should seek to capitalise upon. "There is a mature market for Tech M&A, with consolidated tech-based companies becoming attractive targets for investors," states Alonso. Alongside this, IT compliance, GDPR and cybersecurity developments will provide law firms with opportunities, which can then be integrated with their clients' needs.

Over the coming year, Alonso predicts surges in the use of a number of technologies, including drone regulation, autonomous vehicles, RPA – including robot-to-human interfaces – and blockchain implementation. Firms must therefore be well-informed of the details of these changes, allowing them to tackle any legal complications that may arise with ease.



**ENRIQUE  
REQUENA DEL CAÑO**

## FIRMS MUST ENSURE THEIR CLIENTS TOTAL TECHNOLOGICAL SECURITY IN ORDER TO COMPLY WITH NEWLY-INTRODUCED PROCEDURES.

The implementation of new cybersecurity and encryption measures will provide firms with a competitive edge, allowing them to keep up with quickly-updating technological advances in their market

With the introduction of a range of new technologies and systems, law firms must prepare to keep their cybersecurity measures up-to-date, to benefit both themselves and their clients. According to **Enrique Requena**, who leads the TMT department at Lener, many opportunities are presenting themselves within the TMT & Technology market, urging firms to expand their portfolio or cybersecurity and consulting services. “Building a solid team that reunites technical experience and transversal legal knowledge, advising the Data

Protection Officer on matters within its competence, can be decisive for positioning the firm in the market as a referent,” he explains. Implementing new and improved encryption and privacy technologies will make it easier for internal policies to be applied, whilst simultaneously allowing clients complete solvency in these subjects.

However, keeping up with technological developments will be somewhat challenging for firms; particularly with the introduction of artificial intelligence and autonomous devices. “Understanding the ins and outs of this universe and integrating into it is currently one of the main challenges for TM & New Technologies lawyers,” states Requena. Because of this, ‘Legal Tech’ solutions must be applied, the software present in each process of their production. Furthermore, the integration of information security could also prove difficult. “Professional secrecy and non-disclosure should not only be guaranteed; at least two more elements are involved in the safety of the information that is being shared by the customers: integrity and availability,” Requena explains. Over the coming year, Requena predicts a number of new technologies to gain traction, each bringing a new set of challenges and opportunities. “For example, the versatility of Blockchain beyond cryptocurrencies leads to a revolution on how financial services – and other trust-based operations – are conducted, such as payments and remittance, credit and lending, trading and settlement, and compliance,” he says. Alongside this, advancements such as the early introduction of 5G has produced an entirely new legal matter within the European authorities, similarly to the “unstoppable uberization of the economy”. This has also raised issues of labor conditions and taxation, among other concerns.

Interview with  
**PATRICIA MANCA DIAZ**  
Partner, PwC





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## TRADITIONAL SECTORS FACING DATA PRIVACY CHALLENGES

The cybersecurity and data privacy landscape continues to change, creating significant new risks for businesses

Companies are facing unique challenges and security risks that digital transformation is bringing, including the ongoing waves of regulations for data privacy and cybersecurity. “Companies in traditional sectors under digital transformation processes will be confronting new challenges very different from those to which they were used to”, says **Norman Heckh**, partner at Ramón y Cajal Abogados. “Law firms will not be oblivious to this need for a multi-disciplinary approach, although partnerships with trusted third-party providers will be a more common way of addressing it than the recruitment of technical profiles”, explains Heckh.

Protecting enterprise data is a major challenge, due in part to the sheer volume of data collected. Heckh highlights that technology lawyers will need to adopt “a tailored approach in order to extract the benefits of big data whilst protecting the right to privacy of individuals at a global scale”.

At this point, there is no doubt that the biggest opportunities in the TMT sector lay around data-related work, in particular, “management of data-related incidents, either caused by sanctions due to the infringement of current regulations or by malicious attackers (cybersecurity)”, according to Heckh. “The adequate management of cybersecurity incidents will also be essential to ensure business continuity and corporate reputation in the coming future”, adds Heckh.

Even if the GDPR enforcement varies widely by country, Heckh believes that the margin for national exceptions under GDPR is lower than under Directive 95/46 and there is a higher level of harmonization among the different supervising authorities when it comes to interpreting data privacy regulations and determining the amounts of fines. “Operators may look up to other EU supervising authorities with a higher degree of certainty whenever their own regulators do not provide answers quickly enough”, advises Heckh.



**PABLO  
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## SMART CITIES PROJECTS GENERATING OPPORTUNITIES FOR LAW FIRMS

The legal aspects are key for successful smart city development

Smart cities are on the rise. The transformation towards a smart city model is one of the main challenges facing the urban areas. “Cities, through public institutions and in collaboration with energy and technology companies, are betting strongly on the implementation of the smart city model”, according to **Pablo de la Cruz**, partner at Ruiz Gallardón Abogados.

Legal advisors play an important role, in the advice that they give, the clients with which they work, and the changes they are able to recommend. The smart city concept touches on a vast majority of areas of regulation. “The public sector and private actors need legal advice in all aspects related to the contracting of technology acquisition, the deployment of their effects and their interaction with legal regimes related to urban planning, the environment, in addition to commercial, civil law, public and regulatory law.”, explains de la Cruz. “It also covers all areas of the TMT sector, such as telecommunications, information, big data, data protection as well as privacy law”.

Smart cities can generate great opportunities in the legal sector, in particular, for those firms armed with the right teams. “Law firms require professionals with a multidisciplinary vision that allows them to face all aspects of this type of projects, both in the public and private aspects. Experience in the public sector is a differential element”, adds De la Cruz.

But there are appearing major threats for smart cities to tackle and resolve. Pablo de la Cruz concludes that “all projects related to mobility and intermodality in transport face great challenges in the short term, although it appear great challenges in private public collaboration, mainly in the legal tools that govern public procurement, and the difficulty it presents to address projects with aspects related to new technologies”.



## TMT LAWYERS ADDING VALUE TO CLIENTS' PROJECTS IN THEIR DIGITALIZATION PROCESS



**MAGDA COCCO**



**FERNANDO RESINA DA SILVA**

### Sectors such as banking and finance, sports, retail and healthcare are requiring a more sophisticated advice

In today's 'digital economy', there is no industry that isn't affected by technology, media and telecommunications (TMT). But the speed of change also presents special challenges for the industry itself: clients, law firms, governments, policy makers and regulators are equally struggling to grapple with the fastness at which technology pervades every aspect of society. "One of the main challenges concerns the fact that the technological developments involved in digital transformation projects are not always accompanied at the same speed by the adaptation of the law, and it is a test for lawyers to incorporate new technologies in laws often obsolete and created for completely different realities" explains **Fernando Resina da Silva**, partner at Vieira de Almeida in Lisbon. "Blockchain and Artificial Intelligence (AI) are two good examples", he adds.

TMT is the area of law that is arguably undergoing the biggest boom. The rise of digital disruption and cutting-edge next-generation technologies means that work is constantly piling in. While data protection compliance projects generated a flurry of instructions during the last year, "the coming year we will see a growing interest in legal services related to highly sophisticated products and services that are based or aimed to obtain data and that also resort to new emerging technologies, such as Internet of Things (IoT), AI and blockchain", according to fellow Vieira de Almeida partner **Magda Cocco**. Sectors such as banking and finance, sports, retail or healthcare are requiring such sophisticated advice for a wide range of products including innovative payment services, e-banking ecosystem, software used to analyze and predict the performance of football players or the profile of consumers and e-health services.

### Looking for strategic advice

TMT presents a brave new world of opportunities for law firms. As matters in this area are becoming more and more complex, clients are increasingly looking for strategic advice from lawyers to help them in the digitalization process that they are currently undertaking. In order to offer this high-class advice, it is crucial to access specialist lawyers with "a deep knowledge not only of the technologies but also of the sector, its main players, the products and services using the technologies and the business models associated to each product and technology", says Resina da Silva. "A lawyer must be familiar with artificial intelligence, IoT, big data, robotics, decision-making algorithms, high-speed Internet connectivity, etc. – all these direct and ancillary features have an impact on the legal side", he continues.

Cocco says that clients discovered that experienced TMT lawyers have a comprehensive and cross sector expertise in the digital world and can help them navigate through new technologies and that they add an enormous value to their projects.

### Media and telecommunications sectors also booming

Traditional media has become outdated. A growing trend is the increasing demand of legal advice in the media sector. "The media sector is extremely innovative and is also taking advantages of the digital economy by introducing new types of services and new platforms. All this innovation is being introduced in a regulatory environment that at least at European level is still being designed", says Madga.

She also highlights that "regulatory and transactional advice in the telecommunications sector has also been quite intensive in Europe as well as in emerging countries and in light of the New Electronic Communication Code – which brings some relevant changes in the regulation - as well as the launch of 5G projects, which is expected to increase in the next year".