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clarity

An international association promoting plain legal language

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Clarity … the journal

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This issue

As foreshadowed in *Clarity* 68's "This issue", *Clarity* 69 contains further articles from Clarity2012—our conference held in Washington D.C. in May 2012. The "This issue" section of *Clarity* 68 overviews the aims, highlights and projects of Clarity2012. You can read that overview on page 3 of *Clarity* 68.

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Plain language and cultural change

Trying to change institutional culture: The European Commission's clear writing campaign

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The challenge

Clarity is a challenge for the European Commission. It is a multilingual, multicultural bureaucracy, producing reports, policy papers and legislation in 23 official languages. However, the principal drafting language of the European Commission is English and, since most Commission officials are not native speakers of English, this has predictable consequences for the clarity of the documents that are produced.

Promoting the clear writing message

Improving the quality of documents is the purpose of the European Commission's Clear Writing Campaign, launched in 2010 and spearheaded by a small team of editors. They get the message across through a website, posters and newsletters, and through a very successful booklet offering drafting advice in every official language. They offer training seminars, an online tutorial and an email helpline. And every year they award a certificate to staff who have produced particularly clear texts.

Recommendations of the Clear Writing Campaign

In 2011, the Campaign's organisers published a report making recommendations for lasting changes in the way the Commission organises its written communication. The Campaign aims to give all staff more opportunities to learn and develop clear writing skills. People who draft well should be rewarded. And quality control should be built into the workflow. Indeed, all important documents should be checked and edited before they are circulated, translated or published. Turning everyone into an expert drafter is challenging, especially when they may be writing in their second or third language. But it is important to create a working culture in which everyone takes pride in the quality of the documents they are responsible for.

Changing the culture

No campaign, though, can transform an entire culture in just two years. It takes time to persuade any organisation or institution to adopt a culture of clarity. The European Commission has yet to make a public commitment to clear writing. And although many of its top officials are supportive of the campaign, we lack a strong champion at the very summit of the institution.

Cost savings

However, the tide may be turning. Grassroots awareness is much stronger than before: indeed, clear writing looks set to become a permanent feature of administrative life in the Commission. Moreover, in the wake of the current economic crisis, the Commission is under pressure to save money and to use its human resources more efficiently. It is beginning to dawn on senior management that well-drafted documents are easier to use and take less time to translate. And time is money!

Avoiding ambiguities

There is also political pressure on the European Commission to produce better legislation. It is essential to avoid ambiguous articles or clauses, because the translations may well diverge—and the law will then be implemented differently in different countries. Once again, senior management is beginning to realise that the solution is clearer drafting.

Part of the solution

Given the huge economic and political challenges facing Europe and every other part of the world, now is the time to get out of our comfort zone and to do what is needed, not what we have always done. Clearer communication and better and smarter legislation are more important than ever—in fact, they are part of the solution.

Perhaps clarity is an ideal whose time has come!

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Paul Strickland *is Head of Editing, European Commission's Directorate-General for Translation. He also chairs an inter-departmental task force that runs a Clear Writing Campaign in the Commission. After work in the private sector, Paul joined the Commission in 1989 as a linguist. He then spent many years in the areas of international trade and foreign relations before returning to his roots and taking up his recent position. Paul is a graduate of the University of Oxford and has a degree in Modern History and Modern Languages. He is married and has two grown children.*

How to join Clarity

The easiest way to join Clarity is to visit http://sites.google.com/site/legalclarity/, complete an application, and submit it with your payment. You may use PayPal or a credit card to pay.

Prospective members in Canada, Italy, and the United States may also pay by bank draft. If you prefer to submit a hard copy of the application, you may contact your country representative for submission instructions. Country reps are listed on page 2.

Start a plain language program at your organization

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Vicki Lankargeand Brian Berkenstock consider ways—overt and covert—of persuading colleagues to commit to communicating clearly

No matter what your organization does, no matter whether it's large or small, it's also a publisher if it communicates with people in letters, flyers, websites, advertisements and more. That's where your writing expertise comes in. Use your skills to help your organization reach its goals. And show your colleagues that to do that, they need to communicate clearly. Launching a plain language program might not be easy. You know its value, but you have to convince others. Here are some ideas.

1. Create awareness

Nothing changes until people know there is a problem. So show them with "Before & After" examples. Back those up with stats about reading grade levels. Show real people struggling with low literacy. Help your organization understand that all people—especially busy people—value clear language. This is the foundation stage of your work. It may pass quickly or drag on. But don't lose hope. Use every opportunity to show the value of communicating clearly to the people you serve.

2. Seed your grassroots

You may be lucky to find support at the top of your organization. Your leaders can speak about plain language. They can add it to your brand and to the quality review process. But if you don't have that kind of support, start at the bottom and work your way up. Find

like-minded colleagues. Share ideas for how to move the plain language agenda forward.

At Aetna—a large US health insurance company—we took two steps to strengthen our efforts:

a. Give employees resources to take action.

We created:

- a quarterly plain language newsletter full of tips and techniques
- a monthly feature on cutting jargon
- an introductory course in plain language.

b. Give people resources to do the work and support them as they face resistance.

- Recognize the good work people do
- Promote your plain language champions. You can do this in small ways (a thank you email to the writer and his or her boss) and large (a formal recognition program). Brand your true experts as role models.
- Share examples, conduct research, make your case
- Testing not only helps us all get better at what we do; it also proves that what we do works.

3. Improvise with style

We didn't start out with a plan. But anytime we saw an opportunity to advance the cause, we jumped at it. Whether you start with a plan or not, you'll spot opportunities along the way. Tailoring your message to each audience is vital:

- with medical directors—we talk about health literacy as a patient safety issue
- with business people—we talk about return on investment
- with executives—we talk about thought leadership
- with product owners—we talk about improving customer experience
- with advertising and communications specialists—we talk about the value of the brand.

4. Use covert ops

Two epiphanies helped us expand the acceptance and support of plain language.

- People love when you do work for them
  - Help them simplify their work.
  - Show them how great things look when done well.
  - Acknowledge them as your greatest boosters.
- People are looking for experts to make decisions
  - Most people are not opposed to being told, "This is the rule."
  - If no one is making these decisions on clarity in writing, you should do it. "Proceed until apprehended!"
  - You become the experts.

Convert co-workers through education. Appeal to their common sense and their wish for success. This means you will need to build relationships one at a time. Is it slow going? Yes. But each person you bring into the fold becomes a supporter—or even better—an evangelist. You will never convince everyone. But you will eventually tip the balance in favor of plain language. And there is no downside to that.

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Brian Berkenstock *is director of content services for digital media strategy and communications in the marketing product and communications department at Aetna.*

His dad, a plainspoken man, once asked, "But what do you DO?" Brian said, "I try to get people to write like human beings who are simply talking to other human beings." And that, believe it or not, easily fills 8–10 hours a day.

Vicki Lankarge *has had many writing jobs in the past 30 years. She's been an English teacher, newspaper reporter, and "Mold Queen." She got the last title from her smart-aleck co-workers at insure.com. That's where she spent more than a year writing for consumers about the hazards of toxic mold. Today, Vicki is a member of a growing group of plain language advocates at Aetna. They work together to help consumers better understand and use their health benefits.*

USCIS plain language program

Kathryn Catania

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The task of USCIS

U.S. Citizenship and Immigration Services (USCIS) has roughly 18,500 employees in 250 offices around the globe. Many of the individuals we assist as they seek to lawfully emigrate to the United States speak English as a second language. On top of this difficult task, our business is immigration law which can be highly complex. Our biggest challenge is to write with our readers in mind, instead of writing as subject-matter experts.

Implementing a plain-language program

Implementing a plain-language program at a federal agency isn't an overnight project. For USCIS, it has been a four-year process that's still evolving. Today, over 25 percent of USCIS employees have taken plain language training.

Using trainees' own documents

In 2008, we began offering a few generic plain language classes. After a year of mediocre attendance, we tailored the classes to our audience by basing the sessions on documents that they actually write and use. This simple change dramatically increased participation. Attendees spread the word throughout the agency that the classes really related to their work and significantly improved how they communicate with customers. As a result, we offer the class each month, drawing 20 to 25 attendees (some months we even have a waiting list).

Going regional and maintaining momentum

As demand for the classes increased, we began looking at ways to maintain momentum and reach employees in remote locations. We created:

- a volunteer committee of plain-language advocates from across the country
- a USCIS Plain Language Guide and intranet resource center
- videos reminding folks of better writing techniques (also available on www.plainlanguage.gov)
- video conferencing classes for remote locations
- a class focused exclusively on web writing to teach program offices how to repurpose print material for uscis.gov
- an annual awards ceremony to honor noteworthy USCIS users of plain language

The new Plain Language and Content Division

Early this year, the Chief of the USCIS Office of Communications created a new Plain Language and Content Division to ensure our products (news releases, web material, blogs, etc.) are clear and effective. I have the honor of leading this new division and continuing to provide plain language training throughout the agency.

Fostering the commitment to plain language

While our writing culture has changed, the initiative never rests. For every plain-language document, there's an unclear document that gets out. Our goal is continuing to promote clear communication while introducing plain language to new employees. We remain committed to encouraging program offices and individual employees to use plain language as they create and revise material. My team is recruiting volunteer trainers to help meet this demand.

After four years, the USCIS plain language program has come a long way. We will keep working hard to improve how we communicate with the people we serve.

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Kathryn Catania *is the Chief, Plain Language and Content Division, Office of Communications, US Citizenship and Immigration Services (USCIS), Department of Homeland Security. She is also the Chair of the USCIS plain language program. Previously, Kathryn was a Web content editor for www.uscis.gov and a senior regulatory editor at USCIS. Before that, she edited regulations at the Office of the Federal Register. Kathryn is Co-Chair of the Plain Language Action and Information Network (PLAIN), a volunteer group of federal employees who promote plain language use throughout the government and manage www.plainlanguage.gov. OMB, in its preliminary guidance, named PLAIN official inter-agency working group for the* Plain Writing Act of 2010.

Striving for clarity: the General Service Administration's steps towards plain language

Katherine Spivey

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Clear and effective communication is vital to any organization, and particularly to those in the public sector. At The U.S. General Services Administration (GSA), we have a huge audience—all other federal agencies, as well as some state and local government agencies.

When we started GSA's plain language project, we tested our main website through GSA's usability program, *First Fridays*.

Problems found

Usability testing revealed that our audience—other GSA staff and staff from other federal agencies—did not understand the language we used on our pages. It wasn't hard to see why: our pages were full of acronyms and jargon. We also had simply too much text.

We knew that fixing this problem meant much more than editing some web pages—we had to change the communication culture at our agency. This was not an easy task, nor one that could be finished in a year.

We used the recently passed Plain Writing Act of 2010 as our call to action. We explained the plain language issue was actually a critical customer-service problem. This enabled us to lay the groundwork for GSA's need for plain language: we want to make it easy for agencies and vendors to do business with us.

Training

Our initial steps were to provide training, both in-person and online. We partnered with the online education program, Web Manager University (now Digital Gov University) to give us the broadest possible reach. Response was positive and enthusiastic. Webinar transcripts are archived on http://www.howto.gov/training/on-demand.

We held our in-person training sessions around the DC area. They were led by teachers trained by the Plain Language Action and Information Network (PLAIN). These classes were open to GSA staff first and extra seats were made available to other federal agency staff.

Other less formal efforts included "brown bags" (lunch learning sessions) and group rewriting sessions called "plain-a-thons," both in-person and virtual. We also make plain language experts available for consultation during specific office hours.

Publicity

We pushed GSA's plain language campaign through all available outlets: intranet and Sales force Chatter postings, signage, newsletter, and videos. We hope that other federal agencies can use these ideas in their agencies. If you have any questions, please contact Katherine Spivey.

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Katherine Spivey *is the General Services Administration's Plain Language Launcher, coordinating GSA's plain language program. Katherine is an active member of and trainer for the Plain Language Action and Information Network (PLAIN), teaching plain language courses and holding brownbags. Before her detail as Plain Language Launcher, she worked for GSA's Federal Acquisitions Service in Integrated Technology Services, where she managed web content, coordinated social media, and edited Mary Davie's blog,* Great Government through Technology. *Katherine has also been web content manager at the Department of Homeland Security; web content editor at the international law firm Steptoe & Johnson, LLP; and websites manager at the International Association of Chiefs of Police. She has taught at local community colleges and at the Amphibious Warfare School in Quantico, Virginia.*

The IRS and plain writing—challenges and accomplishments for a taxing situation

Terry Lemons

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Big numbers

The IRS touches every facet of American society—everything from individual taxpayers and the tax-exempt sector to small businesses and large corporations. We collect about $2.4 trillion in tax revenue that funds most government operations and public services. In 2010, we processed 141 million individual tax returns and issued 109.5 million refunds worth $366 billion. With numbers this big, it's paramount that we communicate clearly with taxpayers.

Clear communication

IRS leadership made clear communication a priority a couple of years ago, and that effort has evolved to include compliance with the Plain Writing Act. Our leadership knows that helping people understand what they need to do with their taxes helps both the taxpayer and the nation's tax system. Even though we have a complex subject matter—the nation's tax code and accompanying regulations run to millions of words—and even though we have many different audiences to consider, we've made substantial progress in complying with the Plain Writing Act. Our efforts include redesigning much of our correspondence with taxpayers, training our employees and building plain language into key parts of our website.

Redesigned documents

In our most visible accomplishments to date, we tackled the poor structure, confusing language and inconsistent style of most of the collection notices we issue to taxpayers each year. We are already seeing encouraging results as taxpayers respond to these letters. This effort is quite important because the IRS issues about 225 million notices and letters a year, making them one of our primary interactions

with taxpayers. The Center for Plain Language acknowledges the best plain language documents and web sites. We were pleased our redesigns led to the Center's 2011 ClearMark Award Grand Prize (with the help of Siegel+ Gale) for Simplified IRS Notices as well as a ClearMark Award of Distinction again this year for more improvements to our notices.

Plain language training

In addition to our notice redesign success, we've trained all employees on the basics of the Plain Writing Act. We also train all new hires and provide continuing education for employees communicating directly with taxpayers. We are nearing the launch of a redesigned IRS.gov website that directly incorporates plain language guidelines, and all employees who create content for the site will complete additional plain writing training before they can post material.

Plain language in IRS genetic code

Our ultimate goal is to get plain writing into the genetic code of the IRS and to make it a critical part of whatever we do, regardless of the complexity of the topic. It's good for taxpayers, and it's good for America's tax system.

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Terry Lemons *has served as IRS Communications Director since 2007; he oversees external and internal communications for 100,000 IRS employees. Lemons is responsible for news media and interagency communications, key IRS.gov sections, and videos for employees and taxpayers. He co-chairs the IRS Plain Writing Act Editorial Board charged with efforts to follow the new law, train employees, and improve public communications. He manages IRS social media, including three IRS YouTube channels (2 million+ views) and Twitter feeds (25,000+ followers). Lemons spent 7 years as IRS National Media Relations chief, after starting as an IRS public affairs specialist in 1998. He was the* Arkansas Democrat-Gazette's *DC Bureau Chief; a general assignment reporter and editor for the* Democrat-Gazette; *a reporter at the Springfield (Mo.) News-Leader; and a free-lance writer. He graduated with a BA in journalism, University of Missouri-Columbia in 1985. From St. Louis, Terry is married with two children.*

Texas pattern jury charges—plain language revisions

Wayne Schiess

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Revising admonitory instructions for jurors

In 2005, a State Bar of Texas task force began to revise the admonitory instructions in the Texas Pattern Jury Charges. The admonitory instructions contain the basic guidelines for jury service and introduce basic concepts to the jurors, like bias, prejudice, circumstantial evidence, and preponderance of the evidence. I was hired as the drafting consultant for the task force. We had four other members: a Texas civil procedure professor, a sitting trial judge, a practicing trial lawyer, and a member of the state bar publishing department.

The task force's process

I prepared a revision to the instructions, the task force then met to discuss the draft, and I prepared another draft. Besides comments from the task-force members, we also gathered comments informally from lawyers, judges, and others. Within six months, we had a complete revision. We then tested the revision on potential jurors with the support of a jury consulting firm.

Testing the revisions

Two groups of 48 eligible jurors heard a presentation of a lawsuit and then retired to deliberate in groups of 12 to reach a verdict. The first group of 48 jurors used the original instructions. The task-force members watched the jurors deliberate and analyzed the completed verdicts. Based on what we learned, we made more changes to the revised instructions. The next day the second group of 48 jurors went through the same steps using the revised instructions.

Surveying the jurors

Both groups of jurors completed a survey after turning in their verdicts. In the first part of the survey, we asked 24 subjective questions, such as "were the instructions clear?" The revised instructions scored better than the original instructions on 22 of the 24 subjective questions. In the second part of the survey, we asked 32 objective, multiple-choice questions, such as "What is circumstantial evidence?" with 4 choices given. Jurors using the revised instructions scored higher than jurors using the original instructions on 23 of the 32 objective questions.

It was now 2006, and we had revised the admonitory instructions and showed, by testing, that the revised instructions were an improvement—all within a year.

Advisory committee and pattern jury committee input

But then the project slowed down. The Texas Supreme Court, which has final approval of the admonitory instructions, brought the revised instructions before its 60-person advisory committee. The committee issued a variety of comments and critiques. The task-force chair decided to circulate the revised instructions to trial judges throughout the state —their comments trickled in. And the state bar, which publishes the pattern jury charges, sought input from other pattern jury committees, which raised several new matters. Seeking the additional input was wise, but it dragged on. By 2008, the revised instructions were essentially the same as the version tested in 2006.

Adding content and changing the revision process

Next the task force began to add content: instructions for using (or not using) cell phones, instructions for using (or not using) the Internet, and instructions for dealing with foreign-language translation and interpretation. These additions took time. As the task force considered these additions, it also abandoned the approach of having the drafting consultant prepare a revision and circulate it. Instead, the task-force chair prepared a revision, circulated it, and then sent it to me for my suggestions.

Approving the revised admonitory instructions

Still, the process continued, and by late 2010 the Texas Supreme Court had tentatively approved the revised instructions and published them for comment. By early 2011, the comment period had ended, and the revised admonitory instructions were officially and finally approved. They now appear at the beginning of every volume of the Texas Pattern Jury Charges.

ClearMark finalist

In May 2011, the revised instructions were named a finalist for a ClearMark Award by the Center for Plain Language.

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Wayne Schiess *directs the legal-writing program at the University of Texas School of Law and teaches legal writing, legal drafting, and plain English. He's also a frequent seminar speaker on those subjects. He's published dozens of articles on practical legal-writing skills, plus four books. His blog on legal writing was named one of the ABA Journal's top 100 law-related blogs for 2007. He graduated from Cornell Law School, practiced law for three years at the Texas firm of Baker Botts, and in 1992 joined the faculty at Texas.*

Community communication

A study into best practice community legal information—a summary

Joh Kirby

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Joh Kirby, Executive Director of the Victoria Law Foundation in Australia, looks at best practice for making legal information available to the general community

Much of the work on plain language in the law has focussed on the important task of improving the quality of legislation and legal drafting. But for most members of the community these documents, while relevant, are of little practical use in helping them to understand the law.

For many people the first step to solving a legal problem means searching the internet, finding a relevant brochure or asking family or friends for help. In 2011 I undertook a study tour as part of a Churchill Fellowship grant to examine best practice in community legal information. The focus of my research was visits to specialist organisations to identify the key success factors to producing this type of community legal information. The main findings are summarised below.

Key factors to consider

Knowing your audience

The most significant factor in developing effective community legal information was that it be developed with a clear understanding of the audience. That understanding needed to be based on consultation rather than on assumptions. Issues such as cultural background and literacy strongly influenced the success of a publication. This was especially so when working with newly arrived immigrants with a limited understanding of the legal system in their new country.

Publication developing and editing

In developing community legal information, a tension arises between providing an accurate précis of the law and developing publications that are accessible to an audience who may have little or no legal knowledge. Lawyers who have a good legal knowledge may struggle to pare information down to the relevant facts; non-legal writers may not understand the subtle technicalities of the legal content.

While all the organisations that I visited acknowledged the importance of testing their information, they rarely undertook formal testing of completed publications due to funding restrictions. But most did work closely with reference groups made up of subject specialists and user representatives in the development of their publications to ensure they were cultural appropriate and relevant to the intended audience.

Design

All the organisations I visited acknowledged the role of good design, layout and formatting in a document's usefulness. These factors act as a visual guide to help the reader to find the information they want more easily. However, organisations that I visited commented that limited funds often meant design possibilities were not explored as fully as they desired.

Format of publishing and new technologies

The majority of the organisations that I visited, perhaps surprisingly, focussed on hardcopy publishing. Websites and electronic publishing were secondary areas of focus. The reason for this varied. Hardcopy publishing tends still to

be preferred by the reader and is more accessible to disadvantaged groups who may have more limited access to the internet. Further, hardcopy publications can have advantages for distribution, discussed below.

But the use of electronic formats and electronic delivery of information is an area that is changing rapidly. In Australia for example, Australian Bureau of Statistics data shows that broadband access in Australian households has increased from 64% in 2006/07 to 79% in 2010/11[1]. All the organisations that I visited had strong web presences and were interested in harnessing new technologies to deliver their messages.

Distribution

Distribution was a key factor in the success of community publishing programs that I visited. No matter how well a publication is produced, if it does not reach its audience it cannot be successful. Understanding the audience members and where they may go to find the information is an important factor to any distribution plan.

The use of intermediaries, particularly for electronic distribution of publications, was evident. Placing links to relevant publications on websites which dealt with a particular subject area or making legal service providers aware of how they could download publications from a website all assisted with improving information distribution.

Hardcopy publishing was used effectively for more targeted distribution. Community groups placed information where their intended readers were likely to find it rather than waiting for them to seek it out on the internet.

Conclusion

Community legal information is an emerging area with a small number of specialist organisations concentrating on its development. There are a number of key factors that need to be considered to ensure that this type of information is useful—it needs to reach its audience and to be readily understood. As this is an emerging area, more research is required to test how effective the provision of legal information to a community is. Improving the quality of community legal information across the legal sector requires training, sharing of ideas and awareness-raising. In the long-term, as with other areas of plain language, the distribution of legal information to the community is likely to benefit from the recognition generated by awards, from the adoption of formal standards, from endorsements—as in the United Kingdom, and from the introduction of legislation requiring that information intended for the general public be written plainly.

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Endnotes

[1] 8146.0–Household use of information technology, Australia, 2010–11

Joh Kirby *is Executive Director of the Victoria Law Foundation, a non-profit body in Melbourne, Australia, that helps Victorians understand the law and their legal system. This work includes raising awareness of how using plain language principles can help lawyers and other legal sector members to communicate more effectively with the community. Joh worked as a lawyer specialising in revenue at Corrs Chambers Westgarth before joining the Foundation. In 2010, she was awarded a Churchill Fellowship to investigate international best practice in community legal information.*

Contributing to the journal

Clarity often focuses on a specific theme (like conferences or drafting or standards), but we also publish articles on a variety of other plain language topics. Please submit your articles to the editor in chief for consideration.

Would you like to be a guest editor? Our guest editors gather articles, work with the authors, make layout decisions, and edit and proofread a single issue. If you would like to guest edit an issue of the *Clarity* journal, send an email to the editor in chief.

Finally, if you have ideas about improving the journal, the editor would like to hear from you, as well. Our editor in chief is Professor Julie Clement, with the Thomas M. Cooley Law School. Email her at clementj@cooley.edu.

The challenges of plain language legal information in various media

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Summary of presentation at Clarity 2012—Stéphanie Roy & Sarah Dougherty, Éducaloi

What is Éducaloi?

Éducaloi is a non-profit organization based in Montreal, Canada. We give legal information to the public in plain language. We don't provide legal advice, just information.

We cover a broad spectrum of media and activities: a legal information website, citizenship education activities in schools, educational videos, community workshops, consulting services for outside clients, etc.

Plain Language in Various Media

For plain language communicators, word choice, sentence structure and organization of information are important, but so is the choice of medium—print, web, pamphlets etc.

To pick a medium, you need to understand its particular challenges. Here is a snapshot of the advantages of, challenges to, and tips for, four different media.

1. In-Person Information Sessions

Advantages

- Popular: people can easily ask questions
- Variety of presentation methods possible
- Can be interactive
- You can take the pulse of your audience and respond to it
- You get to know your clientele

Challenges

- Cost and time for your organization and for the participants
- The effort of getting bodies in the room
- A high level of expertise on the topic is needed to respond to questions asked on the spot
- Participants may have a variety of knowledge levels and learning speeds
- You need a dynamic presenter

Tips

- Informally survey your target audience to establish the best time and place for the session and to find out what information people want
- Market sessions through existing networks and the places people turn to for help
- If you do not have enough expertise in-house, work with an outside expert and coach the expert in plain language techniques
- Marketing: have a detailed description of the session so people end up in an appropriate activity
- Engage your audience: use interactive exercises
- Customize the session to the people who sign up
- Get feedback on how it went

2. Websites

Advantages

- Easy to update
- Flexibility in design
- You reach large numbers
- Users can share your content easily

Challenges

- Consuming information on a website requires fairly high literacy
- Navigating layers of information is not intuitive for everyone
- Internet and high-speed Internet are still not universally available

Tips

- Know about techniques for writing for the web — search engine optimization, generous use of hyperlinks, etc.
- Know how people read a web page, such as how they scan the page
- Ergonomics are key: make the site easy to navigate
- Drive people to your site through social media campaigns, etc.
- Consider different sites for different audiences

3. Webinars (online seminars)

Advantages

- Offers time and cost savings for organizations and participants
- Crosses great distances
- You can record and archive on a website
- Webinars don't need high production values—usually just a PowerPoint presentation

Challenges

- An organization generally needs to invest in webinar technology
- Staff need to learn webinar technology
- Technology is not always intuitive for participants
- Participants need high-speed Internet access at home or work
- Recruiting participants is challenging
- The anonymity can detract from the experience
- The content needs to be prepared by experts on the topic
- Participants may have a variety of knowledge levels and learning speeds
- The recording needs to be periodically updated

Tips

- You need to support the participants in using the technology
- Consider allocating two people to present the webinar, one dealing with technical issues
- Market the webinar to your existing networks interested in the topic
- Encourage interaction during the webinar to retain participants' interest
- Work with an external expert if necessary
- Give focused webinars on narrower topics rather than try to cover a wide topic superficially
- Get feedback from participants

4. Videos

Advantages

- Videos using images and enactments can overcome literacy issues
- They accommodate people who learn more visually
- They may go "viral" if posted online

Challenges

- Videos are difficult to update
- They are pricey to produce
- If posted on the Internet (e.g., YouTube), they are difficult to recall
- People rarely rewind so they have to understand the content on one viewing

Tips

- Make your video short—maximum two minutes
- Include only one main idea
- Use humour
- Use images to explain abstract ideas (e.g., burden of proof: person carrying the burden)
- Emphasize transitions or exceptions with verbal and visual cues
- Test the script by reading to someone out loud

Most of all, enjoy and experiment!

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Stéphanie Roy *has been a lawyer since 2007. She holds a Civil Law degree and a graduate diploma in Common Law. She started her legal career in private practise, focusing on banking law and Canadian and international financing. She later worked as a lawyer for a non-profit, specializing in corporate law. Stéphanie Roy joined Éducaloi in March 2009. As a content manager, Stéphanie Roy designs and produces legal information tools for the general public. She also acts as a plain language consultant and has developed a particular expertise in plain language contracts.*

After studying English literature as an undergraduate, **Sarah Dougherty** *completed law studies at McGill University. She later practiced in the fields of commercial litigation and constitutional law with a large law firm in Montreal. After leaving private practice, she co-authored a study on the Canadian Charter of Rights and Freedoms. She returned to university in 1999 for a Master's in journalism, and then worked as a freelance writer, translator and teacher. In 2009, she joined Éducaloi, a non-profit organization that does public legal education. Dougherty creates plain language legal information materials, and acts as a consultant for clients in the area of plain language.*

Empowering individuals to understand and engage

Charlene Jones

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Mark Starford

Executive Director,
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Boards for All Webcast training Series
Board Resource Center
www.brcenter.org

Charlene Jones and Mark Starford describe how a webcast training program is creating opportunities for people with low literacy to participate more meaningfully in their communities

Participation for all in civic and governance matters

Basic human rights insist that everyone be guaranteed equal opportunities to life and liberty. Yet people with limited literacy have had fewer opportunities to participate, or have been excluded from participating, in social and governmental affairs. We know, however, that individuals with varied literacy and comprehension abilities can play an active role in shaping their world through participating meaningfully in advocacy and civic affairs.

As societies expand the reach of social justice, increased diversity on governing boards is one of the greatest civil rights transformations occurring today. Many governing groups are examining their policies and practices to address the potential offered by the range of differences that make up their communities.

The *Boards for All* project

Boards for All is a collaborative project between private, state and federal agencies that is designed to improve nonprofit governance. By providing straightforward instruction in an easy-to-follow design with multi-media

tools, the *Boards for All* webcast sequenced training series opens doors for many more individuals to contribute constructively. A priority of the project is to provide ordinary citizens with greater access to, and meaningful participation in, governance positions on community nonprofit organizations, state advisory committees and federal councils. Many governance boards and advisory committees require that community members be represented. By increasing the understanding of basic governance requirements by a wider spectrum of people, that representation is made more meaningful and more productive.

Boards for All advances inclusive community leadership and civic engagement by serving two objectives:

- to increase personal empowerment, and
- to create opportunities for people with low literacy to be viewed as fellow community members.

As newly valued contributors, those people are recognized as bringing essential voices and leadership to boards of directors, advisory committees and community councils.

Teaching nonprofit governance rules

Boards for All teaches basic rules of nonprofit governance for a range of organizations, from advocacy groups to stakeholder committees and nonprofit corporations with multi-million dollar budgets. The series is divided into five video topic areas: Boards of Directors, Role of Board Members, Purpose of Committees, Board Development, and Facilitation and Mentoring. It guides users to read content pages on each topic, review a "Key Points" summary and then complete two to three questions on a corresponding worksheet all to reinforce straightforward subject matter. For example, the topic *Purpose of Committees*, provides three pages of content, with a "Key Points" page that answers central questions: What is a committee and its purpose? What are three types of board committees? How does a board use its committees? The user may continue by using a worksheet with similar leading questions.

Using plain language techniques to make the material user-friendly

As we know, plain language means more than short sentences and manageable vocabulary. Design, organization and field testing were core components in developing the self-paced public domain tool. Reading and comprehension levels in multiple languages, along with respect for diverse cultural differences, increase the opportunity to obtain governance participation in meaningful ways. Representative community groups determined the training format and webcast structure, video sequence, and narration content. Over the course of two years, project collaborators (Board of Directors of Eastern Los Angeles Regional Center and California State Council on Disabilities), recommended and tested content, language and webcast layout. In addition, two consumer advocacy groups also contributed to identifying most significant "boardsmanship" essentials to effective leadership.

The outcome is that *Boards for All* offers an easily understood way to learn about board and committee participation. This allows more people to successfully engage in community affairs.

You can see and download the *Boards for All* webcast videos, tools, and plain language resources at www.brcenter.org/library.

Boards for All Partners—

Board Resource Center (www.brcenter.org),

California State Council on Disabilities (www.scdd.ca.gov),

Eastern Los Angeles Regional Center (www.elarc.org)

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Charlene Jones *has been an Associate with Board Resource Center (BRC) since 2007, providing expertise in production of written materials in accessible formats. The focus of her work has been developing easy to access tools for individuals that increase personal leadership and civic engagement. She provides trainings on diversifying nonprofit agency boards of directors to encourage participation from underserved communities. Charlene participated in writing and facilitating trainings on two key BRC publications;* Feeling Safe, Being Safe *emergency preparedness web training tools and the end-of-life planning publication* Thinking Ahead. *Additionally, Charlene provides technical assistance to numerous California service provider agencies on information accessibility and service quality.*

Mark Starford *is founder and executive director of the Board Resource Center (BRC), established in 1994 to provide leadership development and management facilitation for government agencies, non-profit organizations, and community groups. BRC focuses on advocating for people from underserved communities to increase civic engagement and access to policy-making. BRC partners with community, state, and federal agencies to develop plain language tools that help people with limited literacy to gain self-determination and involvement in governance. Active in training and advocacy for 30 years, Starford has designed community-specific training curricula with supporting materials in a range of accessible formats used across the US. BRC offers a comprehensive library of accessible training tools and media that make complex ideas easier to understand and apply. Mark holds a teaching credential and MEd.*

You have the right to remain baffled: plain language and criminal justice

Cheryl Stephens

Plain Language Wizard
Vancouver, British Columbia, Canada

Cheryl Stephens, Managing Director Community Plain Language Services Corp., considers the impact of incomprehensible legal language and procedures on anyone entangled in the legal system

A 20-year-old statement of entitlement

Twenty years ago, the Canadian Bar Association said, in *Reading the Legal World*:

> *People using the legal system must be able to guide themselves through a process that they understand [...] and, at appropriate places along the way,*
>
> - *recognize they have a legal right or responsibility, in order to exercise or assume it;*
> - *recognize when a problem or conflict is a legal conflict and when a legal solution is available;*
> - *know how to take the necessary action to avoid problems and where this is not possible, how to help themselves appropriately;*
> - *know how and where to find information on the law, and be able to find information that is accessible to them;*
> - *know when and how to obtain suitable legal assistance;*
> - *have confidence that the legal system will provide a remedy; and*
> - *understand the process clearly enough to perceive that justice has been done.*

Legalese and police jargon locking people out

In 20 years, little advance has been made. Legalese and police jargon still create conditions in the criminal law process that mean an accused person cannot:

- give informed instructions to counsel;

- make informed decisions in the course of the criminal process.

Fair and equitable justice is denied when the accused, witnesses, and victims do not understand what is happening to them because they cannot comprehend legal language and the legal process. Yet only 1 in 8 Americans and 1 in 5 Canadians have the communication skills or cognitive abilities they need to cope with the language and procedures of law and the courts—65% of those entering prison in North America have limited literacy while the legal system is text-based and highly structured.

On the other hand, someone caught up in the legal system may be well educated and able to read complex information in their own field but may still have trouble with specialized legal language and with the law's peculiarities.

The cost in damaged lives

The U.S. has 10 million misdemeanor cases each year. Prosecutors lay charges in 92% of these based only on a police accusation, without any review. Most people will plead guilty to get out of jail or to get the matter over with, without appreciating the effect it will have on their lives.

Defendants denied bail are 2.5 times more likely to plead guilty. Too many people are convicted without evidence, legal representation, or a chance to tell their story.

Even a petty conviction can be life-changing. A conviction can result in heavy fines that poorer defendants cannot pay. A conviction might lead to deportation. A petty conviction can negatively affect eligibility for:

- professional licenses,
- child custody,
- food stamps,
- student loans,
- health care,
- public housing.

The crime of not understanding

In Canada, most people get out of jail within 24 hours, either on bail or under supervision. But complications arise when a person does not understand the documents they receive on release. Defence counsel may not be aware that the accused does not understand the situation. Some say their clients arrive without the papers or with the papers looking like they have been in the person's back pocket for a month.

In Canada, at least 1/3 of charges are now for administrative offences. A 2012 B.C. government commission has confirmed a significant increase in administrative offences. The majority of court appearances are either administrative or for bail.

These are administrative offences:

- not turning up for a fingerprinting appointment,
- not showing up to set a trial date,
- not appearing for a trial,
- being unlawfully at large,
- not complying with a court order,
- breach of probation.

People often have trouble finding the conditions in their bail or probation order. This may result in breaches and further charges. These people are then labeled as multiple offenders. One lawyer told of a client who had one substantive charge against him and 20 warrants for breach of conditions of release.

Who suffers—victims, the accused, witnesses, families, communities

A witness or crime victim, intimidated by the legal process, may hesitate to call police at all. Someone with poor communication skills may appear to be causing delays. When it seems a person is uncooperative, and if an officer is *not sensitive to communication problems*, things do not go well.

The court may not find a witness credible. When people with cognitive or reading deficiencies are witnesses, they may "talk in circles." Their inability to "get their story straight" may frustrate the court. Obstructionist behavior may be a sign of the thinking patterns that characterize low literacy or oral cultures. People with poor communication skills may avoid reading and may be uncooperative out of fear they will be asked to read. Their frustration or fear may be acted out as aggressive or violent behavior.

The Canadian right to understand legal rights

Legal literacy is a person's understanding of legal language in the context of legal process. Canadian courts have said:

Detainees must be clearly and fully informed of their rights ***at the outset,*** or they cannot be expected to make informed choices and decisions about whether or not to contact counsel or whether to exercise other rights, such as their right to silence.

Legal rights must be understood to be exercised. In order for an accused person to be informed of a right, the person must understand and appreciate the substance of the right and truly appreciate the consequences of giving up that right.

The police must make reasonable efforts to make the rights meaningful to the accused. Canada's Charter of Rights and Freedoms requires *communication* of the right, not a rote repetition of it. Some individual circumstances demand even greater efforts to communicate effectively.

Legalese is a barrier to justice

Plain language forms and documents will help to overcome an important type of "systemic discrimination" within the justice system. This discrimination is based on the fact that the justice system requires people to read and understand complex information written in unfamiliar legal language.

Special language and procedures represent a refusal to communicate that is contrary to a collection of international rules, covenants, and treaties, and national rights codes. Communication in plain language has to be a foundation of fairness and justice.

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Cheryl Stephens *left law practice in 1985 to consult on continuing legal education, paralegal education, legal marketing and communication, plain legal language, and public legal education and information. She now focuses exclusively on plain language projects. Stephens founded the International Plain Language Association in 1993 and International Plain Language Day in 2011. She also trained as a personal and business coach. Born in California, she has lived in Vancouver, Canada for 40 years.*

Table 1. Comparison of NAAL Tasks and Literacy Levels with Analogous Tasks Encountered in Court Processes

NAAL task	Skill evaluated	Percent who answered incorrectly	Analogous court task
Read one-page flier on SSI eligibility and find specific	Prose literacy	58 %	Reading any court form instructions, although most comprise numerous, single-spaced pages. (Figure 3)
Enter 3 pieces of information in a maintenance log on the correct line. (Figure 2)	Document literacy	50 %	Entering information onto any court form, although court forms often require hundreds of pieces of pieces of information. (Figure 4)
Using the one page SSI flier, calculate the annual benefit for a couple. (Figure 1)	Quantitative literacy	62 %	Calculating annual income from a pay stub. This and far more complex calculations are required for child support. (Figure 4)

A comparison of reading comprehension and legal reading tasks based on research by the U.S. National Assessment of Adult Literacy (SSI refers to Supplemental Security Income, see http://www.ssa.gov/pubs/11000.html).

Literacy and the Courts, *Katherine Alteneder, Alaska Justice Forum* > 24(2), Summer 2007, http://justice.uaa.alaska.edu/forum/24/2summer2007/a_literacycourts.html

New technologies

Mobile technology and plain language—a match made in heaven

Nad Rosenberg

President
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The rapid spread of mobile devices and the expansion of the plain language movement are two current trends that may intersect to improve human communication.

In fact, sometimes it seems as if mobile devices were invented to demonstrate the main principles of plain language.

But what does plain language have to do with mobile devices? The answer is—everything. Basically, plain language facilitates easy comprehension of information, and this is particularly important for information displayed on small mobile devices.

Let's consider some plain language principles to see how they directly affect mobile device content and design.

Keep text short and to the point

Keeping text short and to the point is particularly important in the mobile format. Mobile users typically are on the go and looking for specific information. They have no patience to wade through unnecessary text. So it's especially important that you get to the point, eliminate unnecessary information and avoid long sentences and paragraphs. Additionally, it's difficult to read lengthy text on a mobile device. As a matter of fact, several companies have developed apps that allow users to bookmark long articles on mobile devices so they can be read later (online or offline) on larger devices.

Make sure users can find information quickly

Mobile users want to find information quickly, so it's critical to anticipate what they want and to put that information in a prominent position. Searching through many links for important information is difficult and annoying, partly because it takes time for pages to download. And when users need to search for specific information, if possible, avoid making them type in text. Instead, provide drop-down menus, buttons, prepopulated lists, or checklists.

Simplify the design to support usability and content

Make sure your design is uncluttered so that users can scroll without difficulty. It's best to avoid multiple panes with individual scrollable content. Further, you should eliminate rollovers, fly-out menus, etc., which don't work on most mobile device browsers. Finally keep in mind that graphical links use valuable resources, so replace them with text links.

Make sure text is readable

When formatting for mobile, there's a natural tendency to want to reduce font size—but this is a mistake because smaller text is even harder to read on small devices. Counter-intuitively, it's better (in most cases) to increase the font size so that text can be read without eyestrain. This advice applies to running text as well as graphical annotations. Even though a larger font size may make the text somewhat longer, mobile users typically expect some degree of scrolling.

To ensure legibility, it's imperative to test your content on a variety of devices. And while you're at it, be sure to check out spacing, line breaks, graphics positioning, etc. Unfortunately, various devices and/or browsers may render content differently.

Use graphics judiciously

The limited real estate on mobile devices means you need to carefully consider the number and size of your graphics. Besides taking up precious space, graphics take longer to download. So be sure to include only those graphics that significantly contribute to your content.

The bottom line

By applying these and other plain language principles to mobile device content and design, you can ensure that your mobile site or app will be easy to read and understand.

To learn more about developing effective content and formatting for mobile devices, see TechWRITE Inc.'s web site: http://www.techw.com/mobile.htm

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Nad Rosenberg *is president and founder (in 1985) of TechWRITE, Inc. (www.techw.com), a communications consulting company based in Woodbury, New Jersey. TechWRITE offers a wide range of services aimed at making complicated information easy to access and understand. TechWRITE's services include: plain language consulting and training; technical writing, editing and training; e-learning and e-pubs development; m-learning development; web design and content development. Before starting TechWRITE, Nad managed documentation departments for several large corporations. She is a graduate of Carnegie Mellon University, an Associate Fellow at the Society for Technical Communication, on the Board of Directors of the Plain Language Association InterNational, and a Past President of the Philadelphia Metro Chapter of the Society for Technical Communication. You can contact Nad at twnad@techw.com or 856-848-6593.*

Consumer testing and the development of the TILA-RESPA integrated disclosures

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We briefly discuss the Consumer Financial Protection Bureau's ongoing process for developing integrated mortgage loan disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act. The CFPB's process relied on qualitative usability testing to develop effective policy proposals and proposed disclosures.

Where we started

The Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA) each require a separate disclosure for most mortgage loans. Both statutes generally require a separate disclosure within three days after a borrower's application for a mortgage loan, and then another disclosure at or before the loan closing. The disclosures under TILA are known in the industry as the initial (or early) TIL and the final TIL. The disclosures under RESPA are known as the Good Faith Estimate (GFE) and the HUD-1 settlement statement (HUD-1). Both TIL disclosures are typically two pages; the GFE and HUD-1 disclosures are three pages. This means that currently, if an applicant decides to compare two loans from one lender or shop between two different lenders, they are comparing four different disclosures totaling at least 10 pages. This does not include the many other disclosures provided under other laws and regulations that are typically provided with a mortgage application.

The passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) on July 21, 2010, transferred TILA and RESPA rulemaking authority to the newly created Consumer Financial Protection Bureau (CFPB).[1] The Dodd-Frank Act required

the CFPB to propose rules and disclosures that combine certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan under TILA and RESPA.[2] The Dodd-Frank Act mandated that the CFPB propose these rules and model disclosures no later than July 21, 2012. The CFPB issued the proposed rule on July 9, 2012, and it was published in the *Federal Register* on August 23, 2012.[3] Comments on the integrated disclosure forms and many other aspects of the proposed rule are due on November 6, 2012.[4]

The statutory purpose of the integrated disclosure as set forth by the Dodd-Frank Act is to:

(a) facilitate industry compliance with TILA and RESPA, and

(b) aid consumer understanding of mortgage loan transactions by using readily understandable language to simplify the technical nature of the disclosures.[5]

For the integrated disclosures, the CFPB, as a policy, wanted to use a visual design, reduce information overload, highlight key information so consumers could quickly find it, and use plain language as much as possible. The CFPB also decided that the proposed integrated disclosures should only contain information about the mortgage loan and not educational information too. The CFPB knew that certain educational materials would be available to consumers under the applicable law and planned to provide other educational materials on its website. To ensure that the proposed integrated disclosures actually aided consumer understanding, the CFPB conducted qualitative usability testing with both consumers and industry participants.[6] The testing was a user-centered design process. The CFPB worked with over 100 initial designs before deciding on the prototypes it would begin testing with actual consumers and industry participants. The testing plan included 10 rounds of iterative testing and redesign of the disclosures over 10 months in nine different cities across the country. The testing used the think aloud technique and stressed performance, not preference.[7] In addition, the CFPB also posted the prototypes being tested on its website to supplement the testing with additional public feedback, which it titled the "Know Before You Owe" project.

Consumer testing informs design and CFPB policy development.

The iterative design and testing process helped to develop and provide preliminary answers for many of the issues within the disclosures. Three issues worth noting were:

- the level of detail for closing costs,
- the comparison of the Loan Estimate with the Closing Disclosure, and
- the importance of a statement regarding the consumer's ability to refinance the loan.

Level of detail for closing costs. As revised in 2008, the current GFE and HUD-1 require lenders to disclose lump sums of certain categories of closing costs. Itemization is not permitted. In contrast, earlier versions of these disclosures permitted itemization of these closing costs. One of the reasons for the revision was to reduce the detail provided to consumers, which was believed to confuse consumers and hinder their ability to shop for loans.[8] For four rounds of testing, the CFPB showed consumers Loan Estimates with different variations of itemized and lump sum closing costs. Consistently, consumers stated that they preferred more detail because a mortgage was an important decision. The CFPB's goal, however, was to improve performance and understanding, not to focus on preferences. With the greater detail, consumers at the CFPB's testing asked more questions, were more likely to say that they would challenge some of the numbers, and would ask why some of the charges existed. With the rolled up numbers, they tended to be passive, simply accepting the numbers, even though there were fewer numbers. Based on this difference in performance, the CFPB proposed integrated disclosures that itemize closing costs.[9]

Comparison of the Loan Estimate with the Closing Disclosure. The Loan Estimate is given in connection with the loan application, while the Closing Disclosure is given in connection with the loan closing and contains more detail. The CFPB's team developed the Loan Estimate over the first five rounds of testing and then began developing the Closing Disclosure in round six. The first prototypes of the Closing Disclosure that the CFPB tested were based on the current HUD-1 format, containing similar three- and four-digit line numbering. The CFPB'steam found that consumers had trouble tracking the changes, noticed differ-

ences only at a high level, and had difficulty figuring out why the changes happened. But worse, they were relatively passive again, asking few questions. As one consumer said, "I don't know what to look for." In subsequent rounds of testing of the Closing Disclosure, the CFPB's team matched the closing cost categories, used only a two-digit line numbering system, and further matched the phrasing, the location of information, and the spacing. In fact, the CFPB's team matched every detail possible between the Loan Estimate and the Closing Disclosure. By the last rounds of testing, the CFPB's team found consumers would lay the forms next to each other and compare them easily. They could also identify what had changed and often could articulate why it had changed.[10]

Refinancing statement.

One part of TILA requires lenders to disclose, in a format developed by the CFPB that is easily understood by consumers, that "there is no guarantee that the borrower will be able to refinance to a lower amount."[11] The CFPB's first attempts at disclosing language to achieve this said, "You may not be able to refinance your loan to lower your interest rate and payments in the future with us or with another lender." Many consumers thought this meant that the terms of the loan prevented them from ever refinancing. The CFPB's team tried several different iterations to improve consumer understanding, eventually arriving at the following language for the proposal: "Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan." Consumers understood that different circumstances, not the terms of the loan, may prevent them from being able to refinance the loan.

Conclusion

Through consumer testing, the CFPB was able to see what works to help consumers better understand and use these proposed integrated disclosures. The user-centered design used by the CFPB allowed the development of its policies for the proposed rule to shape and be shaped by the qualitative testing.

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Endnotes

1 Public Law 111–203 (2010).

2 *See* Dodd-Frank Act §§ 1032(f), 1098, and 1100A.

3 *Know Before You Owe: Introducing our proposed mortgage disclosure forms*, CFPB Blog (July 9, 2012), available at *http://www.consumerfinance.gov/blog/know-before-you-owe-introducing-our-proposed-mortgage-disclosure-forms/*; 77 FR 51116 (Aug. 23, 2012).

4 The notice of proposed rulemaking is available on the CFPB's website at *http://www.consumerfinance.gov/notice-and-comment/* and at Regulations.gov at *http://www.regulations.gov/#!documentDetail;D=CFPB-2012-0028-0001*.

5 Dodd-Frank Act §§ 1098, 1100A.

6 The CFPB contracted with the communication, design, consumer testing, and research firm, Kleimann Communication Group, Inc., which specializes in consumer financial disclosures, to provide design and qualitative testing services for the integrated disclosures.

7 The testing was conducted under Office of Management and Budget control numbers 1505-0233 and 3170-0003. For a detailed report about the testing, see Kleimann Communication Group, Inc., *Know Before You Owe: Evolution of the Integrated TILA– RESPA Disclosures* (July 2012), available at *http://files.consumerfinance.gov/f/201207_cfpb_report_tila-respa-testing.pdf*.

8 *See* 77 FR 51116, 51211.

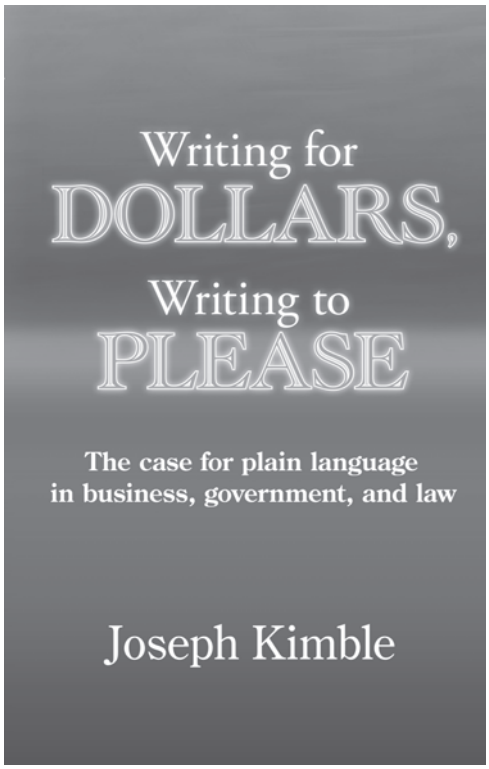
9 *See* 77 FR 51116, 51211-51212.

10 *See* 77 FR 51116, 51239.

11 15 U.S.C. § 1638(b)(2)(C).

Richard Horn *is a Senior Counsel in the Office of Regulations at the Consumer Financial Protection Bureau (CFPB), where he works on rulemakings implementing the amendments to various federal consumer financial protection statutes in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Horn has primarily worked on the design, development and testing of the forms and the rules integrating mortgage disclosure requirements in the Truth in Lending Act and the Real Estate Settlement Procedures Act. Before joining the CFPB in January 2011, Horn was a Senior Attorney at the Federal Deposit Insurance Corporation (FDIC) in the New York Regional Office. At the FDIC, he worked in the Legal Division supported the FDIC's supervision staff on both consumer compliance and safety and soundness matters. Before that, Horn worked as an associate at the law firms Buckley Kolar LLP (now BuckleySandler LLP) and Thacher Proffitt & Wood LLP. After obtaining a degree in Economics from Brown University, he attended law school at the New York University School of Law. He is admitted to practice law in New York and the District of Columbia.*

Susan Kleimann, *President of Kleimann Communication Group, has over 30 years of experience providing thoughtful technical communication expertise to numerous organizations. She has led transformative research, design, and organisational process projects related to public policy documents with high visibility and far-reaching impact for multiple government agencies. She served as the Director of the Document Design Center at the American Institutes of Research, the first Executive Director of the Center for Plain Language, and Chair of the Center's first ClearMark Awards.*



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This book gathers a large body of evidence for two related truths: using plain language can save businesses and government agencies a ton of money, and plain language serves and satisfies readers in every possible way. The book also debunks the ten biggest myths about plain language. And it looks back on 40 highlights in plain-language history. The book's message is vital to every government writer, business writer, and attorney.

Praise for *Writing for Dollars, Writing to Please*

"This is the one we've been waiting for—Joe Kimble's update of his classic earlier work on the benefits of plain language, written in his lively, distinctive style. If this doesn't convince lawyers, business writers, and government writers to use plain language, nothing will. They all need to have this book and take it to heart. It promises to be a game-changer for public communication."

Annetta Cheek, Chair
Center for Plain Language

"When people demand proof that plain language works, we can now utter four short words: 'Read Joe Kimble's book.' Proof aside, it will also give them sound guidelines for creating clear documents, plus a fresh and inspiring history of our field."

Martin Cutts
Author of *The Oxford Guide to Plain English*

"With a refreshingly honest tone, . . . Kimble presents compelling . . . arguments and evidence that plain language is the only sensible choice for any legal document . . . ."

American Association of Law Libraries
"Spectrum" Blog

"If you are looking for clear evidence to support the claim that plain language works, you can't go wrong with a new book, *Writing for Dollars, Writing to Please* by Joseph Kimble, an international expert on legal writing. It's full of examples from real agencies . . . . The book has over 50 case studies showing clear, measurable improvements and the value of plain language in reducing costs and increasing effectiveness."

"Usability in Civic Life" Blog

Since the conference: rebutting a critic

Plain language and statutory drafting: a Stark contrast

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In his recent NCSL article "Plain Language,"[1] Jack Stark criticizes the Plain Language School for attempting to revise arcane statutes so that citizens can understand them. Stark argues that this attempt should be abandoned, because it is wrongheaded, misguided, and inaccurate. He argues that the attempt to render statutory language in plain language:

- is wrongheaded because the values espoused by the Plain Language School—in particular, clarity—are not appropriate drafting values.
- is misguided, because the plain language method creates widespread interpretation problems.
- is inaccurate, because the translation strategy from precise statutory terms to plain English terms changes the meanings of the terms translated.

For these reasons, Stark argues, the plain language method of statutory drafting is "shot through with fallacies" and "generates many errors."

Each of Stark's three arguments about the plain language method is unsound.

Yet there is a deeper concern with Stark's position, one that goes beyond language disputes. Stark claims that, when analyzing statutory provisions, the appropriate audience consists of "lawyers, judges and administrators," not the citizens who are held responsible for following them. This mischaracterization not only conflicts with the democratic ideal of "the rule of law," but also inaccurately describes the roles citizens play in what Stark calls the "language game" of statutory drafting.

1. Stark's First Fallacious Argument: The False Dichotomy

Stark argues that plain language drafters err in translating statutory provisions because they believe clarity should be preferred over accuracy. Stark further asserts that plain language advocates cannot remedy the clarity-versus-accuracy problem by claiming "that a drafter can be simultaneously accurate and clear," because "[t]he two goals are based on contrasting assumptions and tactics." To achieve clarity, one must assume readability and choose tactics designed to yield simplicity. To achieve accuracy, on the other hand, one must assume precision and choose tactics designed to yield conformity with legislative requests.

To adopt clarity as a goal, then, the Plain Language School assumes an audience composed of citizens, persons who require their statutes to be readable. To adopt accuracy as a goal, the Statutory Drafting School assumes an audience of legislative experts, persons who require their statutes to precisely conform to legislative fiat. The two sets of values appear to be contrasting because the value of clarity assumes a citizen-reader, and the value of precision assumes an expert-reader. But Stark gives us no argument as to why we should accept the political claim that "the only true audience for statutes" is "lawyers, judges and administrators." He assumes it.

Without the dichotomy Stark assumes between the *correct* audience for statutes—legal experts—and the plain language drafters' *incorrect* audience for statutes—laypeople— there is no reason to believe the two proposed values of precision and clarity are incommensurable. One could plausibly hold that statutes should be written in the clearest *and* most accurate

manner possible. To argue that statutes must be *either* clear *or* accurate is a "false dichotomy," a fallacious argument form.

2. Stark's Second Fallacious Argument: The Hasty Generalization

Another fallacy is the "hasty generalization"—arguing from a single test case (or a single type of test case) to a systemic conclusion. The idea here is that an induction—proving a general conclusion from a set of specific observations—is only as strong as the set of observable data. An induction cannot rest on a small sample size. I can conclude that the sun will rise tomorrow, because there has been a consistent set of observable data (namely, the sun's rising every morning in recorded history) that supports it. But I cannot conclude that all cats are black, because I saw two black cats on my neighborhood walk last night. In short, to argue convincingly from the specific to the general requires a convincing set of specifics.

Stark presents no convincing set of specifics in arguing that the plain language method causes widespread errors. Indeed, he provides one example to conclude that his "doubts about plain language have been confirmed." To be fair, Stark also points his readers to other plain language investigations—Euan Sutherland's English example and Brian Hunt's 2002 law review article—to make his point. But he offers no analysis of Sutherland's argument, except to brand it "a meticulous and objective…devastation" of a plain language revision. And he calls Hunt's article "useful." Unfortunately for Stark, he cannot argue from these three observations (no matter how devastating or useful) that the plain language method should be abandoned. Three observations do not ground a generalization. No one would argue, for example, that if three zoologists, each expertly trained in feline anatomy and all with 20-20 vision, each saw two black cats in their respective neighborhoods, then all cats are black. Much more investigation would be needed.

And more investigation is needed to determine whether the plain language method should be abolished. Stark's examples demonstrate, at most, that some persons have offered sloppy plain language readings of statutory legalese. That would be cause for concern, but not cause for alarm. The question now is whether this narrow concern is justified.

Stark contends that the plain language method "causes 10 errors in four and a half lines of prose." The prose is a provision permitting the Farm Credit Administration ("FCA") to aggregate certain kinds of requests. The original provision follows:

> **12 CFR Sec.602.272 Aggregating Requests**
>
> A requester may not file multiple requests at the same time, each seeking portions of a document or documents solely in order to avoid payment of fees. When the Farm Credit Administration reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Farm Credit Administration may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

Stark then provides the plain language revision of the provision:

> **12 CFR 602.16 Combining Requests**
>
> You may not avoid paying fees by filing multiple requests at the same time. When FCA reasonably believes that you, alone or with others, are breaking down a request into a series of requests to avoid fees, we will combine the requests and charge accordingly. We will assume that multiple requests within a 30-day period have been made to avoid fees.

3. Stark's Third Fallacious Argument: The Straw Man

Stark's claim that there are "ten errors" in the plain language translation of this statutory provision is an example of "the Straw Man" argument. The argument strategy is to characterize your adversary's position in such simplistic terms that, like a straw man, it can easily be knocked over. The argument form is fallacious, because mischaracterizing an adversary's position is not arguing against the adversary's position.

In his article, Stark sets up eight Straw Men to arrive at his conclusion that there are "10 errors" in the plain language translation of the FCA statute. To the extent that only two

of Stark's ten cited errors survive, we should not be concerned with his conclusion that the plain language method "generates many errors."

A. Stark's two non-errors

Of Stark's "ten errors," two seem not to be errors at all.

First, Stark claims that the term "series" has been changed to "multiple." However, this is not the case. In the original regulation, the phrase is: "break a request down into a series of requests." In the revision, the phrase is: "breaking down a request into a series of requests." There is no change in the usage of "series." And there cannot be an "error" in a non-change.

Second, Stark claims that there is a contradiction in the original provision: it applies to requests filed at the same time and to requests filed during an indefinite period. Stark contends that the plain language interpreter missed the contradiction in the original. But the failure to translate a legalese error is not a plain language error. If there is an error in the original provision, it should be attributed to the member of the Statutory Drafting School who made it.

B. Stark's three policy-based "errors"

Of Stark's "ten errors," three seem to be based on policy, not language.

In the first policy-based revision, accuracy appears to be the goal. The original regulation permits the FCA to consider "the time period over which the requests have occurred" in determining whether to aggregate those requests. The plain language revision changes this nebulous period to a 30-day period. The definite period permits a more accurate interpretation by citizens, organisations, advisers, administrators and courts in resolving disputes. This latent improvement in interpretive accuracy is something Stark should applaud, especially since he believes the appropriate audience for statutes is "lawyers, judges and administrators."

The second policy-based revision targets inclusiveness. The phrase "seeking portions of a document or documents" is removed in the plain language revision. The revised provision applies to any request, even one that was not "seeking portions of a document or documents." But if there are other types of request that could violate the statutory purpose, then there is a policy argument in favor of including them. The policy issue is whether the FCA should be precluded from aggregating requests when the requester is trying to avoid the payment of fees in some other way. And that is a policy issue no matter which School revises the regulation.

The third policy-based revision considers the provision's appropriate audience. The provision that the FCA "may aggregate" inappropriate requests is changed to a provision claiming that the FCA "will combine" the requests. The change follows the reviser's shift in audience. The original provision is written in the third person, describing what the FCA is permitted to do when a requester makes inappropriate filings. The revised provision is written in the second person: "You may not avoid paying fees…" The change in audience requires a change in tone from permission to declaration. The original provision describes what the FCA may do when it finds a violation. The revised provision warns the requester what the FCA will do when it finds a violation. The provision does not, as Stark charges, "change from a permission to a requirement." It does not require the FCA to aggregate requests. It informs the new audience of requesters what the FCA is authorized to do if it finds a violation.

C. Stark's three contextual "errors"

The original statute prohibits the filing of multiple requests "solely in order to avoid payment of fees." The plain language revision prohibits the filing of multiple requests to "avoid paying fees." Stark claims that the removal of "solely" permits "other causes such as forgetting that a request has already been made and that the agency erred." But the "solely" phrase has nothing to do with causes; it is about purposes. If a person forgot that a request had been made, then the person could not have filed her next request to avoid paying fees. If the agency erred, then the person did not file her request to avoid paying fees. The word "solely" adds nothing to the statutory purpose phrase.

The plain language revision of the statute removes "acting in concert" and replaces it with the phrase "with others." Stark tells us that this change inadvertently includes "re-

quests made at the same time by chance and requests with several names on them." Again, Stark's interpretation of the revision artificially removes the phrase about potential violators from the phrase about the proscribed purpose. Requests made "at the same time by chance" could not have been made to avoid paying fees. To act with the purpose of avoiding fees excludes actions done with no purpose whatsoever. Similarly, "requests with several names on them" would not violate the statute if the names had been placed on the requests for some other reason than to avoid paying fees. "Acting in concert" is just another way of saying persons acted "with others" to avoid paying fees. The "how" phrase and the "why" phrase must be read in context.

Stark also has a problem with the fact that the plain language revision of the statute replaces "is attempting to break a request down" with "breaking down a request." Stark claims the revision transforms an attempt into a completed act. This is a mischaracterization, however. The original statute can be read in two ways. Stark believes the phrase requires the FCA to find either an attempt or a completed act of "breaking a request down" in order to aggregate requests. Because the plain language revision removes the "attempt" language, Stark argues, it permits only a completed act of "breaking down" as evidence of a statutory violation. Another way of reading the phrase, however, is to permit the FCA to find a violation of the statute if the requester is attempting to avoid paying fees by breaking a request down into a series of requests. This is consistent with the overall purpose of the statute. And it demonstrates that "breaking down" is one way of "filing multiple requests" in violation of the statute. This seems to be the interpretation provided by the plain language revision. Whether it is correct or not, however, the second interpretation is not attributable to plain language principles. And, for that reason alone, the removal of the attempt language should not count as a translation error.

D. Stark's two actual translation errors

Only two of Stark's original "ten errors" remain.

The first revision replaces "aggregate" with "combine." As Stark rightly claims, this changes the meaning of the provision. To aggregate means to "be added up," not to "blend together to make a big request." So, the plain language translation is incorrect. In response, one need only use Stark's proposed definition of aggregation as the revision: "aggregating requests" becomes "adding together requests," rather than "combining requests." Unfortunately for Stark, this error demonstrates that plain language translators should be more careful, not that the plain language method of drafting is deficient.

The second remaining revision also is an error. The plain language revision replaces '[o]ne element to be considered in determining" with ""[w]e will assume." The revision changes a consideration into an assumption. Considering a factor in determining an outcome is not the same as making an assumption that the outcome exists based on a factor. To the extent that the drafters were attempting a value-neutral translation here, they failed. But maybe they intended the change. If they didn't, then the weighing-of-factors determination should be reinstated.

Because there are only two value-neutral translation errors in Stark's example, we should not be concerned with his conclusion that the plain language method "generates many errors." Errors based on policy are not based on language. And errors based on context are not based on plain language principles. Even where errors can be attributed to plain language principles, the errors are easy to identify and fix. Moreover, the errors caused by the plain language method are not so pervasive as to support Stark's claim that the plain language method is "shot through with fallacies." Indeed, Stark's own argument is subject to that charge.

4. Stark's foundational mischaracterization: law-for-lawyers

Stark's article provides neither a good description of the statutory process, nor a good prescription for statutory interpretation. These inadequacies can be traced to Stark's foundational mischaracterization about the role of laypeople in the statutory process. Citizens are players throughout the statutory "language game."

Stark describes the drafter's role in terms of the requesting legislator: the drafter's sole

task is "to effect the intent of the bill's requester as amended." But where did the idea for the bill come from? Do we really think legislators are sitting around their offices dreaming up new criminal offenses, or new insurance regulations, or new trademark actions? No. Victims and their families, businessmen, and entrepreneurs go to their legislators and tell them that there ought to be a law regarding something they have experienced. Citizens can be the original authors of statutory provisions.

Nor are legal experts the sole intended audience of statutory provisions. Criminal laws are not meant to proscribe lawyers' conduct. Insurance provisions are not meant to regulate judicial behavior. Trademark regulations are not meant to guide administrative operations. These provisions are meant to communicate standards and rules of conduct for laypeople: ordinary citizens, businessmen, government officers, and entrepreneurs. To say that the only true audience for the standards communicated by statutes is "lawyers, judges and administrators" is to exclude the very persons for whom the law is supposed to act as a guide. We do not hold lawyers, judges, and administrators accountable for failing to follow these statutes. We hold laypeople responsible for doing so.

This is the danger in Stark's position. Stark argues that legislative drafting is its own "language game," an enterprise within which meaning is determined. Within one language game—say, of workers' rights—a term like "strike" may have a different meaning than in another language game—say, of baseball. When assessing a term's meaning, one should be careful to see how the term is used in each language game. Stark argues that the language game of statutory drafting includes legislators as authors, drafters as editors, and legal experts, including judges and administrators, as interpreters. Only these identified members are appropriate participants in the statutory language game.

Viewed in this manner, Stark is not attacking the plain language method at all. He is ruling out ordinary citizens as appropriate players in the statutory language game. For Stark, any perspectives other than those provided by the identified legal experts must be excluded. This not only discounts the role citizens actually play in formulating statutes, but also permits excluding citizens from interpreting the very provisions that purport to guide and to penalize them.

Stark's law-for-lawyers perspective also runs roughshod over the constitutional principle of vagueness. A statute whose language could not guide a person in conforming her conduct to its dictates will be held "void for vagueness." Unless the language game of statutory drafting includes citizens as players, this constitutional limitation is rendered incoherent.

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Endnotes

[1] *Plain Language*, http://www.ncsl.org/legislative-staff/lsss/June-2012-plain-language.aspx.

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Wrong—again—about plain language

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In a way, you have to admire someone who has spent almost two decades campaigning against plain language—unsuccessfully—and who still carries on. As Jack Stark acknowledged in his most recent foray,[1] "many statutory drafters have accepted the school and use its precepts." Maybe that's because the school and its precepts have something important to offer—even to respected veteran drafters like Mr. Stark.

What's troubling is to see the recirculation of criticisms that are demonstrably false and that have been answered so many times. You have to wonder: how could anyone who knows the plain-language literature keep trotting out these inaccuracies and arguments? It's hard to figure.

At any rate, before I take on each of these mischaracterizations of plain language, I'll go right to the make-it-or-break-it point.

The charge: plain language generates errors.

Mr. Stark anchors his criticism on a before-and-after example from an Internet plain-language site. He rattles off a series of pronouncements about changed meaning, asserts that "the proof is in the pudding," and finds unpalatable "a method of drafting that generates so many errors."

Let's set aside the multitude of successful plain-language projects around the world[2] and the endless stream of examples that advocates have put forward for at least 50 years, beginning with David Mellinkoff.[3] Let's accept the questionable premise that one unsuccessful piece of plain drafting raises doubt about all the other ones. Let's look at this supposedly half-baked pudding.

It's Title 12, Section 602.16, of the U.S. Code of Federal Regulations. Here's the before and after:

> **Aggregating Requests.** A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Farm Credit Administration reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Farm Credit Administration may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.
>
> **Combining Requests.** You may not avoid paying fees by filing multiple requests at the same time. When FCA reasonably believes that you, alone or with others, are breaking down a request into a series of requests to avoid fees, we will combine the requests and charge accordingly. We will assume that multiple requests within a 30-day period have been made to avoid fees.

First point: the revision was adopted in 1999, after publication and an opportunity for public comment. At the time, the agency said the new rule "amends FCA [Farm Credit Administration] regulations on the release of information under the Freedom of Information Act to [among other things] reflect new fees."[4] So lo and behold, it's quite possible that any changes from the previous version were intended. Or it's possible that any differences were considered insignificant in practice.

Now for the substance. And here we need to know the context. People must pay a per-page fee for requests, but they get the first 100 pages free. Hence section 602.16, designed to prevent people from avoiding fees by splitting up a single request into multiple requests for parts of a document or documents.

Here are Mr. Stark's assertions (in the first sentence of each bullet) and my responses (in the paragraph following):

- "*Aggregate*, which means 'add up,' has been changed to *combine*, which means 'blend together.'"

But *combine* also means "to unite into a single number."[5] That's precisely what the drafters meant and how readers would understand that term in context.

- "*Seeking portions of a document or documents* has been eliminated; the rules now apply to any request."

So is there a difference in practice? Mr. Stark doesn't explain. If, before, you sought part of a document, that was considered a request. And it still is.

- "*Solely* has been eliminated, allowing other causes such as forgetting that a request has already been made and that the agency erred."

Now, how likely is that? Does anybody forget a formal request under the Freedom of Information Act? And the original version applied to multiple requests "at the same time . . . solely . . . to avoid payment of fees." So previous requests didn't even figure into the original version. Mr. Stark's point here is elusive.

- "*Acting in concert* has been replaced by *with others*, which includes requests made at the same time by chance and requests with several names on them."

Acting at the same time by chance is not the same as acting "with" someone to avoid fees. And if a request has several names on it, the signers were presumably acting in concert, just as they were acting with others. In any event, the new wording won't cause the agency to reach a different conclusion than it would have under the old wording.

- "*Series* . . . has been replaced with *multiple* . . . ."

No, it hasn't. In both versions, the first sentence uses *multiple requests*, and the second sentence uses *a series of requests*. Then the revised third sentence uses *multiple requests* again, consistent with its use in the first sentence. Mr. Stark says that *multiple* means "many, not more than one." But in fact, it does also mean "consisting of . . . more than one."[6] This insistence on a single meaning for a word has now become a multiple error.

- "*Is attempting to break a request down* has been changed to *are breaking down a request*."

Again, what does it matter? The original version was not distinguishing between attempting to break down and actually breaking down; it was not creating an "attempted" violation, like attempted murder; it was not trying to identify an act that is separate from and occurs before actually breaking down a request. In short, the word *attempting* was superfluous in the original: it should have been *is breaking down a request*—exactly like the revised version. All the original did was open the door to a silly, unintended distinction.

- "*May aggregate* has been changed to *will combine*, which is a change from a permission to a requirement."

Right, the agency obviously decided, as a matter of policy, to take a stricter approach. But even then, the agency presumably retains some measure of discretion.

- Multiple requests within 30 days now give rise to "an automatic assumption, not merely a consideration," as in the original.

Once again, this change is so obvious that the agency drafters must have intended it. In fact, they changed from the indefinite *time period over which the requests have occurred* to *a 30-day period*. Mr. Stark calls this change "inexplicable." It's actually as clear as can be: the drafters wanted to be more specific.

All in all, then, the changes in meaning that Mr. Stark summons up are nonexistent, insignificant in practice, or deliberate. The revised version is not only shorter and clearer but also more accurate. *More* accurate, not less. And so it is that Mr. Stark's case against plain language comes unmoored.

Don't get me wrong: you can find mistakes and flaws in plain drafting. But anyone who enjoys that pursuit would have much more fun with old-style drafting, where ambiguities, inconsistencies, and uncertainties flourish in all the verbosity and disorder. I took four examples from the old Federal Rules of Evidence and pointed out 33, 31, 18, and 28 drafting deficiencies in those examples.[7] Finding a flaw in a plain-language statute or rule does not mean that plain language doesn't work or that we're stuck in

reverse, with no choice but to draft in the arcane style so roundly criticized for centuries. An occasional mistake does not undo all the good and potential good.

The charge: plain language makes wrong assumptions and is "shot through with fallacies."

Now we turn to the rest of Mr. Stark's criticisms, almost all of which are delivered without any supporting authority. Below is a brief response to each one.

- Advocates of plain language assume that "laypeople frequently read statutes."

Not exactly. We think that "Acts . . . (and regulations too) are consulted by a large number of people who are not lawyers."[8] And we think drafters should make statutes and regulations intelligible to the greatest possible number of intended readers, especially those who are directly affected.[9] Mr. Stark notes that people don't read the Internal Revenue Code. Of course not. It's a complete mess. (And it seems like an extreme example in any event.) But shouldn't people be able to read and understand—without travail—a regulation that tells them what the fee is for requesting information under the Freedom of Information Act (just to pick an example)? Who are laws for, after all? Only some clique of lawyers?

- Advocates assume that citizens "have a right to read simplistic statutes."

Our view is not that simplistic. We do think citizens should have the greatest possible access to the law. Mr. Stark says that if one wants citizens to have that access, then provide "explanatory publications." That's fine; we recognize the value and versatility of citizens' guides.[10] But why shouldn't the law be as clear as possible to begin with? Why make this an either/or choice? Besides, the clearer we make the law, the less need there will be for any sort of guide.

- "Most of [the] advocates are not professional drafters but academics and others who may never have drafted a bill."

Well, that would be news to legislative drafters in many countries—the UK, Ireland, New Zealand, Australia, Canada, Sweden, the EU, and others—who have endorsed plain language.[11] That would be news to the more than 1,000 members of the Commonwealth Association of Legislative Counsel—a group that "has helped promote plainer drafting around the world and share knowledge on how to go about it."[12] Indeed, the past president of CALC and former head of the legislative-drafting offices in Hong Kong and Victoria, Australia, offers this declaration: "We shouldn't still be having to defend plain language in the twenty-first century."[13]

- Advocates believe that "it is more important to be clear . . . than to be accurate."

This charge could not be more wrong. I responded to Mr. Stark on this same point 18 years ago.[14] No reputable advocate has ever said that clarity trumps accuracy. Yes, I have said, "Your main goal is to convey your ideas with the greatest possible clarity."[15] But *of course* I mean "convey your ideas accurately." Nobody who knows my work—or the work of any other advocate—could possibly think otherwise. We all take the need for accuracy as blindingly obvious.[16] But we do think that, with rare exceptions, clarity and accuracy are complementary—not competing—goals. As Reed Dickerson, the father of modern-day legal drafting, wryly put it: "The price of clarity, of course, is that the clearer the document the more obvious its substantive deficiencies."[17] Or in the words of another expert: "The purposes of legislation are most likely to be expressed and communicated successfully by the drafter who is ardently concerned to write clearly and to be intelligible."[18] Time after time, we have seen clarity improve accuracy by uncovering the ambiguities and errors that traditional drafting tends to hide. Yet if in some instance, on some point, accuracy and clarity really are at odds, then accuracy wins. It goes without saying—almost.

- "Typically, there are lists of 10 or 12 [plain-language] rules, far too few for an enterprise as difficult as statutory drafting."

First, they are guidelines, preferences, principles—not inflexible rules. And the complete list of guidelines numbers in the dozens.[19] Naturally, you will find top-ten lists and the like, as advocates try to pull out a handy set of especially important principles. But we are not so benighted as to think that that's all there is to it. We have always taken an expansive view of plain language, sought to ground it in research,[20] been open to reexami-

nation, and realized that "bare guidelines are not enough."[21]

- As an example of a rule that he says "makes no sense," Mr. Stark cites the rule "to address *you*"—that is, to address readers as *you*.

But here again, advocates do not insist on *you* in statutes. Rather, they recommend using *you* in consumer documents[22]—including regulations—whenever doing so works. Ask yourself: Does *you* seem to work in the regulation we reviewed earlier? Is there any doubt that *you* refers to the person who is requesting information? In the right context, *you* is a great aid to readability. It puts readers in the picture.[23]

- "[Another] fallacy is the command that short sentences should be used."

Nobody commands. We typically say to *prefer* short and medium-length sentences. Or we say to break up long sentences (one of the oldest and worst curses of traditional drafting) or a pattern of long sentences. Long sentences are not usually needed to connect ideas. You can make connections in other ways.[24] You can use vertical lists. You can pull longish exceptions into new sentences. You can use patterns such as "The court may require . . . . Or the court may require . . . ." There are lots of ways. It's telling that Mr. Stark doesn't give examples of long sentences that cannot be broken up. And by the way, look again at the revised regulation. Original: 27, 51, and 23 words (= 34 on average). Revised: 14, 31, and 17 words (= 21 on average).

- Mr. Stark criticizes my example of *give, devise, and bequeath* as redundant in a will. He says that "*give* denotes making a gift from one live person to another."

But certainly not in a will. The giver is gone. The giver is giving by this instrument, the will. Bryan Garner quotes "the leading American scholars on the law of wills" to "resolve any doubt" about not needing a triplet.[25] They state: "'I give' will effectively transfer any kind of property, and no fly-specking lawyer can ever fault you for using the wrong verb."[26] I invite anyone to find a published case to the contrary.

- "The most damaging Plain Language rule is to write only words that are commonly used by laypeople in ordinary speaking and writing."

Another straw man. You may extract from some sources a guideline like "Use simple words," but the explanation that follows will usually make clear that this is not a rigid prescription. A fair reading of the plain-language literature does not support any "rule" to write "only" ordinary words.[27]

- "Some legal terms have no Plain Language synonyms."

We know. And we have never said otherwise. But we have said—and shown—that (1) terms of art are a small part of most legal documents,[28] (2) terms of art should be explained in consumer documents,[29] and (3) many terms that lawyers might think of as untranslatable can in fact be replaced with ordinary words.[30]

- "I would be embarrassed to admit that my job is to write dumbed down statutes."

Ah, yes, the old dumbing-down argument—another one that should have been buried long ago.[31] It's not dumbing down to write clearly for your reader in legal, government, and business documents. It takes great skill, and readers love it. Try to find a reader who protests that a legal document is too clear, that he or she is insulted by the clarity, that the writer should have used a more traditional, legalistic, dense, verbose, contorted style. In fact, no fewer than 25 studies show that readers of all kinds—judges, lawyers, clients, consumers—strongly prefer plain language to the old style, understand it better and faster, are more likely to comply with it, and are much more likely to read it in the first place.[32]

There's no need to go on answering critics. Plain language is changing the landscape—as witness the new Federal Rules of Civil Procedure and Federal Rules of Evidence. And I'd dare to say that in the minds of most writers and drafters, the intellectual debate is over.

[*This article also appeared in the December 2012 issue of* The Legislative Lawyer*, where Mr. Stark's article appeared*.]

Endnotes

[1] *Plain Language*, http://www.ncsl.org/legislative-staff/lsss/June-2012-plain-language.aspx.

[2] *See, e.g.*, Joseph Kimble, *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law* 64–102 (Carolina Academic Press 2012).

[3] *The Language of the Law* (Little, Brown & Co. 1963).

[4] 64 Fed. Reg. 41770 (Aug. 2, 1999).

[5] *Merriam–Webster's Collegiate Dictionary* (11th ed. 2003).

[6] *Id*.

[7] *Drafting Examples from the Proposed New Federal Rules of Evidence*, 80 Mich. B.J. 52 (Aug. 2009), 46 (Sept. 2009), 54 (Oct. 2009), 50 (Nov. 2009) (available at http://www.michbar.org/generalinfo/plainenglish/).

[8] New Zealand Law Comm'n, Report 104, *Presentation of New Zealand Statute Law* 14–15 (Oct. 2008) (available at http://www.lawcom.govt.nz/project/presentation-new-zealand-statute-law) (giving examples of people who "refer to legislation in their jobs" and other examples of when people may consult it in their personal lives).

[9] *Writing for Dollars, Writing to Please*, *supra* n. 2, at 31–33.

[10] *See* Law Reform Comm'n of Victoria, *Plain English and the Law* 57–58 (1987; repr. 1990) ("[Explanatory texts] are likely to reach a wider audience than the originals, and to be more widely used than other means of informing the public.").

[11] *See* Office of Scottish Parliamentary Counsel, *Plain Language and Legislation* 19–28 (2006) (available at http://Scotland.gov.uk/Resource/Doc/93488/0022476.pdf).

[12] *Writing for Dollars, Writing to Please*, *supra* n. 2, at 102.

[13] E-mail from Eamonn Moran to the author (Oct. 20, 2012).

[14] *Answering the Critics of Plain Language*, 5 Scribes J. Legal Writing 51, 53–60 (1994–1995).

[15] *Writing for Dollars, Writing to Please*, *supra* n. 2, at 5.

[16] *See, e.g.*, Michèle M. Asprey, *Plain Language for Lawyers* 92 (4th ed., Fed'n Press 2010) ("We need to be accurate, precise *and* able to be understood by all our likely readers."); Robert D. Eagleson, *Writing in Plain English* 5 (Australian Gov't Publ'g Serv. 1990; repr. 1994) ("Writers of plain English documents use language their audience can understand, and ensure that their documents are complete and accurate statements of their topics. They do not leave out important details . . . ."); *Writing for Dollars, Writing to Please*, supra n. 2, at 40 ("Nobody doubts that legal writers need to aim for accuracy and the right measure of precision.").

[17] *Materials on Legal Drafting* 265 (West 1981) (quoting one of Dickerson's earlier articles, now difficult to access).

[18] G.C. Thornton, *Legislative Drafting* 52 (4th ed., Butterworths 1996).

[19] *See Writing for Dollars, Writing to Please*, *supra* n. 2, at 22 (citing authorities that list 42, 50, 42, 45, and 25 with lots of subpoints).

[20] *See, e.g.*, Daniel B. Felker et al., *Guidelines for Document Designers* (American Institutes for Research 1981) (citing empirical research for each guideline); Karen Schriver & Frances Gordon, *Grounding Plain Language in Research*, Clarity No. 64, at 33 (Nov. 2010) (describing the current state of research and recommending further efforts).

[21] *Writing for Dollars, Writing to Please*, *supra* n. 2, at 5.

[22] *Id*. at 10.

[23] Rudolf Flesch, *How to Write Plain English: A Book for Lawyers and Consumers* 44–50 (Harper & Row 1979); Janice C. Redish, *How to Write Regulations and Other Legal Documents in Clear English* 24 (American Institutes for Research 1991).

[24] *See* Joseph Kimble, *Lessons in Drafting from the New Federal Rules of Civil Procedure*, 12 Scribes J. Legal Writing 25, 34–38 (2008–2009).

[25] *Garner's Dictionary of Legal Usage* 391 (3d ed., Oxford U. Press 2011).

[26] Jesse Dukeminier Jr. & Stanley M. Johanson, *Family Wealth Transactions* 11 (Little, Brown & Co. 1972).

[27] *See, e.g.*, Asprey, *supra* n. 16, at 232 (providing a side-by-side list of plain and more formal expressions, but noting that the formal one is "perfectly fine in some circumstances"); Joseph Kimble, *Plain Words*, in *Lifting the Fog of Legalese: Essays on Plain Language* 164 (Carolina Academic Press 2006) ("By all means, use the longer, less familiar word if you think it's more precise or accurate."); Richard C. Wydick, *Plain English for Lawyers* 58 (5th ed., Carolina Academic Press 2005) ("If an unfamiliar word is fresh and fits your need better than any other, use it—but don't *utilize* it.").

[28] *Writing for Dollars, Writing to Please*, *supra* n. 2, at 36.

[29] *Id*.; *see also* Christopher R. Trudeau, *The Public Speaks: An Empirical Study of Legal Communication*, 14 Scribes J. Legal Writing 121, 149–50 (2011–2012) (confirming the public's overwhelming preference that legal terms be explained in an attorney's communication).

[30] *See Law Words* (Centre for Plain Legal Language 1995) (available at http://www.clarity-international.net/downloads/Law%20Words.pdf) (containing short essays on 28 terms like *joint and several* and *right, title and interest*).

[31] *Writing for Dollars, Writing to Please*, *supra* n. 2, at 11–14.

[32] *Id.* at 134–66.

Joseph Kimble *has taught legal writing for more than 25 years at Thomas Cooley Law School. He has written a book called* Lifting the Fog of Legalese: Essays on Plain Language, *published many articles on legal writing, and lectured throughout the United States and abroad. His new book,* Writing for Dollars, Writing to Please, *collects empirical evidence about the benefits of plain language in business, government, and law. Professor Kimble is the editor in chief of* The Scribes Journal of Legal Writing, *the longtime editor of the "Plain Language" column in the* Michigan Bar Journal, *a past president of Clarity, and a founding director of the Center for Plain Language. Since 1999, he has been the drafting consultant on all federal court rules. He has received several national and international awards, including two Burton Awards for Reform in Law for his work on the federal rules, a 2007 award from the Plain Language Association International, and the 2010 Award from the Section on Legal Writing, Reasoning, and Research of the Association of American Law Schools for lifetime achievement in the field.*

Draft of the Clarity Constitution

This is a draft of the Clarity Constitution. It was prepared by the Constitutional sub-committee in 2012 and incorporates feedback from the full Clarity committee and the country representatives. There are a few outstanding issues that the sub-committee is working on resolving but we wanted to share our progress with members. Thank you to the sub-committee—Eamonn Moran (chair), Amy Bunk, Ben Piper and Candice Burt. A very special thank you to Francesca Quint who undertook the unenviable task of producing the first draft.

1. Name

The name of the association governed by this Constitution is Clarity.

2. Objects

The Objects of Clarity are to promote the use, appreciation and development of plain language in legal and other formal texts, in any part of the world, and for that purpose to do any one or more of the following:

(1) maintain and expand an international network of people interested in the use of plain language in legal and other formal texts;

(2) facilitate access to information and materials relating to plain language;

(3) promote high standards for the use of plain language in legal and other formal texts;

(4) support and encourage the use of plain language generally.

3. Powers

Clarity has the following powers, which may be exercised only in promoting the Objects and in compliance with any applicable law:

(1) To hold conferences either alone or jointly with other bodies.

(2) To publish a journal.

(3) To maintain a website accessible to all members and to the public.

(4) To publish or distribute information.

(5) To co-operate with other bodies that promote the use of plain language in legal and other formal texts.

(6) To encourage local meetings.

(7) To raise funds.

(8) To borrow money.

(9) To make grants of money.

(10) To maintain insurance policies against risks from Clarity's activities.

(11) To employ paid or unpaid agents, staff or advisers.

(12) To enter into contracts to provide services to or on behalf of other bodies.

(13) To do anything else that promotes or helps to promote the Objects.

4. Membership

4.1 Membership is open to any individual or organization interested in promoting the Objects.

4.2 The Board may establish different classes of membership, set out their respective privileges and duties and set the amounts of any subscriptions.

4.3 The Board must keep a register of members.

4.4 Clarity may terminate the membership of a member whose subscription is more than 12 months in arrears. The member may be reinstated on payment of the amount due.

4.5 A member may resign by written notice to Clarity.

4.6 The Board may decide to terminate the membership of any member on the ground that in its reasonable opinion the member's continued membership would be harmful to Clarity. Before terminating membership, the Board must notify the member in writing and set out the grounds for termination. The member has 14 days to make written representations to the Board as to why their membership should not be terminated. After considering any written representations made by the member, the Board may either cancel its earlier decision or by resolution terminate the membership.

5. General meetings

5.1 Members are entitled to attend general meetings of Clarity either in person or (in the case of a member organization) through an authorized representative. General meetings must be called on at least 21 clear days' written notice to the members specifying the business to be transacted. A general meeting must be called if the Board receives a written request to do so from at least 10 members.

5.2 There is a quorum at a general meeting if the number of members or authorized representatives personally present is 5 % of the members.

5.3 The President or (if the President is unable or unwilling to do so) some other member elected by those present presides at a general meeting.

5.4 Except where otherwise provided by this Constitution, every issue at a general meeting is determined by a simple majority of votes cast by the members present in person or through an authorized representative.

5.5 Except for the chair of the meeting, who has a second vote, every member present in person or through an authorized representative has one vote on each issue.

5.6 A general meeting must be held in every other year.

5.7 At a biennial general meeting the members:

(1) receive the accounts of Clarity for the previous 2 financial years;

(2) receive the report of the Board on Clarity's activities since the previous biennial general meeting;

(3) elect from among the members a President, Vice President, Secretary and Treasurer to hold office from the end of the biennial general meeting until the end of the next biennial general meeting;

(4) accept the retirement of those Board members who wish to retire or are retiring by rotation;

(5) elect Board members to fill the vacancies arising;

(6) may appoint an auditor for Clarity;

(7) may confer on any individual (with his or her consent) the honorary title of Patron of Clarity;

(8) may amend this Constitution if the terms of the proposed amendment have been notified to the members with the notice of the meeting and the proposed amendment is supported by [two-thirds] of the votes cast;

(9) discuss and determine any issues of policy or deal with any other business put before them by the Board.

6. Email resolutions of members

6.1 Any question which could be determined by the members at a biennial general meeting or a general meeting may be determined by the membership by email resolution.

6.2 21 clear days' written notice of any proposed email resolution must be sent to all members setting out the terms of the proposed resolution and specifying the response date.

6.3 An email resolution is binding if passed by a majority of those members whose written response is received on or before the response date.

6.4 No person has a second vote on an email resolution.

7. The Board

7.1 The full number of members of the Board is at least 7 and not more than XX individuals, all of whom must be members or authorized representatives.

7.2 The Board consists of:

(1) the President;

(2) the Vice President;

(3) the Secretary;

(4) the Treasurer;

(5) up to XX other members.

7.3 One third (or the number nearest one third) of the Board members must retire at each biennial general meeting, those longest in office retiring first and the choice between any of equal service being made by drawing names at random.

7.4 A retiring Board member who remains qualified may be re-elected.

7.5 A Board member automatically ceases to hold office if he or she:

(1) is absent without good reason from 3 consecutive meetings of the Board and is removed by a resolution passed by all [a two-thirds majority of] the other members of the Board ;

(2) ceases to be a member of Clarity;

(3) resigns by written notice to the Board;

(4) is removed by a resolution passed by all the other members of the Board after they have invited the views of the Board member concerned and considered the matter in the light of any such views.

8. Proceedings of the Board

8.1 The Board must hold at least one meeting each year.

8.2 A quorum at a meeting of the Board is XX.

8.3 A meeting may be held either in person or by suitable electronic means agreed in advance by the Board in which all participants may communicate with all other participants.

8.4 The President or (if the President is unable or unwilling to do so) some other member of the Board chosen by the Board members present presides at each meeting of the Board.

8.5 Unless otherwise stated, every issue may be determined by a simple majority of the votes cast at a meeting of the Board.

8.6 Except for the chair of the meeting, who has a second vote, every Board member has one vote on each issue.

9. Board's decision-making

The Board has the following powers in the administration of Clarity:

(1) To appoint advisory committees of 2 or more individuals.

(2) To make rules consistent with this Constitution to govern the Board's proceedings.

(3) To resolve, or establish procedures to assist the resolution of, disputes within Clarity.

(4) To exercise any powers of Clarity which are not reserved to a general meeting.

10. Benefits to Board members

10.1 The property and funds of Clarity must be used only for promoting the Objects.

10.2 No member of the Board or connected person may receive any payment of money or other material benefit (whether direct or indirect) from Clarity except:

(1) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in the administration of Clarity;

(2) a reasonable rent or hiring fee for property let or hired to Clarity;

(3) an indemnity in respect of any liabilities properly incurred in administering Clarity (including the costs of a successful defence to criminal proceedings);

(4) other payments or material benefits (but only with the Board's prior written approval).

10.3 Whenever a member of the Board or a connected person has a personal interest in a matter to be discussed at a Board meeting, the Board member concerned must:

(1) declare the nature and extent of the interest before the meeting or at the meeting before discussion begins on the matter;

(2) be absent from that part of the meeting unless expressly invited to remain in order to provide information;

(3) not be counted in the quorum for that part of the meeting;

(4) be absent during the vote and have no vote on the matter.

11. Property and money

11.1 Money that is not required for immediate use may be placed on deposit or invested until needed.

11.2 Investments and other property of Clarity must be held in the name of Clarity.

12. Records and accounts

12.1 The Board is responsible for ensuring that Clarity keeps financial records and produces:

(1) a biennial report;

(2) abiennial statement of account.

12.2 The Board is responsible for ensuring that Clarity keeps proper records of:

(1) all proceedings at general meetings;

(2) all proceedings at meetings of the Board;

(3) all recommendations of advisory committees;

(4) all professional advice obtained.

12.3 Accounting records relating to Clarity must be made available for inspection by any member who gives 10 days' notice to the Board.

12.4 Copies of this Constitution and the latest available annual statement of account must be posted on Clarity's website.

13. Notices

13.1 Notices under this Constitution may be sent by hand or by suitable electronic means or (where applicable to members generally) may be published in any journal distributed by Clarity or on Clarity's website.

13.2 The address at which a member is entitled to receive notices is the address noted in the register of members (or, if none, the last known address).

13.3 Any notice given in accordance with this Constitution is to be treated for all purposes as having been received:

(1) 24 hours after being sent by electronic means to the relevant address;

(2) 24 hours after the date of publication of a journal containing the notice;

(3) on being handed to the member or their authorized representative personally;

(4) if earlier, as soon as the member acknowledges actual receipt.

14. Dissolution

14.1 If at any time members at a general meeting decide to dissolve Clarity, the members of the Board then holding office will remain in office as long as necessary to bring about the orderly winding up of Clarity's affairs.

14.2 After providing for all outstanding liabilities of Clarity, the Board must apply the remaining property and funds in one or more of the following ways:

(1) by transfer to one or more other bodies established for purposes connected with the promotion of plain language;

(2) directly for a specific project or projects which are designed to further the Objects;

(3) in such other manner consistent with the Objects as the members in general meeting approve.

14.3 A final report and statement of account relating to Clarity must be prepared and made available to the members.

15. Interpretation

In this Constitution:

15.1 Clarity means

the association known as Clarity and governed by this Constitution

authorized representative means

an individual who is authorized by a member to act on their behalf at meetings of Clarity

biennial general meeting means

a general meeting held under section 5.6

Board members means

members of the Board other than the President, Vice President, Secretary and Treasurer

connected person means

any spouse, civil partner, cohabitee, parent, child, sibling, grandparent or grandchild of a member of the Board, any firm in which a member of the Board is a partner or employee, any company of which a member of the Board is a director or employee or a shareholder who is beneficially entitled to more than 1 per cent of the share

capital material benefit means

a benefit which may not be financial but has a monetary value months means calendar months year means calendar year

Member news

From Claire O'Riordan

Clarity members may be interested in the EU directive on websites: http://www.simplyput.ie/simplyput_news. Also, we have a free *Plain English A-Z Guide to Legal Terms* that might be of interest: http://www.simplyput.ie/downloads/plain_english_guide_to_legal_terms.pdf.

From Robert Linsky

I am again director of judging for the 3rd time for the Center for Plain Language's ClearMark Awards. It's too late for entries, but I hope you will attend the awards dinner on April 16th. Details are here: http://centerforplainlanguage.org/awards.

Also, I was elected to the board of PLAIN last year (a 3-year term).

From Sarah Marriott

Plain English has become a compliance issue for financial institutions in Ireland, with the Central Bank's Consumer Protection Code (2012). In a recent review of this code, the Central Bank criticised banks and insurance companies for their failure to use plain English in consumer communications. The code states that information for customers must be 'clear, accurate, up to date and written in plain English and that key information must be brought to the attention of the consumer'. As a result, many financial firms are now reviewing customer communications and training staff in how to write plain English.

From Peter Butt

Peter Butt, a former President of Clarity, is revising and republishing a series of 30 articles on plain-language alternatives to traditional legal words and phrases. The articles were originally published about 20 years ago, and were then collected and republished by the Centre for Plain Legal Language at the University of Sydney under the title "Law Words". They are long out of print. The revised articles will start appearing in the *Law Society Journal* (published by the New South Wales Law Society) in March 2013, and will run monthly. They will be introduced by an article on plain language by The Hon Michael Kirby, one of Clarity's patrons.

From Fabio J. Guzmán Ariza

The Dominican Academy of Letters published recently a book by Clarity member Fabio J. Guzmán Ariza, academician and managing partner of the Guzmán Ariza law firm (www.drlawyer.com) in the Dominican Republic, titled *El lenguaje de la Constitución dominicana* (*The Language of the Dominican Constitution*). The book examines the constitutional text and finds it deficient, especially because of its complex and obscure language.

From Aino Piehl

The Open Government Partnership was launched in 2011 in relation to the UN General Assembly. Participating countries are expected to make an action plan which includes concrete commitments to deal with obstacles to transparency. The initiative has been joined by around hundred countries at the moment, including all the Canada, Estonia, Nordic States, U.K. and U.S. Finland is so far the only country to have chosen plain language as one of the themes for the national action plan and commitments.

Message from the President

The *Clarity* journal

I do hope you have enjoyed reading our bumper issue of *Clarity*. Thank you to guest editors Christopher Balmford, Gina Frampton, and Annetta Cheek for their hard work at gathering, compiling, editing, and producing this issue. And our special thanks, as always, to Julie Clement, Editor-in-Chief, who continues to work her magic year after year and issue after issue.

We have begun working on a new design for the journal. Josiah Fisk, president of More Carrot LLC, has been working with Julie Clement to give the journal an updated look while still delivering excellent content. We hope to launch our new design later this year so look out for the new and improved *Clarity*.

Please let us know if you have any ideas for improving the journal—both in terms of approach and content. One approach would be to focus the journal on more substantive content and, perhaps, publish one issue a year. We could then put information about conferences, seminars, member news, and new committee members on the website (or another online space).

The 2014 Clarity conference

Clarity's next conference is most likely to be in September or October 2014 in Antwerp, Belgium. It will be co-hosted by IC Clear (International Consortium for Clear Communication), PLAIN and IIID (International Institute for Information Design). We will let you know the exact dates and times as soon as possible. This is set to be a major event in the plain language industry with the official launch of IC Clear's post-graduate degree in clear communication. The reputation of Belgian chocolate should sway any of you still sitting on the fence!

Conferences in 2013

In my January newsletter, I mentioned three conferences coming up in 2013. I hope you are able to attend at least one of these exciting sessions:

1. The Commonwealth Association of Legislative Counsel (CALC) Conference in Cape Town, South Africa from 10–12 April 2013. To register for the conference or find out more about it, visit http://opc.gov.au/calc/conferences.htm
2. The Commonwealth Lawyers Association Conference (CLC) Conference in Cape Town, South Africa from 14–18 April 2013. To register for the conference or find out more about it, visit http://www.commonwealthlaw2013.org/
3. The Plain Language Association International (PLAIN) Conference in Vancouver Canada from 10–13 October 2013.To register for the conference or find out more about it, visit http://www.plain2013.org/.

The Laws project—we need your contributions

Please remember to send your contributions to the Laws Project. (See the January newsletter for more detail about where we are with it). You can email Tialda Sikkema at Tialda.sikkema@hu.nlor Ben Piper atbpiper@ntc.gov.au . If you have any questions, or if you need help conducting your research please feel free to contact Tialda or Ben.

Thank you to our new volunteers

In response to the January newsletter, Katina Stapleton of the National Center for Education Research (U.S.) and Cynthia Adams of Indiana University Robert H. McKinney School of Law volunteered for the tasks of Twitter co-ordinator and Assistant editor respectively. Thank you, thank you, thank you.

There will be more on our volunteers in our next newsletter—a chance for you to get to know who is doing what and how you, too, can help.

I wish you all the best for 2013 and to another of clear, effective communication.

Warm regards

Candice Burt
President of Clarity

Committee members

Sandra Fisher-Martins *runs Português Claro, a training and consultancy firm that introduced plain language in Portugal and has been helping Portuguese companies and government agencies communicate clearly since 2007.*

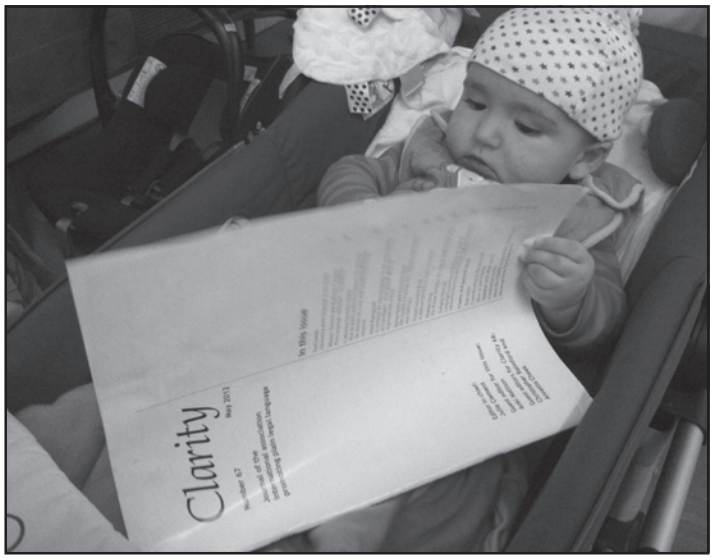
Sandra is particularly interested in the use of plain language and information design in public documents as a way of helping citizens make informed choices about their health, education, welfare, and civil rights. Her clients include the Government, Inland Revenue, Social Security, Caixa (Portugal's largest bank) and ZON (telecommunications).

Sandra is the Portuguese representative for Clarity, an international association that promotes plain legal language. She is member of the board of PLAIN—Plain Language Association International—and part of the International Plain Language Working Group.

Dr Tunde Opeibi *is Associate Professor at the University of Lagos, Lagos, Nigeria.*

He has served as the Senior Special Assistant to Lagos State Governor (Speech and Communication) and he is currently Senior Special Assistant to Lagos State Deputy Governor, Lagos, Nigeria.

He was Visiting Commonwealth Fellow at the Centre for the Study of Democracy, University of Westminster, London in 2010. He has written a couple of full length books and published several scholarly articles in international journals. His research interests are in Political Communication, Civic Engagement and Governance, Legal Discourse, and New Media Discourse Analysis.



Dylan Fisher-Martins broadens Clarity's audience by a few decades. And as we plain linguists write for our audience, expect pop-up images and tactile pages in our next edition.