

To Be Clear

Muddy language can be costly

BY BETTY JOYCE NASH

Many multipage agreements, notices, and forms are crowded with microscopic print and convoluted text, a powerful deterrent to readers. Complexity is still the rule rather than the exception, but readability may be on the rise.

In the United States, clear communication is the law under the Plain Writing Act of 2010, which applies to public letters, notices, and forms from federal agencies. Though earlier legislation, such as the Paperwork Reduction Act of 1980, encouraged plain language in connection with other goals, the 2010 law's sole focus is requiring agencies to write clearly. Some states — and nations — had attacked bureaucratic language even earlier. For example, Canada's federal and provincial "plain language" efforts date back to the 1970s; Sweden's laws are all written in plain language. New York State enacted a plain language law in 1978 for consumer transactions.

The movement toward disclosures and plainer communication has waxed and waned in the United States since the 1970s era of consumer protection laws. Today, it's waxing in both the public and private sectors. This language transformation won't happen overnight, however, says Annetta Cheek, board chair and a founder of the Center for Plain Language, which grew from a group of like-minded government employees.

"Taking traditional bureaucratic stuff and issuing it in plain language is hard work, and the government doesn't have a lot of people skilled at it," she says.

It is hard. Try finding a shortcut for "default," for instance, a word with several meanings. But how can people make decent decisions if writers bury critical content in jargon and tangled sentences?

Plain Benefits

Writing simple language is anything but simple. The range of tools includes using active voice, succinct language, common words, short sentences, headings, and tables and figures. Even then, complicated concepts can remain elusive, depending on the audience, without additional explanations and examples.

Michael Masson and Mary Anne Waldron, University of Victoria professors of psychology and law, respectively, tested traditional notions of plain language. Their study, published in *Applied Cognitive Psychology* in 1994, found that simply removing archaic terms and "legalese" from contracts had little value. But simplifying language and shortening sentences did improve reader comprehension. "By using more familiar words we made more concepts accessible to readers, and by using shorter sentences fewer demands were placed on working memory capacity," the researchers noted.

Even so, some participants responded erroneously when asked to answer questions and paraphrase material. The results suggested that, "quite apart from the constraints of language, nonexperts have difficulty understanding complex legal concepts that sometimes conflict with prior knowledge and beliefs," Masson and Waldron concluded. This indicates that plain language is not only challenging to write, but also that it may not always solve comprehension problems, especially if it is approached in a superficial way.

Simplifying legal language is a mission for Joseph Kimble, a professor at the Thomas M. Cooley Law School. He has worked for years, he jokes, to "poison the well of legalese at its source." He teaches legal writing and has written three books about plain language. The latest, published last year, is *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law*.

Measurable benefits of plain language are substantial, according to Kimble. Simplified memos, agreements, and notices take less time to understand, so they require less staff time. Examples range from plainly written user's manuals to clearer memos for U.S. naval officers.

One such case is that of a U.S. Veterans Benefits Administration letter that went to 320,000 veterans who needed to update information about their life insurance beneficiaries. The response rate for previous letters had never exceeded 43 percent, but the plain language version, with a revised structure and clean design, had a 66 percent rate of response. Staff time saved (because the agency had fewer beneficiaries to identify and locate) amounted to \$4.4 million in 1999 dollars.

Likewise, the Internal Revenue Service has trained employees and revised more than 100 of its taxpayer notices and guides, no small feat given the arcane U.S. tax code. For example, a child care tax credit notice went from five to three pages. The revision used bold type, clear, concise language, and the pronouns "we" and "you" to clarify the taxpayer's responsibility. Overall, IRS results from improved writing include reduced penalty and interest payments and improved taxpayer compliance, according to Terry Lemons, director of its office of communications. Taxpayers are less frustrated and report higher levels of satisfaction because they're less confused and their cases are resolved sooner.

The Holy Grail

Private firms are looking harder at communications not only for clarity's sake but also to court consumer satisfaction. Even if clear benefits to firms aren't easily calculated, clear communications promote customer loyalty and trust. People feel cheated if they suffer financial penalties and consequences because they didn't understand their obligations.

Before-and-After Example from a Financial Privacy Statement

BEFORE:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law).

AFTER:

We share personal, nonpublic information about you to third parties that are not affiliated with us unless you tell us not to (opt out).

And that hurts business.

“This isn’t just dollars and cents, it’s also a matter of looking at a document and saying, ‘That’s straightforward. Nobody’s trying to pull the wool over your eyes. That company deals straight with its clients and customers,’” Kimble says. “The benefit to the readers produces benefits for companies; obviously they are related.”

Cutting the number of customer service calls is a “holy grail” of plain language, says Deborah Bosley, an associate English professor at the University of North Carolina, Charlotte and a consultant on plain-language issues. Besides meeting regulatory requirements, a well-written document answers customer questions rather than raising more.

Private firms are also building plain language efforts into corporate cultures. For example, Chase Bank has revamped its credit card agreement. In 2010, the Center for Plain Language named Chase’s agreement as a finalist for a “WonderMark” award, which means the document was among the “least usable.” This unflattering distinction described six pages of what Joan Bassett, a senior director at Chase, calls “mice” type, typography slang for very small print.

Chase got the message and got to work. “If you look at the old agreement, with paper-thin, ‘mice’ type — it’s very legal-heavy,” Bassett says. The redesigned agreement comes as a booklet, organized with tabs for easy reference. Information is displayed in tables that use larger print.

Testing helps Chase tweak plain language communications. “Consumers found it [the new agreement] easier to navigate and they understand it better.” So far, customer satisfaction has improved, specifically with regard to the communications, she says, according to internal measures by J.D. Power and Associates, a marketing information services firm.

Chase worked with its legal team to make the new document as consumer friendly as possible while meeting regulatory requirements. “You really have to dig into what is driving confusion, what’s driving the lack of transparency,” she says. “You want to understand the whole process.” (The revised agreement was recognized with a “TurnAround” award from the Center in 2011.)

Financial documents are prime candidates for simplification. For example, the Pew Charitable Trusts has developed a plain-language model of checking account statements, adopted by Bank of America and other financial institutions.

Financial disclosures can be particularly complex. The Canadian government in 2009 amended its disclosure regulations for credit products to include a plain language provision, requiring that the language be “clear, concise, and not misleading.” Earlier, the Canadian Bankers Association in 2000 had adopted a voluntary plain language code of conduct — the Plain Language Mortgage Documents CBA Commitment — covering mortgages.

Clear and simple language, though, is only one step along the way to comprehension, especially in financial matters. The way information is disclosed and framed may influence whether and how much people borrow.

Context and Complexity

A study by two University of Chicago Booth School of Business professors, Marianne Bertrand and Adair Morse, evaluated the way that additional information and presentation affects payday borrowers’ decisions. Their paper appeared in November 2011 in the *Journal of Finance*.

The authors designed three types of disclosures based on behavioral principles from psychology and economics literature to investigate “possible cognitive lapses payday borrowers might be making,” according to the paper. For instance, the researchers placed interest rates in context by comparing those of payday lenders to rates on car loans, credit cards, and subprime mortgages.

They found that borrowers in all groups reduced borrowing amounts. Those who received information about fee accumulation compared to other types of loans over a four-month span were 5.9 percentage points less likely to borrow during subsequent pay cycles, an 11 percent decline relative to the control group. (Payday lenders may charge rates of 400 percent or more for these short-term, high-risk loans, which can provide needed liquidity to some households but also have the potential to lead to significant debt-to-income burdens.)

Clearly written, understandable, and organized content also can educate people about their health, maybe even save lives. People who don’t understand drug labels or a set of instructions — those with limited or poor health “literacy” — have worse health outcomes, according to Karen Baker, senior vice president at Boise, Idaho-based Healthwise. The nonprofit has produced, since 1975, health information, tools, and services for hospitals, clinics, insurers, government agencies, and medical practices. The ultimate audience for Healthwise, though, is the patient who uses that content to make health decisions and change behavior.

“We know that people with low health literacy access health services more, have a hard time sticking to a treatment plan, and are readmitted more,” Baker says. “They are less likely to understand the need for screenings and preventive care. All that drives up costs.” The costs of low health literacy range from \$106 billion to \$238 billion a year, according to a 2007 report for which the lead author was the late finance economist John Vernon of the Department of Health Policy and Management at the University of North Carolina, Chapel Hill.

Healthwise has built plain language into its genes, Baker says. “If you walked in here tomorrow and asked about plain

language, you would get an answer from anybody on the staff.” They write, design, and organize content and, finally, test it extensively using a professional organization.

“We want to make sure that if we want feedback on instructions for using an asthma inhaler that we are testing people who have asthma,” Baker says. “Do we need to change something? Is it informational? Do we think we have it right? We consider all that feedback that helps make our products and our assets better.”

Plain language helps people participate fully in decisions that affect well-being, whether it’s physical health or financial health. More plain language efforts are under way, public and private; a federal law covering the writing of agency regulations, in committee since last January, may be next.

There’s a snowball effect along with a willingness to take plain language seriously. “I think the people who have embraced the idea of plain language are using what, to some, is an onerous regulation, to their own advantage,” Bosley says. “The smarter companies understand this is a marketing opportunity for them because every piece of material that comes out of an institution is a piece of marketing.”

Even though consumer finance and other regulations have mandated clearer statements and disclosures, plenty of dense text remains in a wide range of contracts and agreements — construction contracts to cell phone agreements to warranties. Until plain language dominates most documents, it’s not a bad idea to keep the magnifier handy and read the fine print. **EF**

READINGS

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complete picture of labor market conditions — so for both reasons, the unemployment rate is an inappropriate basis for policy changes. Plosser argued that, while the thresholds provide a clear near-term forecast for the fed funds rate and in that sense could improve transparency, thresholds do not equip financial markets to understand how policy will behave after the thresholds are met.

The debate reflects not only that communications are an inherently imprecise policy tool, but also that monetary policy is an imprecise science. In deciding how and what to communicate, the Fed must balance the benefits of making policy predictable with the risk that too much specificity, like thresholds for a limited set of economic variables, will obscure the fact that a complex array of data is behind policy decisions. The recent FOMC minutes reveal that the committee continues to discuss the risks and benefits of new

communication strategies, and Chairman Bernanke even established a subcommittee headed by Yellen in 2010 to analyze these very questions, because with limits on movements in the fed funds rate, “sometimes communication *is* the policy,” she said in April.

Among the questions on the table: While the Fed has become clearer about its thinking in the moment and has adopted quantitative long-term goals, should it adopt an explicit policy rule that defines how it will behave to achieve those goals? Could it communicate a rule in a way that reduces uncertainty but allows policymakers to deviate from the rule when appropriate? And when is deviation appropriate? While the Fed has made significant beneficial strides in communication over the last two decades, the last several years prove that there are many more issues still on the table. **EF**

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