

By Joseph Kimble

Testifying to Plain Language

I gave this testimony on March 1, 2006, before the House Subcommittee on Regulatory Affairs, which is considering a Bill to require plain language in federal regulations. The Bill, H.R. 4809, is available at <http://thomas.loc.gov/cgi-bin/query/z?c109:H.R.4809>.

Madam Chair [Representative Candice Miller], greetings from Michigan and Thomas Cooley Law School. I'm delighted to have the chance to testify about this important plain-language bill.

Just a word about my background. I have taught legal writing and drafting for 21 years at Thomas Cooley. I'm the editor in chief of *The Scribes Journal of Legal Writing*. I have been the editor of the "Plain Language" column in the *Michigan Bar Journal* for 18 years. I'm the president of the international organization Clarity and a founding director of the new Center for Plain Language, here in D.C. I have worked on plain-language jury instructions for the Sixth Circuit and for the State Bar of Michigan. Most recently, I led the work of redrafting the Federal Rules of Civil Procedure. So I think I have some experience with plain language.

I'd like to talk mainly about two things: the benefits that this Bill will produce, and some of the bad opposing arguments that you are likely to hear.

First, the benefits. I have spent a considerable time collecting empirical studies about the benefits of plain language. I have collected dozens of them. They appear in the two articles that I included in the record: *Writing for Dollars*, *Writing to Please* and *Answering the Critics of Plain Language*.¹ I might mention that I have since collected more studies and will be merging everything into a book later this year.

Now, for the most part, I'll stand on the evidence of those two articles. But let me

give you a couple of examples. In *Writing for Dollars*, on page 9, you'll find a study done by the Department of Veterans Affairs. They revised one letter—just one form letter, mind you—and tested the results. In one year, in one regional VA call center, the number of calls received dropped from about 1,100 to about 200. This was one paper at one office of one government agency. Multiply that one paper by every form, letter, notice, flyer, bulletin, booklet, manual, and other public document sent out in huge numbers by every office, division, department, and agency of the government. It's incredible. Plain language may not be a sexy subject, but I believe that the cost of poor communication is the great hidden waste in government. Untold millions and billions.

And it's not just the cost to government. Think of the ill will created by unclear public information—the confusion and anger and frustration that it causes people who have to make phone calls, who can't fill out a form, who don't understand their rights or benefits, who make mistakes in trying to follow procedures.

Let me highlight a couple of the other studies—for instance, the one on page 12, involving U.S. Naval officers. Officers who read a plain-language version of a memo, besides having significantly higher comprehension, took 17% to 23% less time to read it. The researchers figured that if all Navy personnel routinely read plain documents, the time saved would amount to \$250 to \$350 million a year.

Or how about the study of Army officers on page 28. The researchers found that readers of a plain-language memo were twice as likely to comply with it on the same day they received it.

In short: there is now compelling evidence that plain language saves money—enormous amounts of money—and pleases readers. It is much more likely to be read and understood and heeded—in much less time. I think it could even help to restore faith in public institutions.

So why shouldn't we do this? Don't readers of public documents have the right to understand the rights and requirements that affect their lives from cradle to grave? That leads to my second topic—opposing arguments.

You'll hear that you can't write plainly and at the same time be precise and accurate. Don't believe it. It's a great myth. And my articles have the empirical evidence. In fact, the evidence is just the opposite. Plain language is *more* precise than traditional legal and official language—I hesitate to say legalese and officialese—because plain language lays bare all the ambiguities, inconsistencies, uncertainties, and mistakes that traditional style, with all its excesses, tends to cover up. It happens every time you peel back the layers, as anyone who has been involved in a plain-language project can tell you. It happened repeatedly as we worked through the Federal Rules of Civil Procedure.

You'll also hear that plain language is beneath the dignity of professional writers. Thus, we get various disparaging descriptions:

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baby talk, dumbing down, unsophisticated, anti-intellectual, drab, and ugly. Don't believe it. In fact, once again, just the reverse is true. Any second-rate writer can make things more complicated; only the best minds and the best writers can cut through. It takes skill and hard work to write in plain language. And besides, have you ever heard anyone complain that a public document is too clear? Too simple? Remember what Walt Whitman said: "The art of art, the glory of expression, is simplicity. Nothing is better than simplicity." Far from being beneath the dignity of good writers, plain English is—or should be—the American idiom.

Next, you may hear that government information sometimes deals with complex subjects and needs to use technical terms. That's true, but why compound the difficulty with poor writing? As for technical terms, of course some writing needs to use

technical terms, but they are a tiny part of most documents. And even then, you can usually explain technical terms in a way that most readers will understand.

Finally, you'll hear the argument that this Bill will require some up-front costs to train writers. I suppose that's true. But why shouldn't our public writers acquire the skills needed to communicate clearly with the public. That's their job. And there are resources available at reasonable rates. The federal interagency group PLAIN offers basic training for free—more than reasonable—for government employees. And whatever the up-front costs might be, I hope I've made the case that they will pale in comparison with the benefits.

Two points in conclusion. If you'd like to see the difference between overcomplicated writing and plain language, check out pages 34–37 of *Writing for Dollars*. I rewrote the

exit-seat card that you'll find in the exit row of most airplanes. It's a hoot. And that card is copied verbatim from the Code of Federal Regulations.

The American public needs and deserves clear information from its government. They deserve government writers who have the will and the skill to accomplish that. And this Bill can help to make it happen. We need this Bill—or it won't happen. The Bill may seem like a small thing, but it has tremendous implications in all the ways that I have tried to describe. ♦

Joseph Kimble teaches legal writing at Thomas Cooley Law School. He is the author of Lifting the Fog of Legalese: Essays on Plain Language.

FOOTNOTE

1. 5 Scribes J Legal Writing 51 (1994–1995); 6 Scribes J Legal Writing 1 (1996–1997).