

## Report by Plain Language Commission for BBC3

### How clear are the style and language of Facebook's Principles and Terms of Use?

#### Readability score

A readability test measures key statistics of text – often the number of words, syllables and sentences – and combines these using a formula to give a numerical score. Readability tests have their limitations, but can be a useful general guide to how easy a document is to read and understand. There are many different tests available, all of which will give slightly differing results for a given document.

We have analysed the 2 documents using the Flesch Grade Level formula (also known as the Flesch-Kincaid formula) because it is:

- well known (available in Microsoft Word, though we use specialist software as there are flaws in Word's version)
- used to assess materials aimed at teenagers as well as adults.

The test gives results as American grade levels. Adding 5 to them gives you the equivalent British reading ages. Here are the results:

	Grade level (add 5 for British reading age)	
	Facebook Terms of Use	Facebook Principles
Flesch Grade Level score	18.7	13.8

#### Expert assessment

We generally pitch text even for adults at a level of around 14–15 years. According to National Literacy Trust figures (as derived from its website), the average reading age for UK adults is 12–13 years, about 3 years below that of the average 16-year-old. If the audience is likely to include many people with weak reading skills, then we aim for a level of 12–13. It follows that teenagers may need even simpler text. But the reading age required to understand even the Facebook Principles is 18.8 (university undergraduate level), while you'd need reading ability at university postgraduate level (23.7) to get to grips with the even more complex wording of the Terms of Use.

#### Other computerized scores

StyleWriter is a British-authored computer program that catches 35,000 style and usage problems missed by common spell-checkers. It is widely used by the US federal government. It also rates the overall style of the text – as well as the average sentence length and use of passive-voice verbs (2 features that are known to make text harder to understand). Long sentences place more of a burden on the reader's short-term memory, making the language harder to process. Using passive-voice instead of active-voice verbs – for example 'It was decided by the manager...' rather than 'The manager decided...' – makes text more impersonal and dry.

StyleWriter scores text in these 3 areas – as poor, average, good or excellent. Here's what happened when we used StyleWriter on the 2 Facebook documents:

	StyleWriter score	
	Facebook Terms of Use	Facebook Principles
Style	Bad	Average
Average sentence length (number of words)	Bad (23.3*)	Poor (40*)
Passive use (% of verbs that are passive-voice)	Good (15%*)	Excellent (12%*)

\* Measured using Microsoft Word

### **Expert assessment**

Again, the Terms of Use document is worse than the Principles. In both cases, passive use is OK. Average sentence length is a particular problem in the Terms of Use. Plain-English guidelines recommend an average sentence length of 15–20 words; the Principles text is a little on the high side, averaging 23.3 words per sentence, while the Terms of Use text has a very high average of 40 words per sentence.

### **Comment on specific features**

Looking at the text more qualitatively, the documents contain a number of linguistic and design features likely to cause difficulty for many readers. Here we present some examples.

#### **Long sentences**

The computerized tests showed the use of long sentences, especially in the Terms of Use. Here there are several extremely long sentences, including this colossal 179-worder:

‘YOU AND COMPANY AGREE THAT, EXCEPT AS MAY OTHERWISE BE PROVIDED IN REGARD TO SPECIFIC SERVICES ON THE SITE IN ANY SPECIFIC TERMS APPLICABLE TO THOSE SERVICES, THE SOLE AND EXCLUSIVE FORUM AND REMEDY FOR ANY AND ALL DISPUTES AND CLAIMS RELATING IN ANY WAY TO OR ARISING OUT OF THESE TERMS OF USE, THE SITE AND/OR THE SERVICE (INCLUDING YOUR VISIT TO OR USE OF THE SITE AND/OR THE SERVICE) SHALL BE FINAL AND BINDING ARBITRATION, except that: (a) to the extent that either of us has in any manner infringed upon or violated or threatened to infringe upon or violate the other party’s patent, copyright, trademark or trade secret rights, or you have otherwise violated any of the user conduct rules set forth above or in the Code of Conduct then the parties acknowledge that arbitration is not an adequate remedy at law and that injunctive or other appropriate relief may be sought; and (b) no disputes or claims relating to any transactions you enter into with a third party through the Facebook Marketplace may be arbitrated.’

Although sentence length is less problematic in the Principles, there are several sentences with rather complicated structures, where the meaning is unclear, for example:

‘When you update information, we usually keep a backup copy of the prior version for a reasonable period of time to enable reversion to the prior version of that information.’

‘Like many other websites that interact with third party sites, we may receive some information even if you are logged out from Facebook, or that pertains to non-Facebook users, from those sites in conjunction with the technical operation of the system.’

#### **Use of capital letters**

The Terms of Use text contains sections of writing in all-capitals (such as the example above). Research has shown this to be hard to read compared to sentence case.

Even where sentence case is used, this document (and the Principles, to a lesser extent) capitalizes many individual words, for example:

‘The Company is not responsible or liable in any manner for any User Content or Third Party Applications, Software or Content posted on the Site or in connection with the Service, whether posted or caused by users of the Site, by Facebook, by third parties or by any of the equipment or programming associated with or utilized in the Site or the Service.’

This, together with bracketing terms in inverted commas (a practice that may well be unfamiliar to young or less able adult readers), gives the Terms of Use (and, less so, the Principles) a highly legal style:

‘The Facebook service and network (collectively, “Facebook” or “the Service”) are operated by Facebook, Inc. and its corporate affiliates (collectively, “us”, “we” or “the

Company"). By accessing or using our web site at [www.facebook.com](http://www.facebook.com) or the mobile version thereof (together the "Site") or by posting a Share Button on your site, you (the "User") signify that you have read, understand and agree to be bound by these Terms of Use ("Terms of Use" or "Agreement"), whether or not you are a registered member of Facebook.'

### **Difficult words and technical terms**

This legal style is reinforced by the use of legal and archaic terms that are unlikely to be familiar to the readers, for example 'estoppel', 'herein', 'thereof' and 'notwithstanding'. The archaic 'persons' (rather than usual 'people') is used, and there's even some Latin: 'forum non conveniens'.

We use the British National Corpus, a collection of some 100 million words from a wide range of sources of modern British English, to gauge how familiar words are. As a rough guide, we judge that words appearing more than 1,200 times are fairly common. Even the commonest of the example words mentioned above ('notwithstanding') appears only 728 times; 'forum non conveniens' appears just 3 times.

It's OK to use technical terms if you explain to readers what they mean. These documents suggest Facebook has made little effort in this respect (though the Principles text does explain 'cookie' quite well). For example, the Terms of Use includes an unexplained abbreviation ('APIs') and the Principles talks about the 'EU Safe Harbor Privacy Framework' without explaining what this is.

Several words are spelt the American way – like 'Harbor' above, and 'license' (as a noun – an example appears lower down). Since British people are likely to be used to American English these days, we don't consider this a problem.

### **Errors**

Both documents contain errors:

- cases of wrong punctuation ('TRUSTe is an independent, non-profit organization whose mission is to build user's trust...')
- misspellings, such as 'Millenium' and 'repeate' (other words are spelt in the American way, but British readers are probably quite used to this these days)
- omitted words ('the' missing in several sentences such as 'Company assumes no responsibility...')
- repeated words in bullet lists ('In addition, you agree not to use the Service of the Site to use the Service or the Site in any unlawful way...')
- run-on sentences ('If you choose to remove your User Content, the license granted above will automatically expire, however you acknowledge that the company may retain archived copies of your User Content.')

Errors can create ambiguity and distract readers from the meaning of the text, making it harder to read.

### **Font size**

Both documents are in 7-point font, which is uncomfortably small for many people to read.

### **Overall length**

The Terms of Use document is about 6,500 words long, and the Principles is about 3,700 words. This kind of length, allied to the level of difficulty of the text, means that few people will make the effort to read the documents before they sign up.

## **Summary view**

Martin Cutts, research director at Plain Language Commission commented:

“Facebook’s Terms of Use – and, less so, its Principles – are poorly written in almost every way. In places, they’re shockingly obscure and inconsiderate to the readers. If you’re writing for teenagers, and adults with average reading ability, it makes no sense to produce text that would be unclear even to university students.

“The law says that standard-form consumer contracts like the Terms of Use must be in ‘plain and intelligible language’ (reg 7, Unfair Terms in Contracts Regulations 1999). It’s hard to see how the Terms of Use comply with the law. The Office of Fair Trading, which enforces the law, should be asked to investigate.

“Plain-language lawyers have shown that legal documents can be worded clearly for the public. A company as profitable as Facebook could easily employ a plain-English editor and proofreader to ensure its documents are clear, consistent and correct – so that it’s being open and fair to its customers.”

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