

RESEARCH

Using Comics to Communicate Legal Contract Cancellation

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This article investigates how comics can be used to adequately communicate the correct process of contract cancellation and whether comics can enhance understanding of the legal process. A survey of pre-owned vehicle buyers of various levels of education in Pretoria, South Africa found that when comics are used to communicate contract cancellation, a significant increase in the comprehension of the legal cancellation process occurs. The results may influence how contracting parties may choose to communicate complex legal issues in future, specifically to consumers with little formal education or when parties are confronted with severe language barriers, which is highly relevant in a country such as South Africa with eleven official languages and generally low levels of education. The article argues that representatives tasked with explaining contractual content to contracting parties should consider making use of comics to aid them in their communication process to ensure proper understanding and execution of terms and conditions, which in turn may lead to fewer disputes and avoid expensive litigation.

Keywords: comics; contract visualisation; legal comics; survey; pre-owned vehicles

Introduction

The use of comics as educational material in law has been gaining momentum and comics are now also increasingly used to communicate contract terms and conditions. Standard contracts, which form the foundation of business transactions, do not always capture the purpose of why the respective parties enter into a contract and their true understanding of the contract terms and conditions, especially where one of the contract parties is illiterate or lacks adequate education.

Even when entering into simple business transactions such as buying a pre-owned vehicle, major differences may thus exist between the written contract and the true agreement between the parties (Macaulay 2003). Using comics during contract negotiations will encourage active engagement, enhance comprehension of contractual consequences and may bridge language and educational barriers.

Very little research has been conducted on the effect comics have on people's understanding of contract terms and conditions. Although previous research has found that comics, in comparison with photographs and the written word, significantly increased engagement and comprehension (Cooper et al 2016), this research has been conducted in the context of obtaining informed consent for biomedical research purposes, and not in a contractual context. From the research conducted by Cooper et al comics proved to be the most cost effective and successful in engaging people in conversations in which crucial information was effectively conveyed. For this reason comics were thought to be the best visual communication tool to test further afield in the contracts arena.

Haapio warns that technical contracts filled with legalese may lead to '...lost opportunity, deteriorating relationships, and the erosion of value' (Haapio et al 2016: 1). Research by the International Association for Contract and Commercial Management (IACCM) showed that 9 out of 10 managers found contracts difficult to read or understand (IACCM 2009). If this is the case with people at managerial level, the difficulties faced by every-day consumers must be much worse, especially when they are illiterate or speak a different language from the other contracting party. Under these circumstances a proactive law approach must be followed in terms of which contracts are applied as business enablers with communication tools that need to be designed and not merely drafted (Haapio and Barton 2016). New approaches to better contract design which already include transactional art, visualised negotiations (Plewe 2008) and contract visualisation (Passera et al 2014) must now also seriously consider involving comics in contract design due to comics' previous successful testing in research done in the context of informed consent in biomedical research by Cooper et al (Cooper et al 2016).

For this study a survey of pre-owned vehicle buyers, of diverse nationalities, varying educational levels and speaking different languages in Pretoria, South Africa was conducted. It was found that the use of comics to specifically depict and communicate the correct legal process for cancelling a small credit agreement, as required by the National Credit Act 34 of 2005 (NCA), significantly increased people's comprehension of this technical legal process. This study will further investigate the effect that using comics to visually communicate contract terms has on overcoming language and educational barriers. The single goal of the total research effort is to ascertain whether using comics as a visual communication method can increase comprehension of contract terms and conditions.

The paper has two main parts: Firstly, it will review the literature on the uses of comics in similar or comparable contexts, examining the role of comics in contract communication. Secondly, the study is presented and the findings are discussed and summarised. The paper concludes with a discussion of the theoretical and managerial implications and directions for future use or research.

The Problem with Contract Communication

A legally binding contract only comes into being when parties to such a contract fully understand and voluntarily agree to the terms and conditions contained in it (du Plessis et al 2011: Part 2 Chapter 2). How contract terms and conditions are communicated to potential contract parties can have serious implications on the validity of the contract (du Plessis et al 2011: Part 2 Chapters 3 and 4). The effect of failing to adequately communicate contract terms found practical application in the South African case of *Standard Bank of South Africa v Dlamini* (2013) in which the court held a finance agreement to be void due to the bank's failure to sufficiently communicate the content of this rather technical agreement in plain or understandable language, *or in any other form of communication*.

In the above case Dlamini, who bought a pre-owned vehicle from a dealership, returned this vehicle to the same dealership when the vehicle broke down shortly after being bought. Although Dlamini delivered a cancellation letter in respect of his

sales agreement to the dealership, Standard Bank refused to accept the cancellation of the sales agreement and argued that Dlamini voluntarily surrendered the vehicle which entitled the bank to re-sell the vehicle and recover rent for its use from Dlamini. Standard Bank claimed Dlamini had not notified the headquarters of the vehicle and asset finance division of the bank in the manner prescribed in their agreement. Dlamini said that he was completely unaware of the prescribed manner of cancellation and that he was never alerted to the specific clauses governing the cancellation, nor was it explained to him.

In testimony it was confirmed that Dlamini, 'an unsophisticated African male', was 'functionally illiterate and [did] not understand English' (Dlamini: par 23). Dlamini accordingly had no ability to understand the content of the finance agreement and neither the bank nor its sales representative went through any effort to sufficiently explain the content of the contract and its consequences in a way that could properly convey the information to him. '[T]he bank and its agents caused Dlamini to enter into a credit agreement without reading, interpreting and explaining the material terms to him which he did not know or understand.' (Dlamini: par 26).

How information is conveyed in contracts constitutes a genuine threat to the validity of contracts, for example if information is presented vaguely, misleading or via legal jargon, as was shown in the above case. These communication concerns can undermine the voluntariness and ability to reach an agreement between parties as a result of inappropriate disclosure. Bromwich is of the opinion that when a person illegitimately exercises control over the decision-making ability of another, such as in the aforementioned case, and more specifically with regard to what happens to that person, such a person's right to control certain aspects of his or her own life is violated, limiting a person's voluntariness (Bromwich and Millum 2016). Poorly educated consumers, speaking different languages to their contract counterparts, like Dlamini, must be given a fair opportunity to understand information that is relevant to them in order to make informed decisions. Bromwich advises that information must be provided in a person's native or preferred language, at an appropriate level of complexity, using clear and consistent language, and with an eye to avoiding known sources of misconception or misunderstanding (Bromwich and Millum 2016: 110). Information, and more specifically contract content, needs to be

re-designed to address these communication concerns and their effects on contract validity (Haapio et al 2016).

Communicating with Comics

People who experience reading difficulties are often reluctant to read and quickly lose interest in the written word (Gorman 2003). It can then be deduced that foreign language speakers and people with low levels of education will also be very reluctant to read through technical legal contracts, even if it concerns themselves and their financial wellbeing. Due to this, non-traditional texts are increasingly used in education and comics and graphic novels are experiencing a so-called golden age in education today according to Carter (Carter 2007a). Definitions of graphic novels may vary but they are generally described as longer, bound comic books (Yang 2008), whereas McCloud defines comics as juxtaposed pictorial and other images in a deliberate sequence, intended to convey information and/or produce an aesthetic response in the viewer (McCloud 2009). Comics has long been considered to be a very beneficial medium for teaching, especially for visual learners, due to its combination of text and images that increases comprehension (Hasset & Schieble 2007) and has also been highly recommended for reluctant or struggling readers (Schwartz 2002), with the added ability to reach out to a wider variety of readers as they easily deal with topics of cultural diversity and other important issues (Ruggieri 2002).

Comics, as a multiple literacy medium which includes text-based, visual and critical literacy, channel information through these different modes, allowing readers of comics to understand either the text-based information, the visualised information or the critical-thinking-based discussion that occurs after reading (Carter 2007b). Ruggieri found that readers of comics appeared more engaged and interested (Ruggieri 2002), whilst Gorman estimated that between 60%–70% of the content of comics may be understood by merely looking at the images alone (Gorman 2003). Allen and Ingulsrud have also found that comics readers may understand overall concepts and themes even if such readers have not mastered the relevant vocabulary (Allen & Ingulsrud 2003).

Thus comics may be an excellent medium to engage a wide variety of people, educating them about complex legal issues such as their contractual rights and

obligations. In this study the use of comics' potential to communicate complex legal issues, being but a general aspect of comics communication, is studied through the *Dlamini* case, and more specifically in the context of buying a pre-owned vehicle.

Cooper et al recently tested various communication tools, consisting of a written informed consent form, photographs and comics, to communicate the content of cattle disease research to smallholder livestock farmers from a pastoralist, resource-poor community in the Morogoro Region, Tanzania (Cooper et al 2016). They found a significant difference in comprehension and engagement between the various communication tools with comics having the highest combined comprehension and engagement score. An additional benefit of using comics in the informed consent process was the facilitation of dialogue that allowed researchers to determine and respond to the varied relationships of research participants' relationship with their livestock. Similarly, comics used during the communication process prior to entering into contractual agreements, should also facilitate necessary dialogue and engagement resulting in adequate comprehension of contractual rights, obligations and consequences.

Comics had the highest comprehension score, followed by the photographs, which is still a visual form of communication, and then the written format. Cooper observed the same pattern in respect of the number of questions asked and, although the time spent on the consent procedure involving the comics was also the highest, this medium solicited the greatest engagement and opportunity for ensuring correct understanding of content, which is crucial before committing to a contract. It is also interesting to note that the enumerators in Cooper's study perceived that comics more easily represented the *ideal* situation (such as clean cattle udders) as opposed to the more accurately presented *real* situation depicted in the photographs. When applied to contracts, this perception may ensure that messages about contract terms and conditions can be simplified and clarified, leading to a reduced risk of misunderstanding which is very important in cross cultural negotiations. A visual communication approach to contract negotiation involving comics will also certainly

lead to increased trust due to information transparency resulting in actual adequate comprehension of rights and obligations in terms of the contract.

Using Comics in Law

Giddens argues that the interdisciplinary blending of text and visual art found in comics that naturally operate at the boundary between rationality and aesthetics makes it an exceptionally suitable medium for critically engaging a discipline such as law (Giddens 2012). The irony of this suitable blend is that the art of the comic image is primarily assigned to creativity and even playfulness, whilst law is focused on control, discipline and facts (Douzinas and Nead 1999). This emphasizes the need to supplement texts with other modes of knowledge, such as images, as the use of language alone has its own limitations when it comes to clear communication (Weisberg 1984), the solution of which easily translates into comics. For the combination between text and image to adequately communicate legal content, proper integration must occur to allow comics to be read as a single system of communication (Varnum and Gibbons 2001). In this context Carrier defines the comics medium as follows:

a narrative sequence with speech balloons... The speech balloon is a defining element of the comics because it establishes a word/image unity... [The comics medium is] neither a purely verbal nor a strictly visual art form, but something radically new ... a composite art ... [with] verbal and visual elements seamlessly combined. (Carrier 2000: 38–39)

Eisner views letters as symbols devised out of images and argues that in reading comics, which contains both text and images, a reader is required to exercise both verbal and visual interpretation skills (Eisner 2008). Accordingly, in comics text and images co-operate as a whole, facilitating and enhancing the transfer of multi-layered information. Thus, rather than distinguishing between text and images, Hatfield distinguishes between symbols that 'show', such as images representing narrative events, and symbols that 'tell', such as the text used in speech balloons (Hatfield

2005). This view of the communication method and value of comics clearly shows that textual language is not the only method of communication allowing people to understand (especially) contract terms and conditions. The unique interaction between text and image found in comics makes it a rich form of critical engagement with contract terms and conditions which will facilitate adequate comprehension of contract rights and obligations.

Eisner says that engaging with comics entails both an intellectual pursuit and an aesthetic perception (Eisner 2008). This aesthetic perception, Manderson states, was previously seen as an alternative method for discovering truth and argues that our accumulation of knowledge does not solely rely on logic and rationality. (Manderson 2005). Manderson also emphasises that our every perception of life is influenced by the aesthetic, even something as seemingly clinical as law and that our aesthetic perceptions are further enriched and decided by our cultural framework (Manderson 2005). It is thus of crucial importance that any comic that wishes to communicate legal content, such as contract terms and conditions, reflects and displays such information in a culturally appropriate way, otherwise readers will not be able to identify with the characters and their engagement with the law, or may even be offended by it.

In addition to visualisation *in* contracts and visualisation *about* contracts, visualisation *as* contracts and visualisation *for* contracts were recently introduced as further methods of visually communicating contract terms (Happio, Plewe and de Rooy 2016; **Figure 1**). The first South African legally binding comic contract was created by de Rooy for employers (citrus farmers) and their employees (seasonal fruit pickers of low income and vulnerable in a contractual sense as a result of their low levels of literacy). It represents the contractual parties as characters in a story that attempts to capture the contract terms by means of both visuals and text. Importantly, this comic contract depicts citrus farm workers in a culturally correct and respectful way, making it easy for farm workers to identify not only with the characters in the contract, but also with the depicted environment.

Aside from reducing barriers to effective communication, comics contracts also manage to contextualise the parties and contractual issues in culturally, environmental

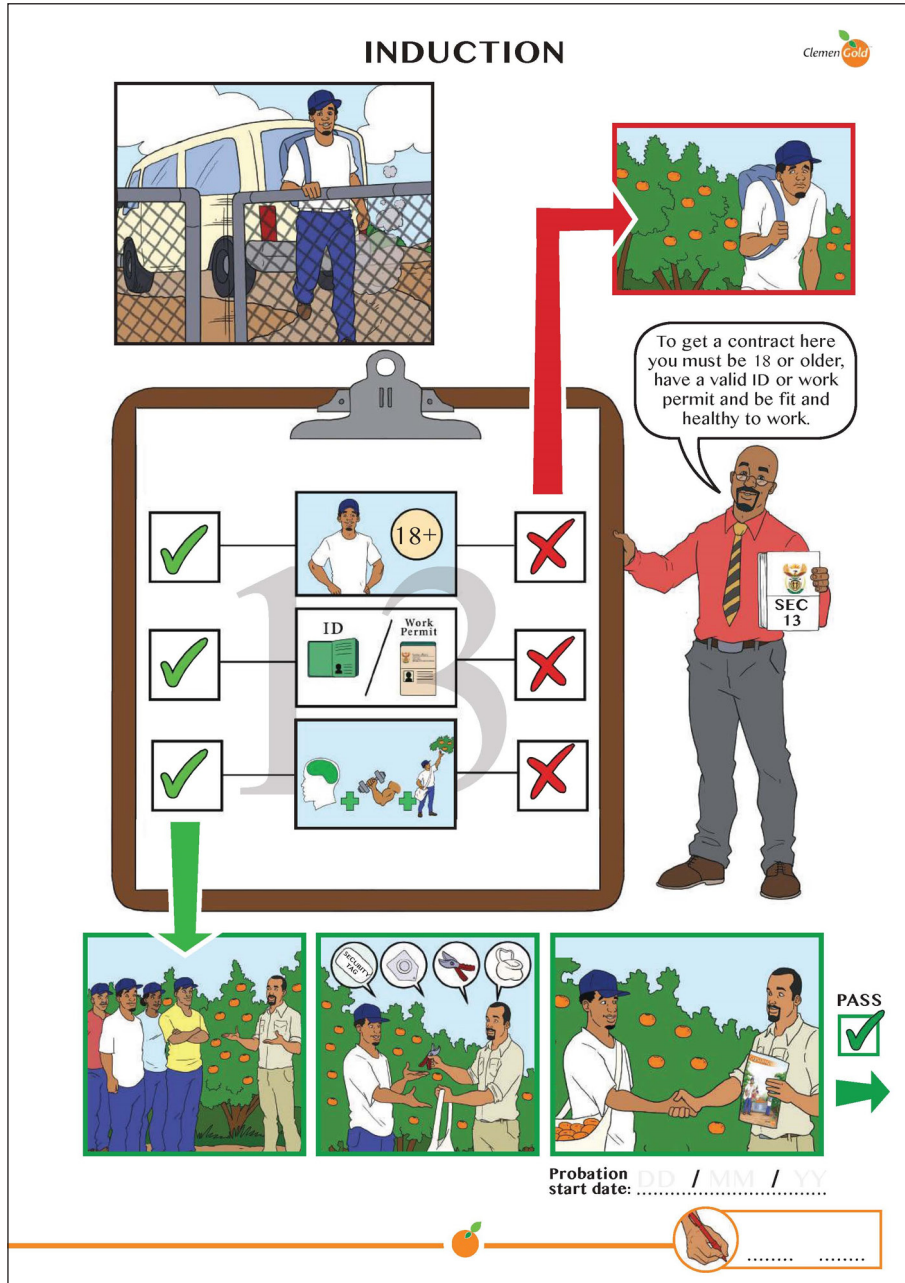


Figure 1: Comic labour contract between farm labourers and Clemen Gold, South Africa created by South African lawyer, Robert de Rooy and presented by him at the 2016 annual IACCM (Association for Contract Management) conference. © Robert de Rooy.

or socio-economically correct ways, thus enabling people to easily identify with the characters and fully engage with the contract content (McCloud 1994). Andersen, who also created specific comic strips that communicate non-disclosure agreements through people interacting with only a few dialogue bubbles and not much text, says that these comics make law more approachable and clear whilst reducing conflict (Anderson 2016). She is of the opinion that comics contracts focus more on driving behaviour as opposed to creating a legally binding contract. Further, she is well aware of the fact that if something is simplified you run the risk of losing nuance, hence the reason why contracts became so big and bulky. Long winded, small print contracts are often intimidating and exhausting to read; rather than engaging a contract party it alienates them, as opposed to comics which immediately draws attention and demands a closer look (Squier 2015). McCloud argues that the simplification of comics encourages identification with the character and that the drawing becomes a 'vacuum into which our identity and awareness are pulled' (McCloud 1994: 36). Comics may even invite engagement where fine art or other forms of visualisation may fail to engage (Williams 2015), thereby reaching a larger audience.

In comics contracts, contractual terms may ideally be presented as a story line in chronological order, which will make it much easier to read and understand, but depending on the need and context other formats may also be suitable. Experiments by Cohn, analogous to classic language processing studies to examine the contribution of narrative structure and semantic relatedness to processing of sequential images, showed that reaction times for normal sequences were faster in comparison to scrambled, structural only and semantic only sequences (Cohn 2012). For this reason, visualisation in the form of comic strips *as* contract will be especially suitable to people, like Dlamini, who may be illiterate, contractually illiterate, suffer from a reading disability or have low educational levels.

The Comic, the Study and its Findings

The comic below (**Figure 2**) was created by The Visual Law Lab (Pty) Ltd in response to the above discussed matter of *Standard Bank v Dlamini*, and specifically illustrates the steps that need to be taken to properly cancel a credit agreement as prescribed by



Figure 2: Credit agreement cancellation process comic created by Marietjie Botes and Xandor Nelmapius (2016) © The Visual Law Lab.

the South African NCA. The correct execution of this process, and whether Dlamini had, or could reasonably obtain, any knowledge or understanding of it, were the key factors in determining the rights and recourses of the parties, as discussed above.

In this excerpt from the comic three characters are used: 1) a formally dressed narrator who also represents the credit provider (bank); 2) a casually dressed female consumer; and, 3) a formally dressed male car dealership representative. Entering adulthood, many students encounter credit agreements for the first time when they buy their first (usually pre-owned) vehicle, hence the depiction of the consumer in this comic as a young student.

In the first three panels of this comic the narrator congratulates the consumer on buying a pre-owned vehicle, after her financing has been approved by the bank and the instalment sales agreement has been signed. It is important to note that these scenes take place against the backdrop of the pre-owned car dealership (Moonlight Car Dealer), as the South African NCA requires that the above two-step cancellation process may only be followed when an agreement has been signed on the premises of the car dealership. The third panel depicts the breakdown of the vehicle which triggers the agreement cancellation and product return process. Because the texts do not exist in the image matter itself, we used an emergent type of interface between the texts spoken by the narrator and the visuals as a form of interaction (Magnussen 2000). A single tail connects the three speech bubbles, carrying the text that stretches across the first three panels, to the narrator as a visual element, who constitutes the root of this relationship from whom the text emerges.

The fourth and fifth panels clearly guide the reader through the two-step cancellation process by alerting the reader to the period within which the agreement may be cancelled, located in the text in the top left-hand corner of panel four, and then clearly marks the process as 'Step 1' and 'Step 2'. In 'Step 1' the narrator and bank representative is shown to receive the written cancellation notice and in 'Step 2' the consumer returns the broken-down vehicle to the car dealership where the dealership, Moonlight Car Dealer, is again depicted in the background. The use of different back grounds and characters in the fourth and fifth panels should alert a reader to the fact that written cancellation of the agreement and return of the vehicle

must happen at different places and to different people. The last panel contains the most text and deals with possible amounts payable by both the consumer and the bank upon cancellation of the agreement and return of the vehicle, and ends with a happy, smiling consumer walking away from a potentially stressful and fruitless exercise, as was experienced by Dlamini.

In this comic we used the typical page layout that should be read from left-to-right and down, following a 'Z-path', inherited from the written language. However, this 'typical' page layout and reading direction may be foreign to illiterate people who may have never been schooled in reading or scanning a page from a certain direction. Research by Cohn in this regard has suggested that several spatial arrangements can push readers of comics to deviate from the 'typical Z-path' order (Cohn 2015). By using a storyline that develops chronologically in the first three panels and thereafter numbering the two steps that need to be taken to cancel the credit agreement, even illiterate or poorly educated 'readers' of this comic should be able to follow the correct direction or flow of information depicted in the comic and not be hampered by the 'typical Z-path' as described above. The connected speech bubbles in the first three panels further contribute to pushing the reader of this comic to read the comic in the right direction.

This comic combines normal narrative sequences (panels 1–3) with more semantic only sequences (panels 4–6) to increase readers' reaction time through the normal sequences and to provide necessary legal information in the more semantic sequences. Cohn has implied that this sequence combination can facilitate semantic processing of upcoming panels which may increase both readers' reaction times and understanding (Cohn 2012).

The target population for the study was South African consumers of diverse nationalities and educational levels who have bought pre-owned vehicles at dealerships. The unit of analysis was the individual buyer. A local pre-owned car dealership, Volkswagen Hatfield in Pretoria, confirmed that they sell 50 pre-owned vehicles on average per month to a wide variety of people from different nationalities, languages and levels of educational development. This information served as the sampling frame.

A mail-survey questionnaire was subsequently sent to 50 buyers of pre-owned vehicles during October 2016. Participants were provided with detailed information about this study via e-mail and requested to further indicated their consent to their participation as well as their consent to have the data collected from this study published by returning their completed questionnaires via e-mail or per hand delivery; 46 questionnaires were returned, representing a 92 per cent return or participation rate. All 46 questionnaires were analysed. These decisions taken in respect of the sampling method and sampling size were the only feasible options given the unique circumstances of the study. **Table 1** provides an age and education profile of the respondents who participated in the study. Follow up e-mails and phone calls were made two weeks after the initial mailing. No incentive was provided to respondents to complete the questionnaire.

In terms of measuring the impact of the comic, basic questions about the cancellation process of a small credit agreement were asked and these answers were measured against the number of correct answers received on the same questions

Table 1: Age and education profile of respondents.

	<i>N</i>	%
Age:		
20–25	6	13,0
26–30	12	26,0
31–35	4	8,6
36–40	3	6,5
41–45	6	13,0
46–50	6	13,0
50+	9	19,5
Highest qualification:		
Grade 8	2	4,3
Matric	22	47,8
Diploma/certificate	9	19,5
Degree	13	28,2

Table 2: Number of correct answers before and after introduction of comic.

Pre-comic	<i>n</i>	%	Post comic	<i>N</i>	%	Improvement (%)
Within how many days from signing the credit agreement may you cancel the agreement?	23	50		44	95.6	45.6
Which one of the method must you use to cancel your credit agreement?	40	86.9		45	97.8	10.9
Who must be informed of the cancellation of your credit agreement?	37	80.4		43	93.4	13
To whom must you return your broken car?	43	93.4		46	100	6.6
Average improvement						19.02

after introduction of the above comic. **Table 2** sets out the number of correct answers before and after introduction of the comic.

Considering that only a single specific contract term was tested for comprehension when a comic depicting the same term was introduced, only four questions have been posed to research participants. After introduction of the comic an increase in the number of correct answers to every single question was found, which is indicative of an improvement in comprehension of the specific contract term.

The greatest increase in correct answers was found in respect of question 1 (45.6 per cent) that dealt with the most technical aspect of the contract term, being the number of days within which a consumer may legally cancel a credit agreement. The remaining three questions required a more practical or common sense approach and dealt with the method of contract cancellation, to whom the broken down vehicle must be returned and to whom the cancellation notice must be delivered. The increase in correct answers in respect of these three questions were comparable and subsequent improvement in comprehension of those aspects of the contract term

were respectively 10.9 per cent (method of contract cancellation), 13 per cent (who must received notice of contract cancellation) and 6.6 per cent (to whom broken down vehicle must be returned).

Of significance is the fact that the study found an average overall increase in correct answers, and therefore an improvement in comprehension of the contract term's true meaning of 19.02 per cent. This is a strong indication that the introduction of comics in the communication of complex legal content, such as contract terms and conditions, will improve comprehension.

The tested comic was perceived by participants as entertaining and informative and resulted in lively discussions and active engagement with its content. This experience correlates with the findings in Cooper's study that confirmed comics as the preferred method of communication which demanded a longer time being spent on the consent procedure as a result of more intense engagement and questions asked. Such increased engagement allows for more information to be exchange between parties, which may result in a true 'meeting of the minds' between contract parties, which is essential for legally binding contracts to be concluded.

Conclusions

Comics are not only considered as a serious and significant form of visual art (Haugen 2005), but also deal with a wide variety of serious subjects such as history, past and recent wars, politics, civil rights, personal issues such as disabilities, abuse and family relationships (Gorman 2002), the American Revolution and the invention of electricity (Bickers 2007). However, comics in a non-fiction context need not only be limited to illiterate consumers or foreign language speakers. Comics have the unique ability to speak to a heterogeneous audience with various interests and backgrounds (Smith 2015) and can thus effectively serve the large variety of people who conclude credit agreements, notwithstanding their literacy levels or home language. According to Squier, comics harness a pedagogical power due to the medium's ability to particularise live action, generalise through animation and in the process 'makes what it seeks to explain universal' (Squier 2015: 43). In the context

of legal agreements, comics can be used to educate smarter consumers and increase their awareness of their legal rights and obligations.

The visualisation of contracts by means of comics is a novel and innovative method to overcome barriers to communication when it comes to contract negotiation and conclusion, and clearly significantly improves comprehension of contract content as tested in this study. Whether these comics embody the whole contract, or serve as an ancillary visual communication tool for key terms, it is clear that comics are an effective method to engage a large audience from different backgrounds and speaking different languages, which adequately informs readers of such comics to enable them to exercise informed decisions with regards to whether or not to conclude a contract on certain terms and under certain conditions. Comics can ultimately turn contracts or contract negotiations into a consumer-centric, user friendly experience with less instances of misrepresentation or contractual breach as a result of misinformation. Representatives tasked with explaining contractual content to contracting parties should seriously consider making use of comics to aid them in their communication process to ensure proper understanding and execution of the terms and conditions, which in turn may lead to fewer disputes and avoid expensive litigation.

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Competing Interests

The author has no competing interests to declare.

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