

Helena Haapio

Next Generation Contracts: A Paradigm Shift

Contracts have not kept up with changing business needs. The look and feel of contracts have not changed much in recent decades, except for the worse, due to their growing length and complexity. Contract innovations remain rare, both in terms of substance and design. Contracts are too often designed for lawyers who seek to protect their clients in case of a dispute, not for managers who want their business and projects to succeed. Such contracts seldom meet the needs of today's business, and companies lose the benefit of an important management tool.

It is important to manage risks through contracts, but this is only part of the picture. Large parts of contracts – and the information needs of everyday contract users – are about commercial and technical terms rather than legal terms. For decades, companies and their contract crafters have followed self-reinforcing historically generated paths, but this does not have to be the case. The law does not force contracts to be the way they are – old habits and “tested” templates do.

This work explores ways in which old habits can be changed and contracts can be developed to be more usable and useful for business. The goal is to enable contracts to be used as managerial instruments, proactively, so that the parties achieve the objectives of their collaboration, balance risk with reward, and prevent problems and disputes. This requires transformation from a classical legal paradigm to a new paradigm. It also requires user-centered contract design and collaboration between managers and lawyers. Building on research into usability and information design, this work proposes criteria for good contracts and, with insights from proactive law and design science, suggests how contract designers can bring together what is usable with what is financially and legally sound. Contract visualization is presented as a way to accelerate a paradigm shift in contract thinking and to implement a new approach.

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About the Author

Helena Haapio, LL.M., MQ (Master of Laws, Master of Quality) works as International Contract Counsel for Lexpert Ltd (www.lexpert.com) based in Helsinki, Finland. She helps her clients use contracts and the law proactively to achieve better business results, balance risk with reward, and prevent problems. She undertakes multi-disciplinary research on ways to enhance the quality – especially usability – of contracts at the University of Vaasa where she teaches strategic business law. After completing legal studies at the University of Turku, Finland, and Cambridge University, England, she served for several years as in-house Legal Counsel in Europe and the United States. She has designed and conducted Contractual Risk Management training workshops around the world and acts as arbitrator in cross-border contract disputes. Through a proactive approach, information design, and visualization, she seeks to fundamentally change the way commercial contracts are designed, communicated, perceived, and taught.

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