

## COMMUNICATIVE FAILURES IN ANGLOPHONE PERFORMATIVE UTTERANCES: A STUDY OF SECURITIES EMISSION TEXTS

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*The article focuses on the differences between constative and performative utterances found in Initial Public Offering texts. Various types of communicative infelicities found in performative statements within prospectus' texts are investigated. Sufficient notice has been taken in the most evident reasons for infelicities discovered in performative statements in Initial Public Offering texts, which are analysed in the article. This article demonstrates the peculiarities of the factors that reduce or nullify the responsibility of the issuer and researches the chapters of Initial Public Offering where these factors are obvious and where the usage of these factors can be logically explained.*

**Key words:** infelicity, chapter, performative, constative, statement, utterance, investment, invalid, prospectus, initial public offering.

**Сергієнко Л.В.**

### Комунікативні невдачі в англомовних перформативних висловленнях у текстах емісії цінних паперів

*У статті зосереджено увагу на відмінностях між констативними та перформативними висловлюваннями, виявленими в текстах проспектів емісії цінних паперів. Досліджено різні типи комунікативних невдач перформативних висловлювань у текстах проспекту. Приділяється увага найбільш очевидним причинам, чому комунікативні невдачі можуть бути виявлені в перформативних висловлюваннях у текстах проспектів емісії цінних паперів, проаналізованих у статті. Висвітлено особливості факторів, що зменшують або зводять нанівець відповідальність емітента, досліджено розділи проспектів емісії цінних паперів, де ці фактори очевидні та де їх використання можна логічно пояснити.*

**Ключові слова:** невдача, глава, перформатив, констатив, твердження, висловлювання, інвестиція, недійсний, проспект, емісія цінних паперів.

### Introduction

Being a reflection of the major changes in the global economy, the study of economic and financial texts is one of the pressing problems of modern linguistics. The need to explore the Initial Public Offering (IPO) texts from the point of view of Pragmatics and the theory of speech acts arises from the role these texts play in communicative interaction aimed at the economic development of the society. In modern linguistics, the theory of speech acts is being constantly developed by the most outstanding linguists of the present. However, the types of infelicities found in performative statements in the Initial Public Offering texts remain insufficiently investigated, which determines the relevance of this study.

The **aim** of this article is to explore different types of communicative infelicities in performative utterances used within IPO texts and to highlight the reasons of their appearance in IPO texts.

### Foregrounding in Literature

A scientific study of performative statements was started in the works of **John Langshaw Austin**, a representative of a broad tradition of “Oxford Realism”, who developed a study of locutionary, illocutionary, and perlocutionary acts and the use of language in speech acts [1; 2], and was later continued in the works of an American philosopher **John Searle**, who in his first major work, “Speech Acts: An Essay in the Philosophy of Language” in 1969 treated speech acts more systematically and proposed each type of speech act to be defined in terms of a group of rules that identify the conditions that are compulsory and sufficiently satisfactory for performing an act of that kind [3; 4]. These scientists also developed the first classification of performatives. Subsequently, this issue was developed by H. P. Grice, E. Benveniste, B. Fraser, Z. Wendler, A. Vezhbytska, Yu. D. Apresyan, N. D. Arutyunova, E. V. Paducheva, G. G. Pocheptsov, I. P. Susov and others.

## Methods

This research suggests the usage of the scientific methods of analysis, description and comparison in order to define the types of infelicities in IPO texts and the reasons of their existence, which have not been sufficiently investigated.

## Results and discussion

The concept of a performative utterance was first introduced by John L. Austin in order to emphasize its difference from *a constative*, or, more precisely, from the *constative statement* [1, p. 23]. Within his approach, J. Austin distinguished between two types of statements: performative and constative [1, p. 23].

In the IPO texts, constative statements, which only describe the surrounding reality, can be found in the chapters describing risk factors, core business activities, information describing management, corporate governance and industry overview. The following example from MHP prospectus describes profit received by the prospectus issuer and the objective reasons of this increase.

*“Profit from natural gas trading was UAH 26.1 million (U.S.\$5.2 million) in 2006 as compared to UAH 1.4 million (U.S.\$0.3 million) in 2005. The increase in profit from natural gas trading was due to an increase in volumes sold, an increase in gas prices and opportunistic purchases.”* [5, p. 97]

As a constative utterance, known as a constative statement, has the property of being true or false [1, p. 23], it can be assumed that constative statements found in IPOs are not always truthful. However, information and especially financial documents have to be justified or underwritten by both a bank and issuer's auditor.

On the other hand, performative statements are an action that has certain consequences for the speaker and the surrounding listeners, the very pronunciation of performative utterances is the implementation of a certain act [1, p. 23]. Therefore, in contrast to a constative statement, a performative statement can be neither true nor false; it has its own goals and is used to carry out an action. The performative forms an utterance, the pronunciation of which takes place simultaneously [1, p. 23]. When using a performative statement within IPO, we always perform a certain act, or perform some action such as conclude, offer, promise, declare or warn. These actions are difficult to perform in exactly the other way. For example, in IPO texts performative statements can be found in **PRESENTATION OF FINANCIAL AND OTHER INFORMATION** chapter where they are used to define some terms. For example: *“Management means the Board of Directors of the Company.”* [5, p. 10]. Moreover, they are often used when giving instructions or advice to better understand the content of tables, such as: *“This section should be read together with the Audited Consolidated Financial Statements.”* [5, p. 19]

or *“See “Description of Share Capital and Corporate Structure — Dividends”* [5, p. 38]

In IPO texts performative statements are quite common for, all “resolution” proposals of legal and financial chapters such as **SELLING AND TRANSFER RESTRICTIONS, SETTLEMENT AND TRANSFER, GENERAL INFORMATION, SUBSCRIPTION AND SALE** and others. If we say that somebody will be entitled to something, it means the implementation of a performative act; in this case the implementation of the act itself — an entitlement. For example, in a chapter describing the dividend policy of the company the issuer entitles the owners of the shares to receive dividends specified by the terms of the *Deposit agreement*:

*“To the extent that dividends are declared and paid by the Company, owners of GDRs on the relevant record date will be entitled to receive dividends payable in respect of Shares underlying the GDRs, subject to the terms of the Deposit Agreement.”* [5, p. 38].

Obviously, performative statements can be neither true nor false although what is “warned” or “informed” or “entitled” may be false depending on the implication, context, intentions of the author and the issuer of the IPO. Moreover, it can also depend on the economical situation and various internal and external factors specified by the chapter describing risk factors. Therefore, performative statements cannot be evaluated in terms of a “true — false” opposition, but should be assessed as “successful” or “unsuccessful”, depending on whether they are used in a situation that is consistent in all respects with the act they are referred to. If the speaker is not in the conditions sufficient for the implementation of this act, the statement may be “unsuccessful”. A clear example of insufficient conditions for a successful completion of an act of foreseeing is the one found in the IPO of *Raiffeisen Bank Aval which was* difficult and obviously not possible to accomplish:

*“Умовами випуску передбачається дострокове погашення (випук) облігацій Серії В емітентом”* [6, p. 42].

This quality of being “unsuccessful” forms a sort of failures of infelicities, characteristic to performative statements. J. L. Austin distinguished three wide categories of infelicities such as misinvocations, misexecutions and abuses [7, p. 57].

Firstly, a performative, like any other ritual act, cannot be performed by simply proclaiming an utterance [2]. For example, a company cannot announce the issuance of securities if they are not underwritten by a bank and an auditor that assume the function of guarantors in the event of bankruptcy.

Secondly, a performative statement can be “unsuccessful” although it does not remain meaningless if it is uttered insincerely [2]. Therefore, if we “warn” without intending to carry out the warning or threat or “promise” without intending

to keep a promise, even if it is entirely within our power to carry it out, our warning or promise will be insincere or invalid, which means such warning or promise will definitely fail. For example, *Ratfeisen Bank Aval* promises to foster *mutually beneficial cooperation* with its clients, which is entirely impossible for a bank at risk and is proved not only by a current credit crunch but also by a whole company behavior style demonstrated over a twelve-year period between 2008 and 2020.

*“З цією метою Банк буде прагнути до формування довгострокових відносин і взаємовигідного співробітництва з клієнтами, залишаючись надійним партнером”* [6, p. 12].

Thirdly, a failure to perform a performative statement may be a breach of obligation if an issuer loses control of the situation [2]. For example, in the following performative statement Muronivsky Hlibo Produkt sincerely demonstrated a belief which may have been within the jurisdiction and capabilities of the company at the time the IPO was issued.

*“Management believes that demand for chicken products in Ukraine will continue to increase from its current level due to a number of factors, including the currently low per capita consumption of poultry in Ukraine compared with other European countries, increasing general income levels among the Ukrainian population, the replacement by consumers of other types of meat with poultry and the undersupply and resulting higher prices for other types of meat in Ukraine (such as beef and pork).”* [5, p. 66].

However, this action may not take place, as the situation and the outcome in the future may be affected by various systematic and non-systematic risks.

Thus, there are three different types of communicative failures associated with performative statements, namely illegality, misuse (insincerity) and breach of obligation [1, p. 25].

However, J. L. Austin also questions whether this classification is complete and apparently, mentions factors that can be classified as “extenuating circumstances” or “factors that reduce or nullify the responsibility of the performer” [2]. In IPOs these factors will be political and economical risks such as fluctuation in prices, obtaining state subsidies, tax exemptions, failures in IT programs or cyber attacks.

The next type of a communicative failure mentioned by J. L. Austin was an infelicity connected with statements made by actors or the ones made without the audience. However, this type

of infelicity cannot be applied to IPO since IPO is an official document intended to be read by bankers and shareholders.

The last type of infelicities is connected with the imperfection of understanding. Usually, to make a promise, you need to have the following conditions:

(A) for someone to hear me, perhaps the person to whom I promise;

(B) that the person understands that the promise is being made. [2]

It is worth mentioning that most IPOs are usually safeguarded from such failures of understanding by an IMPORTANT NOTICE chapter, which usually contains the following statement:

*“If after reading this Prospectus, you do not fully understand it or the rights attaching to the Shares offered by it, you should consult an accountant, solicitor and/or other professional advisor for assistance.”* [8, p. 2].

The reasons why communicative infelicities might occur were summarized by John Langshaw Austin in his work “How to do things with words”, where he wrote that the procedure must be performed correctly by all participants; moreover, it has to be performed completely [2]. He also mentioned that if the procedure, is intended to be performed by persons driven by certain thoughts or feelings, or if this procedure is the beginning of a new stage in the subsequent behavior of any of the participants, then each person participating in the procedure must really experience these thoughts or feelings, and all participants must have a genuine intention to do the right thing. In addition, the participants must behave accordingly [2].

### Conclusions

Consequently, analyzing IPO texts as a part of investment process, we can see that performative statements used within these texts contain a great deal of infelicities because the investment is generally a risky business, which might prevent the participants from behaving in accordance with their performative statements. Besides, it might be difficult or even impossible to complete the procedures fully and correctly. At the same time, not all the participants of the process are driven with honest and sincere thoughts.

### Perspectives

The study proves to be perspective as performative statements, their types and performative verbs, as means of assertive intentions, used in IPO texts still offer a lot of research material.

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