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**A STUDY ON LINGUISTIC FEATURES  
 OF ENGLISH COMPETITION LAW  
 AND VIETNAMESE COMPETITION LAW**

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## INTRODUCTION

### 1.1. RATIONALE

Today we live in a world of global economics. With the trend of globalization, freedom of trade and investment, competition was accepted as momentum for development, increasing economic efficiency, promoting social advance and for consumer's interests. As a result, competition Law is a necessary tool for economic development.

From the above reasons, I recognize that exploring into language of competition law, therefore, is very essential. Language is the medium through which law acts. Because it is law which creates, modifies or terminates the rights and obligations of individuals or institutions. For law can be enforceable and acceptable, its words must be consistent, strong and airtight. Legal language is such a complex genre. It requires the authors to be highly qualified, master the writing skill. Especially law students must master language of the written law and more important they can study and adapt it to their own writing. As far as I am concerned I take a deep interest in legal language which has a tendency to meticulous ways of expression to achieve exactness and to evade any possible misinterpretation. Let us take the following examples:

#### (1.1) 43. Destroying or falsifying documents

1a. he *intentionally or recklessly destroys or otherwise disposes of it falsifies it or conceals it*, or ... [77]

#### (1.2) Điều 66. Quyền và nghĩa vụ của các bên

(3a) Cung cấp *đầy đủ, trung thực, chính xác, kịp thời* những chứng cứ cần thiết liên quan đến *kiến nghị, yêu cầu* của mình. [31, p25]

### 1.2. THE SIGNIFICANCE OF THE STUDY

Competition is indispensable to the business. However, to read and understand English competition law and Vietnamese competition law is not simple at all. Hence, it is necessary to carry out this study. It is a chance for us to explore some linguistic features in terms of lexical features and syntactic features in English competition law and Vietnamese competition law to find out the similarities and differences of the two languages related to this legal field.

### 1.3. SCOPE OF THE STUDY

- The study is confined to the investigation into linguistic features of English Competition Law (ECL) and Vietnamese Competition Law (VCL).

- In the limitation of this thesis, I will not go into all contents which containing in ECL and VCL. My focus is on some provisions in ECL and VCL.

- About the linguistic features, I just concentrate on terms of lexical features and syntactic features in ECL and VCL.

### 1.4. RESEARCH QUESTIONS

In order to achieve the aims and objectives of the study, the research questions below will be addressed.

1. What are the commonly seen lexical features in (ECL) and (VCL)?

2. What are the commonly seen syntactic features in (ECL) and (VCL)?
3. What are some suggestions for teaching and learning legal language?

### 1.5. ORGANIZATION OF THE STUDY

## CHAPTER 2

### LITERATURE REVIEW AND THEORETICAL BACKGROUND

#### 2.1. REVIEW OF PRIOR RESEARCH

Mellinkoff [20] claims that legal language today is full of mannerisms that have found their way in gradually, over the course of centuries of law practice. At first the purpose probably was a laudable one: to increase clarity, accuracy, and unambiguity. The result, however, has been a style as a wordy, unclear, pompous, and dull". Instead of resorting to short expressions, lawyers and law drafters build up long, unnecessarily specific lists of words.

Tiersma [24] explains why law language is so often difficult for nonlawyers to comprehend because it is full of wordiness, redundancy, and specialized vocabulary and it often contains lengthy, complex, and unusual sentence structure.

According to Van der Wait and Nienaber's (2002) assert that we experience difficulty in understanding the language of statutes because of the very nature of this language.

Gustafsson [16, p.24] points out that "When one tries to assess the difficulty of law language, one should make a distinction between difficulties of **vocabulary** and those of **structure**."

In Vietnam, some linguistic authors such as Võ Bình, Lê Anh Hiền, Cù Đình Tú, Nguyễn Thái Hòa (1982); Vương Đình Quyền, Nguyễn Văn Hàm (1989) have studied some lexical and syntactic features of legal texts as a subtype of administration and public service style. Lê Hùng Tiến [30] made a discourse analysis of legal

text in Vietnamese contrasted with English. Recently, Lương Tô Lan [32] made an application on translation of law on investment.

## 2.2. THEORETICAL BACKGROUND

### 2.2.1 Definition of Terms

#### 2.2.1.1. Definition of law

According to Oxford dictionary [113]: Law is the system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

#### 2.2.1.2. Definition of Competition Law

According to Wikipedia [111] **Competition law**, known in the United States as **antitrust law**, is law that promotes or maintains market competition by regulating anti-competitive conduct by companies.

#### 2.2.1.3. Definition of Law Language

According to Heikki E. S. Mattila [17, p.3], “Law language is characterized as a technical language or “technolect”, which is to say a language used by a profession”.

### 2.2.2. Lexical Features

#### 2.2.2.1. Technical Terms

According to Gustafsson [16, p.24] “law language contains a large number of technical terms (terms of art), which have acquired a specific and accurate law meaning through centuries of jurisdiction. The situation is often made worse by the fact that the same words have different meanings in everyday usage”.

#### 2.2.2.2. Archaic Words

According to legal dictionary, Archaic words are words and phrases that were used regularly in a language, but are now less common are *archaic*. Such words and phrases are often used deliberately to refer to earlier times. For instance, the pronoun 'thou', which is very rarely used nowadays is an *archaism*, which is sometimes used to suggest biblical language or a dialect.

#### 2.2.2.3. Lexical Borrowing

When two languages are in contact, they inevitably influence each other, which often results in borrowing words from the other language. As a result, the borrowed words have naturally become a permanent part of native vocabulary which the native speakers might not realize its origins.

#### 2.2.2.4. Vagueness

According to Bhatia (1993), “Everyday, experience with language in practice shows that it is not always clear what a sender means when he or she employs language for communication. This is especially true in the area of law.” The main reason for this lack of clarity is that it is not possible for the receiver of a message to determine exactly what the sender is referring to in the world.

### 2.2.3. Syntactic Features

#### 2.2.3.1. Nominalization

Nominalization characterizes almost all legal English written texts and its frequency of occurrence varies in different functional varieties, especially those formal functional ones. As one

type of relatively formal written discourses, legal English is noted for their high frequency of nominalizations.

#### ***2.2.3.2. Binomial and multinomial***

According to Bhatia (1993) a binomial is “a sequence of two or more words or phrases belonging to the same grammatical category having some semantic relationship and joined by some syntactic device such as *and* or *or*”

#### ***2.2.3.3. Syntactic Discontinuity***

Bartia (1993) defines syntactic discontinuity as “the sentence of legal provision is dominated by a two-part interactive structure of a provisionary clause and qualifications and that the motivation for preciseness and clarity in legal provision resulted in syntactic discontinuities”.

#### ***2.2.3.4. Sentence Length***

Sentence length is an important part of syntax study. Sentences in the law are often longer than they are in common core language. This is often because the norm has always been that one element should be explained in full with all its reservations in one sentence.

## **CHAPTER 3**

### **METHODS AND PROCEDURE**

#### **3.1. RESEARCH DESIGN**

#### **3.2. RESEARCH METHODS**

#### **3.3. DATA COLLECTION**

#### **3.4. DATA ANALYSIS**

#### **3.5. RESEARCH PROCEDURES**

#### **3.6. RELIABILITY AND VALIDITY**

## **CHAPTER 4**

### **FINDINGS AND DISCUSSIONS**

#### **4.1. LEXICAL FEATURES**

##### **4.1.1. Technical Terms**

Just like any other laws, competition law has its own technical terms as well. This group of words is especially designed for the legal domain. Such words are limited in number, but specific in their meanings and definite in their scopes of application, which can neither be replaced by other words in legal documents nor be extended in meanings at will. For legal professionals, it is a must for them to have a good command of such words. In sum, the technical meaning of words in the legal texts has often stabilized, clarified, single and precise. Mellinkoff [19, p.16] points out that a technical term “is a technical word with a specific meaning”.

##### **4.1.2. Archaic Words**

Archaic legal terms are considered the old-fashioned words. However, it is noteworthy to consider them because the use of these

words is quite special. In fact, ECL employed a lot of archaic words that are quite different from ordinary language. Let's consider the following example:

(4.1) **1. Enactments replaced**

*Be it enacted* by the Queen's most Excellent Majesty, *by and with* the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of *the same*, as follows:  
[35]

In the example above, the archaic use of the passive "*Be it enacted*" and word pair "*by and with*" are rather special as it is used to achieve formality. Similarly, *the same* usually implies comparison to a similar object or person. Tiersma suggested that the pronoun 'it' can conveniently substitute the phrase 'the same'. However, here *the same* refers to the word *the authority* (the sameness of reference).

**4.1.3. Borrowed Words**

Thomason and Kaufman [22, p.37] define borrowing as "the incorporation of foreign features into a group's native language by speakers of that language: the native language is maintained but is changed by the addition of the incorporated features". Both English and Vietnamese have gone through many periods, it is surely that there are large numbers of borrowed words from a particular language.

With regard to borrowed words in ECL and VCL, while English has borrowed mainly words having French and Latin origins

Vietnamese has acquired a large number of borrowed words from Chinese. It can be said that one way to enrich the vocabulary is to borrow words. Furthermore, the appropriate use of lexical borrowing terms can render the legal documents highly formal and dignified.

**4.1.4. Vague Words**

According to Mellinkoff [19, p.21] "vague words are words and expressions that have a very flexible and changeable meaning and their meaning is strictly dependent on context and interpretation". An example of a vague expression may be seen in the following sentence:

(4.8) **7. Block exemptions: opposition**

(4) In this section "notice period" means such period as may be specified with a view to giving the Director *sufficient* time to consider whether to oppose under subsection (2).  
[41]

Due to the use of the word *sufficient* which is one of the key words in the sentence, the recipient (here the Director) will be unable to decide what amount of time is sufficient or not. Therefore, an expression (*sufficient time*) within a sentence can not be objectively classified as true or not and is therefore vague.

As is known to us, precision as an essential characteristic of legal language maintains authority and formality of legal documents. However, to some extent, vagueness which seems to be antonym of precision is an intrinsic attribute of legal language. In fact, the meaning of the words found in legal documents is not always clear

and unequivocal. They may be capable of being understood in more ways than one, they may be doubtful or uncertain, and they may lend themselves to various interpretations by different individuals.

In summary, legal language has a high demand for exactness, and vague language only exists at a certain degree. In order to serve the purpose of legal documents, vague language has to be applied appropriately.

#### 4.1.5. Similarities and Differences in Lexical Features

We can recognize that there are some similarities and differences of the lexical features between ECL and VCL.

First of all, there exists a striking similarity between ECL and VCL is that both use technical terms and borrowed words in the creation of preciseness and formality. However, due to history influences between the two languages, therefore, borrowed words in ECL were mainly words having French and Latin origins. Borrowed words in VCL were mainly words from Chinese.

Secondly, there is a big difference between the uses of archaic words in the two languages. While archaic words were heavily used in ECL, they were not employed in VCL.

Finally, both ECL and VCL exists vague words. However, ECL has a higher tendency to use vague words than VCL.

## 4.2. SYNTACTIC FEATURES

### 4.2.1. Nominalization

Nominalization is an important domain in legal texts, as it constitutes an instance of structure showing a very formal style and

has been central in linguistic research. Therefore, there are many definitions of nominalization. According to Richards et al [1992], “nominalization is the grammatical process of forming nouns from other parts of speech, usually from verbs or adjectives”. Similarly, to Oxford Concise Dictionary of Linguistics “nominalization is any process by which either a noun or a syntactic unit functioning as a noun phrase is derived from any other kind of unit such as a verb or an adjective”. For example:

#### (4.25) 41. Agreements notified to the Commission

(2) *A penalty* may not be required to be paid under this Part in respect of any infringement of the Chapter I prohibition after notification but before the Commission determines the matter. [75]

#### (4.26) Điều 4. Quyền cạnh tranh trong kinh doanh

(2) *Việc cạnh tranh* phải được thực hiện theo nguyên tắc trung thực, không xâm phạm đến lợi ích của Nhà nước, lợi ích công cộng, quyền và lợi ích hợp pháp của doanh nghiệp, của người tiêu dùng và phải tuân theo các quy định của Luật này. [31, p.7]

By nominalizing the verbs *penalise* and *cạnh tranh*, the writers do not mention the agents. The reason is that the focus on things “*A penalty*” and “*Việc cạnh tranh*” are more important than the persons who act the things.

With regard to nominalization, both ECL and VCL are highly used nominalization as an effective device. The following table will show the percentage of nominalization in ECL and VCL.

**Table 4.4.** Nominalization in ECL and VCL

Nominalization	Total Number of Sentences	Number of Sentences That contain Nominalizations	percentage
ECL	379	358	95%
VCL	254	82	33%

#### 4.2.2. Binomial and multinomial

In linguistic literature some of the coordinated structures have been treated as binomial and multinomial. They refer to two or more than words of syntactic sequences connected by a lexical link, usually ‘and’ or ‘or’.

The use of binomials and multinomial contributes quite significantly to the all-inclusive property of the text, with the complexity of the options being made transparent to the reader. binomial and multinomial may be nominal, verbal, adjectival, adverbial, pronominal, and prepositional. The table below describes the use of binomial and multinomial in ECL and VCL.

**Table 4.5.** Binomial and multinomial in ECL and VCL

Binomial And multinomial	Type	ECL		VCL	
		Occurrence	Rate	Occurrence	Rate
	Nominal	419	42.6%	187	44.7%
	Verbal	241	24.5%	134	32.1%
	Adjectival	156	15.9%	54	12.9%
	Adverbial	87	8.8%	32	7.7%
	Prepositional	65	6.6%	0	0.0%
	Pronominal	16	1.6%	11	2.6%
Total		984	100%	418	100%

In summary, binomial and multinomial may make the provision specific in that it outlines the various possibilities that are available for interpretation and especially contributes to the precision and clarity of the expression.

#### 4.2.3. Syntactic Discontinuity

As mentioned in chapter Two, syntactic discontinuity is understood if two elements of the same phrase, which are normally situated beside each other in the sentence structure, are formally separated by another expression or clause by inserting in between them. As a result of this, the two elements may end up distanced from each other in the structure of the sentence. Bhatia (1993) remarks that “most legislative provisions are extremely rich in qualification insertions within their syntactic boundaries and without qualification, the provision would be too general and of universal

application”. With regard to syntactic discontinuity in ECL and VCL, we can summarize in the following table.

**Table 4.6.** Syntactic discontinuity in ECL and VCL

Syntactic Discontinuity	ECL		VCL	
	Occurrence	Rate	Occurrence	Rate
With parentheses	32	21.3%	4	100%
Without parentheses	118	78.7%	0	0%
Total	150	100%	4	100%

As can be seen in table 4.6, we found that ECL has strong tendency to use qualifications with a very high percentage (31.2 %) in total of 118 instances. VCL only takes 1.6% with four instances where syntactic discontinuities are reflected in parenthetical inserts. This can explain that syntactic discontinuity is not common in Vietnamese writing. In English, syntactic discontinuity is an effective device in the need of expressing complex legal propositions in a way which is both precise and plain to cover all the circumstances.

#### 4.2.4. Sentence Length and complexity

Sentence length is certainly the feature of law language which is immediately conspicuous to the lay reader because sentences in law language are often longer than they are in common language. Gustafsson [16, p.26) explains that “the more detailed and

accurate the description became, the longer the sentence grew”. In fact, most of the sentences in both ECL and VCL carry too much of information load with an inordinate number of words. The table below shows this point.

**Table 4.7.** Average number of words per sentence in ECL and VCL

Sentence Length	Total of Sentences	Total of Words	Average
ECL	379	16.352	44
VCL	254	17.014	67
Total	601	23.366	113

According to Barber (1962: 23), the average sentence length in scientific English is 27.6 words. Marckworth and Bell (1967) the average sentence length in journalism is between 20 and 21 words. With the average number of fifty and sixty-three words per sentence in ECL and VCL respectively, the sentences in both ECL and VCL are obviously too long.

It is noteworthy that it is not the length of the sentence alone that contributes to the complexity of law language. As can be seen from the table above, the average sentence length in VCL is longer than in ECL. In fact, the sentence structures in ECL are more complex than in VCL. This can be explained that while 100% of the sentences in VCL is simple ones, the total number of sentences in ECL is 379, divided into 871 clauses. Of the clauses 412 are main clauses and 469 subordinate clauses, which gives an average of 2.3 clauses in a

sentence. Only 22% (82 out of 379) of the sentences are simple. When the sentences are tabulated according to the number of main and subordinate clauses, the complexity of sentence structure became apparent.

#### **4.2.5. Similarities and Differences in Syntactic Features**

On syntactic features, ECL and VCL share both similarities and differences. The first, both ECL and VCL are syntactically featured by the employment of nominalization and binomial and multinomial in the creation of informativeness and inclusiveness. In addition, the sentences in two laws are rather long. However, ECL has a higher tendency to use nominalization and binomial and multinomial than VCL and sentence length in ECL is more complex than that in VCL. The second, there is a big difference between the use of syntactic discontinuity in ECL and VCL. Syntactic discontinuity was highly used in ECL with total of 150 instances which is absolute opposite to VCL with only four instances. In fact, the use of syntactic discontinuity may have both advantage and disadvantage. As Bhatia (1993) points out, without qualifications, the provision would be too general and of universal application. The inserting of various qualifications within the boundaries of legislative sentences increases the degree of the syntactic discontinuity and information load in the provisions causing serious reading problems (Bhatia 1984, Kurzon 1985 and Berman 1989).

## **CHAPTER 5**

### **CONCLUSION AND IMPLICATION**

This chapter provides the conclusions and implications of the study, followed by limitations and suggestions for further research.

#### **5.1. CONCLUSION**

According to Philip Collins, the current Chairman of the Office of Fair Trading, points out that “today, all around the world, policy makers recognize that a system of competition law is essential to the successful operation of a market economy and the protection of consumers”. Therefore, to promote or maintain market competition, we need to understand ECL as well as VCL. However, to achieve its communicative intent, we, therefore, need to consider how legislative information is packaged by means of linguistic features.

In fact, legal language is often characterized as a technical language which is to say a language used by a specialist profession. As a result, it contains some words and structures that mark it as being so highly complex as to be at times incomprehensible to anyone except legal experts. Therefore, it requires the readers to be highly qualified.

Subjectively, most of the readers are not preferable reading legal documents to other ones because they find it difficult to follow the vocabulary as well as the structure. To interest the readers in legal documents, we set up major goals for the thesis: investigate and find out the similarities and differences between ECL and VCL in terms of lexical features and syntactic features. The thesis is defined in five

chapters, including this one, Conclusion:

Chapter One is the rationale and the aims of the study. Also in this chapter, the research questions, the scope of the study and the organization of the study are dealt with.

Chapter Two has provided a review of the related previous studies, the fundamental and essential theoretical background concerning the subject under the consideration which served as the basic foundation of data analysis, discussion and findings in the following chapters. Thus valuable theories such as definitions of term, lexical features and syntactic features are clearly mentioned.

Chapter Three has been designed to describe the methods and procedures of the study. Moreover, the procedures for data collection and analysis have been clearly mentioned.

Chapter Four has presented the discussion and findings of the research where the lexical and syntactic features of ECL and VCL were discussed.

Lexically, we have set up essential goals: investigate and find out the similarities and differences in terms of (1) technical terms, (2) archaic words (3) borrowed words and (4) vague words. The findings can be summarized as follows:

#### (1) Technical Terms

In law field, technical terms can be understood as linguistic device which contribute to the Clarity and Airtightness of law documents. These terms are, therefore, indispensable to legal field. As a result, both ECL and VCL are highly employed technical terms.

#### (2) Archaic words

There is a complete difference in using archaic words between ECL and VCL. Archaic words in ECL were commonly used although they are considered the old –fashion words. Contrary to ECL, VCL did not employ archaic words

#### (3) Borrowed Words

Due to history influences between the two languages, therefore, borrowed words in ECL were mainly words having French and Latin origins. Borrowed words in VCL were mainly words from Chinese.

#### (4) Vague Words

ECL used a lot of vague words which seem repugnant to the very idea of making a norm. However most of them were deliberately used to give flexibility to a certain extent for logic reasoning in each case. On the contrary, vagueness in VCL is very low. According to Nguyen The Quyen (33, p.39) “Vietnamese law is a cautious organization built on logic, reasonableness, justification, which does not allow bias and errors contrary to language which is tolerant of different interpretations.”

Syntactically, we investigate and find out the similarities and differences in terms of (1) nominalization, (2) binomial and multinomial (3) syntactic discontinuity and (4) sentence length and complexity. Following is the findings.

#### (1) Nominalization

Both ECL and VCL use nominalization. However, ECL has a strong tendency to use nominalization with the rate of 95% which nearly three times as much as VCL (33%).

#### (2) Binomial and multinomial

ECL is highly used binomial and multinomial (984 instances) than VCL (418 instances). But it is noteworthy that binomial and multinomial in both ECL and VCL are formed by nouns. This is evidence of wide usage of nominalization in law language.

#### (3) Syntactic discontinuity

Syntactic discontinuity clearly expresses the biggest difference in syntactic features between ECL and VCL. While ECL has a lot of mobile sentence elements which did not follow the primary constituent (S-V-O), sentence elements in VCL mostly base on basic syntax.

#### (4) Sentence Length and complexity

The finding shows that the average words per sentence in ECL are 67 words which are longer than that in VCL with 44 words per sentence. However, the sentence structures in ECL are more complex than in VCL. The reason is that most of the sentences in VCL are simple ones, while most of the sentences in ECL are complex ones.

Last but not least, chapter Five is the conclusion of the thesis. Moreover, in the next part of this chapter, the researcher has attempted to give some suggestions for Vietnamese teachers as well as learners in teaching and learning legal documents with the hope that they can achieve the best learning of legal documents and

improve their translation as well as their communication. However, to master the legal language is not easy. It takes much time, effort and knowledge.

## 5.2. PEDAGOGICAL IMPLICATION OF THE STUDY

Discovering the linguistic features as well as pointing out the similarities and differences between ECL and VCL in terms of lexical features and syntactic features is of significance in teaching, learning and writing English.

Firstly, it is necessary to raise students' awareness of the important of mastering some important elements concerning the domain of law in terms of linguistic features. Specifically, it is strongly recommended that students should master vocabulary. Vocabulary is a vital aspect in language, because it appears in every skill of language listening, speaking, reading and writing skill. However, in fact, many Vietnamese students of English state that their vocabulary is limited so that they have difficulties in expressing their ideas. Hence, to support vocabulary for students, the teacher should provide meaningful controlled practice for them so that they could recognize, manipulate and use the new vocabulary items. Vocabulary practice should be regular, carefully planned and should not involve too many words at one time.

Secondly, there are some differences in the sentence structures between English and Vietnamese. Therefore, it is important that teachers instruct learners to grasp the differences so

that in concrete situations, the learners can choose and use suitable sentence.

Thirdly, for the teaching and learning English in legal domain, the thesis makes a point that teaching how to write a legal text should be included in the English training syllabus for law students at universities. However, this is specialized form of writing which require knowledge of not only vocabulary but of grammar as well. Hence, introducing fully the typical lexical and syntactic features of legal documents is very necessary for Vietnamese students majoring in legal domain.

Finally, for legal students, being provided a deep theoretical insight into elements making a successful business practice is of great value. The fact that Vietnamese competition law is a quite new one; however, it is very useful and necessary.

### **5.3. LIMITATIONS**

The thesis has been done with my greatest effort and to the best of my knowledge and understanding. However, mistakes and inadequacies seem to be unavoidable because we do not have enough time and reference materials. Besides, the number of analysis data is definite, so the analysis result will be relative. What is more, the limited ability of the researcher can also be considered another constraint. Nonetheless, hopefully, the study will be a reference for those who take an interest in the problem.

### **5.4. SUGGESTIONS FOR FURTHER RESEARCHES**

For further investigation into legal field, I would like to offer some suggestions as follows:

1. A discourse analysis of English Competition law and Vietnamese Competition law.
2. A study on linguistic features of other laws (press-law, copyright law, foreign investment law, family law, aviation law, maritime law...) in English and Vietnamese.