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The Style Edict 2.0

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Everyone at Criterion Economics writes clearly. And that includes masticating and digesting the following rules. Since 1992, those rules have addressed the most frequently recurring edits that I have found necessary to make on drafts of professional documents.

What are the most productive increments in writing about law, about economics, and about the economic analysis of law? A singular paper that Judge Richard Posner assigned to me on my first day of work as his law clerk was George Orwell's essay *Politics and the English Language*.[1] If you have doubts about good composition, read Orwell's essay and then quickly munch *The Elements of Style* by Strunk & White.[2] If you have a few years available, a newer and more ambitious clarion is Bryan Garner's collection of books on modern usage.[3] And if ever you measure out your life with coffee spoons, read Posner.

Let us go then, you and I:

1. Make the subject of a hypothetical discussion singular rather than plural. It makes sentence construction easier. Say, "a firm maximizes profits" instead of "firms maximize profits." I have found that the singular hypothetical is much better than the plural in avoiding ambiguity and substantive sloppiness.

2. Avoid contractions in a scholarly or legal document. They violate the formality of the documents that we produce. The

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[1] GEORGE ORWELL, *Politics and the English Language* (1946), *in* THE ORWELL READER: FICTION, ESSAYS, AND REPORTAGE 355 (Harcourt 1956).

[2] WILLIAM STRUNK JR. & E.B. WHITE, THE ELEMENTS OF STYLE (Longman 4th ed. 2000).

[3] BRYAN A. GARNER, BLACK'S LAW DICTIONARY (Thomson Reuters 12th ed. 2024); BRYAN A. GARNER, GARNER'S MODERN ENGLISH USAGE (Oxford Univ. Press 5th ed. 2022) [hereinafter GARNER'S MODERN ENGLISH USAGE 5TH EDITION].

proliferation of contractions in law review articles by law professors conveys disrespect.

3. Treat a firm as a singular, neuter subject: "Microsoft expects greater profit; it is planning capital expenditures accordingly." It is a Commonwealth usage to impute the plural form to a company. British, Australian, New Zealand, and some Canadian writers would say: "Microsoft expect greater profit; they are planning capital expenditures accordingly." This usage sounds odd to Americans, and thus it is a distraction from one's message, which is the greatest single offense that someone can commit against clear writing. Of course, if we are doing a project in a Commonwealth country, it might be perfectly appropriate to violate American usage in this respect. But be aware that this difference exists between American English and Commonwealth English.

4. Try to avoid personifying a firm, as in "The monopolist maximizes his profit when he equates marginal revenue to marginal cost." This is a judgment call, but the presumption should be against personification unless it is critical to improving the clarity of exposition.

5. Use the passive voice sparingly. Most sentences can be written with an active verb, as this one could have been. I add that, as I age, I encounter more fine writing that couches in the passive voice its substantive arguments about tectonic changes.

6. Avoid long textual discussions in footnotes. As a document nears finality, clients or editors sometimes request the author to "drop a footnote." But each footnote interrupts the flow of the text. If you start the drafting of the document with the goal of limiting your use of footnotes to citations only, you will have a more readable document in the end, after inevitable compromises are made about moving points into the netherworld of footnotes.

7. Avoid temporal references that become dated after a document is filed. For example, write "in 2025" instead of "last year." Write "since 2019" or "since January 2021" instead of "recently" or "this year." Four reasons support this rule. First, it is more informative. Second, the filing date for a document often slips, and it introduces unnecessary work at the last minute if temporal

references need reworking to avoid sounding stale. Third, by the time the reader picks up the document, considerable time might have elapsed since the document's drafting; stale temporal references place doubt in the reader's mind of the continued relevance of the analysis and thus undermine the persuasiveness of the document. Fourth, we sometimes reuse text in subsequent filings and law review articles, which also must avoid sounding canned and stale. For these reasons, draft temporal references correctly from the start to obviate later edits.

8. When summarizing lengthy arguments presented in a journal article or book, do not use "the author" or "the authors" in an attempt to avoid repetition. It sounds like a book report. At the risk of repetition, use the actual names: "Laffont and Tirole show that . . . ." Or simply say, "they," if there is no ambiguity.

9. Use the subjunctive mood ("would") to describe bad outcomes that we oppose and seek to prevent. Use the future tense ("will") to describe good outcomes that we support and are confident will eventuate. For example:

> The merger of XM and Sirius would increase the amount of commercial time contained in satellite radio programming.
>
> The merger of BellSouth and AT&T will generate economies of scale and will lower prices for consumers.

The purpose of using the subjunctive mood is to imply that permitting the bad thing to happen is so unthinkable as to be merely hypothetical. The purpose of using the future tense is to imply that the benefits of the proposed action are so self-evident as to make government approval uncontroversial and, therefore, inevitable.

10. As a general matter, do not draft a discussion in a way that makes the expert opine on what anyone "believed" at a given time. This is a classic area where the opposing lawyers will challenge the expert's factual basis for the opinion and seek to strike that portion of the expert's testimony as being unreliable. Usually, you can rewrite the sentence to allow the reader to draw his own conclusion and thus avoid the problem.

11. We cannot say that any normative proposition (something that someone says "should" happen) is "false." Instead, state that that normative proposition is arbitrary and unsupported by economic principles or the facts of the case.

12. When rebutting an expert report in a case in which multiple reports have been filed (usually in a second rebuttal expert report), use the present tense to discuss what the current report that we are rebutting *says* and the past tense to discuss what any previous expert reports (including our own) *said*.

13. Be mindful that whatever you write will need to be factchecked by an actual person who does not have unlimited time or patience. If you are citing complicated and esoteric sources (such as court cases on regulatory law), consider adding a parenthetical quotation following the citation. Similarly, be mindful of what happens to the footnotes when you rearrange sentences (for example: do any instances of "*id.*" become incorrect?). Rearranging sentences is, of course, an important part of revising and editing, but do not leave it to the factchecker to fix all your footnotes. Aim for your footnotes to be correct *before* the factchecking process.

14. Use "that" to aid the flow of the sentence, as in the second sentence of this Edict 2.0. This word choice is a matter of judgment. Simple, journalistic writing leaves out "that," but our documents have much more complex concepts and sentence structures than does a newspaper or magazine story. Yes, "that" increases the word count. Inserting "that" often improves clarity.

15. "Which" is always preceded by a comma (unless the construction absolutely makes this punctuation impossibly confusing).

16. But that important comma might be a pause as ineffective as a rolling stop at an intersection. Which fails to frame the author's point with superior clarity and emphasis to the reader. On multiple layers of analysis, Garner authoritatively describes the benefits of selectively starting a new sentence after a full stop that begins, "Which."[4] Which is incisive.

[4] Garner's Modern English Usage 5th Edition, *supra* note 3, at 1161-62.

17. Say "before," not "prior to." The latter is ugly to the ear. Decades ago, Theodore Bernstein of the *New York Times*, for example, observed that one should use "prior to" in place of "before" only if one is also accustomed to using "posterior to" for "after."[5] I encounter "prior to" frequently. Why does marking time become a study of priors and posteriors?

18. The phrases "based on" and "on the basis of" are not interchangeable. "Based on" is a participle (a verbal adjective) that can define a noun, pronoun, and noun phrase (but not a verb). "On the basis of" is a prepositional phrase that can define a verb.

19. Do not use "while" as a synonym for "although." In 99 percent of sentences, "while" should be used to express simultaneity and should not be a synonym for "whereas."

20. When writing your own English prose, introduce Latin only sparingly. Write "that is" instead of "i.e.," write "for example" instead of "e.g.," and write "and so forth" instead of "etc." *Ex ante* and *ex post* are acceptable, but "i.e." is unnecessary and distracting. Use "through" instead of "via" in most instances. The exception to this rule is when using *Bluebook*[6] citation signals, which are arbitrary but immutable.

21. Consider whether a possessive construction can be used: "the firm's output" instead of "the output of the firm." The former is more compact, which matters a lot when simplifying complex sentence structures.

22. Avoid split infinitives. Sometimes one cannot avoid them. But try. An example of a split infinitive (that is, what we should avoid) is: "to boldly go where no man has gone before."

23. "In order to" is almost always unnecessary. Drop "in order" and start the phrase with simply "to." If the sentence structure still needs help, try using "so as" instead of "in order."

24. Choose "use" instead of "utilize."

[5] Theodore M. Bernstein, The Careful Writer: A Modern Guide to English Usage 347 (Free Press 1998) (1965).

[6] The Bluebook: A Uniform System of Citation (*Columbia L. Rev. Ass'n et al.* eds., 22nd ed. 2025).

25. "Since" is not a good synonym for "because," because the former has the potential to produce in the reader's mind a "false telegraphy" that the sentence structure to follow will express a temporal reference rather than a logical proposition. The importance of avoiding false telegraphy increases tremendously when discussing the kinds of complex concepts that typically appear in our documents in legal disputes or policy advocacy.

26. The English language lacks a one-word antonym for the verb "to exceed." Instead, we use the inelegant phrase, "to fall short of." Decades ago, I received responses from William F. Buckley Jr. and William Safire when I asked whether a word like "subcede" existed in American English. They both were stumped. Consequently, I announced that the first Criterion employee to identify a single word to express this simple concept (familiar throughout all of economics and mathematics) would be justly rewarded. By 2026, the Internet appears to have unveiled the new word "subcede." But the *Oxford English Dictionary* has not yet recognized the word. That learned authority has subceded my expectations.

27. "Obviate the need" is redundant. It is simply "obviate."

28. Try to use "that" rather than "this," and "those" rather than "these." When you do use "this" and "these," they will sound less repetitive.

29. Do not start a sentence with a bare year, as in "1999 was a very good year." Use a different sentence construction. Only George Orwell's writing would get away with flouting this rule.

30. Use the penultimate comma, also called the Oxford comma. Write "apples, oranges, and bananas" instead of "apples, oranges and bananas." In complex sentence structures, the penultimate comma reduces ambiguity. However, when citing multiple authors in a footnote, do not use the penultimate comma (in accordance with the *Bluebook* Rule 15.1). For example, cite to "David Freedman, Robert Pisani & Roger Purves." Do not cite to "David Freedman, Robert Pisani, & Roger Purves." More generally, no comma may immediately precede an ampersand: Cravath, Swaine & Moore.

31. Proper usage is "compared with," not "compared to."

32. Do not say, "This is . . . ." This *what?* Put a noun after the word "this." It eliminates ambiguity.

33. Do not use "impact" as a verb. We are not gastroenterologists.

34. Do not use "presently" when you mean "currently." The first definition of "presently" is "before long, without delay." The second definition is "at the present time." If you intend the second meaning, it is better to avoid ambiguity: "currently."

35. Avoid using "going to" before the verb that is doing all the communicating. Write "will" or "shall."

36. Instead of "point out," write "show," or "note," or "observe," or some similar verb.

37. Do not use "evidences" as a verb. It almost always sounds stilted. It also does not roll off the tongue if one is forced to read it out loud in a deposition. It is more effective to say that X indicates Y or that X is evidence probative of Y.

38. Instead of "put forth" or "put forward," use "present" or "presented."

39. "Argue" should rarely if ever be used to describe what regulators or courts do. They *decide* or *reason* or *observe*. Litigants and commenters are the ones who make arguments.

40. Go easy with "respectively." Often, a slightly longer sentence structure reads more clearly than one discussing the attributes of A, B, and C, respectively.

41. Avoid "discuss" or "discussion" when talking about what one of our experts will do in a document. Similarly, do not say "look at." We "analyze" or "evaluate" or "measure" or "examine." To "discuss" or "look at" a topic is not necessarily to add value by shedding light on the topic. Moreover, avoid weak verbs like "consider" and "describe" and use instead "analyze" and "evaluate" and "measure" and "assess."

42. Instead of "arrive at" to describe conclusions from calculations, use "derive."

43. Never use the phrase "as such." Use instead "thus" or "therefore"—or, even better in most cases, "consequently."

44. Do not use "just" as a synonym for "only."

45. Avoid saying that someone will "have to" do something. Say "need to" instead. It expresses necessity better than the more idiomatic "have to."

46. Do not hyphenate adverbs. Write "universally accepted product," not "universally-accepted product."

47. Avoid using "detail" as a verb. Use a word that conveys *analysis*, not description or classification. Analysis is how we add value.

48. Use "exceeds" instead of "is greater than," and "is below" instead of "is less than," unless you are writing in terms of mathematical inequalities.

49. Do not use "incentivize." Say "gives [the party] the incentive to . . . ." or "creates the incentive for . . . ." If this relatively recently invented verb is useful, why not coin the more concise verb "to incent"?[7]

50. Say "for example," rather than "for instance."

51. Do not use the phrase "this argument is in line with." It is vague.

52. Do not start a sentence with "Importantly." Use "It is important that . . . ." or "It bears emphasis that . . . ."

53. Never use the word "proactive." It sounds like a brand of acne medication.

54. Of the adverb *only*, Bryan Garner trenchantly writes: "*Only* is perhaps the most frequently misplaced of all English words. Its best placement is precisely before the words intended to

[7] *See* Garner, Garner's Modern English Usage, *supra* note 3, at 583–84.

be limited. The more words separating *only* from its correct position, the more awkward the sentence. And such a separation can lead to ambiguities."[8]

55. Write "deploy" instead of "roll out." The latter is MBA jargon that has infected legal writing. English already contains a nice word to express the idea. The only phrase worse than this one is "ramp up," which I first heard management consultants at the top firms say in the mid-1980s. Why ramp up the roll out when one can simply increase or expedite deployment?

56. When writing about a license or other formal legal document, do not use the word "stipulate" or "articulate" when the word "specify" would be equally acceptable. In litigation, a stipulation has a special connotation, so it can be distracting, when analyzing the language of a contract, to say that Party *A* and Party *B* stipulated certain terms.

57. Never say "the court maintained that . . . ." It sounds slightly disrespectful, as if the court is making up stuff. Instead, simply say "the court said that . . . ." or "the court observed that . . . ." This wording would resemble Orwell's style for non-fiction journalism.

58. One segregates or disaggregates one thing *from* another. One apportions *to* one thing or *among* several things.

59. Always use parentheses to delineate the order of operations in any written-out formula and enhance clarity for the reader. Do not assume that the reader is familiar with PEMDAS (parentheses, exponents, multiplication and division, addition and subtraction) or the concept of order of operations. Is this concept like ambiguous verbiage? An explanation of PEMDAS does not even have a specific entry in Oxford's dictionary.[9]

60. Be precise when defining the relevant market in an antitrust or regulatory or patent case. Do not say "the mobile-device market." Instead, say "the market for mobile devices."

[8] *Id.* at 779 (emphasis in original).

[9] The definition is missing as an entry from Oxford Concise Dictionary of Mathematics (Richard Earl & James Nicholson eds., Oxford Univ. Press 6th ed. 2021).

61. Use "may" to connote permission or discretion; use "might" to connote probability or possibility. The professor who most powerfully explained the meaning of "may" in a statute in any course I took at Stanford Law School was a visiting professor from the University of Chicago, Antonin Scalia.

62. Avoid saying "most" or "likely" when making a qualitative generalization about the behavior of an economic actor. "Most" connotes a majority, and "likely" connotes a probability exceeding 50 percent. The sentence will be more defensible in the face of cross examination (or expert rebuttal) if you write "typically." Another alternative is "generally" or "usually," although they are both defined as meaning "in most cases." "Typical" comes closer to connoting "representative" without implying majority or likelihood, which would invite our adversary to ask how we quantified that majority or likelihood. This own-goal is avoidable.

63. Do not use "often" when "typically" is equally or more suitable. The reason is that "often" sets up a natural deposition question: How often? How did you measure the frequency of this phenomenon? "Often," when used in an economic argument, might suggest that the author has done some kind of empirical study. If the author has not, he then sounds like he is exaggerating or speculating; consequently, he might be discredited. In contrast, "typically" sounds more as though it is informed by experience, even if only impressionistically.

64. Do not say ", suggesting." Say ", which suggests."

65. Say "on a claim," not "in a claim," when discussing whether a party might prevail in litigation.

66. Do not assume that the words "constraint" and "restraint" are interchangeable. In economics, a constraint has a distinct meaning. It is an external force that limits an actor's ability to maximize or minimize some objective function, such as profit, cost, or utility. In that context, it is incorrect to use "restraint" as a synonym for "constraint." Economists would never say "budget restraint" or "restrained optimization." In law, "restraint" also connotes a limitation, as in "restraint of trade" or "ancillary restraint." To a legal audience, it would sound equally odd to say

"constraint of trade" or "ancillary constraint." So use the right word depending on the context and audience.

67. We can use "whose" with inanimate objects. But if the sentence sounds too stilted as a result, try a different construction. Compare these two sentences: (1) "That table, whose legs are uneven, has been in my family for decades," and (2) "That table with the uneven legs has been in my family for decades."

68. Use the verb "prove" instead of weaker verbs like "show," "demonstrate," or "explain."

69. An *expectation* differs from an *assumption*, both in common English usage and in economic theory. An expectation rests on the experience of observing some predictable phenomenon. We need not *assume* that demand falls when a given product's price rises; we rationally *expect* it on the basis of our experience. As a matter of both rhetoric and logic, this difference is important. Whenever you are tempted to write "assume," consider whether "expect" is the stronger and more precise word.

70. Use "probative" when speaking of evidence, as it is a more precise word than "informative." For example, say, "I examine below how each of those factors affects the probative value that a given license agreement holds for the calculation of a patent royalty," instead of opining less precisely on "the informative value."

71. Do not use "look at," "think about," or any other similar informal phrase. These phrases sound intellectually lazy. Instead say "examine," "consider," "analyze," "address," "scrutinize," or something similarly professional.

72. Always write "conflate X and Y," not "conflate X with Y." The latter is ungrammatical.

73. Do not write that courts "accuse" or "allege." Courts in the United States are finders of fact and "listeners." They cannot accuse a party or allege anything themselves.

74. Instead of saying "given," add some variety by saying "considering." In fact, "considering" is better in many instances because it connotes some assessment beyond merely receiving a

proposition that someone else has "given" to you. For example, instead of writing, "Given the court's reluctance to expand the doctrine, the argument is unlikely to prevail," consider writing, "Considering the court's reluctance to expand the doctrine, the argument is unlikely to prevail." The latter better conveys that the writer has assessed the court's posture, not simply received it.

75. Say "as," not "like." For example: In sum, *as* in *United States v. AT&T*, Professor Smith's bargaining model in *FTC v. Qualcomm* lacked factual support.

76. Say "holding all other factors constant" instead of any other similar expression.

77. Lawyers sometimes think "estimate" sounds like a back-of-the-envelope approximation. Like an estimate to repair your car. They do not use "estimate" or "estimation" or "estimator" the way those words are used in econometrics, for example. Therefore, say "quantification" instead.

78. Write "even if one assumes" instead of "even assuming."

79. Do not say "apprised." "Informed" is a more powerful word. Nobody says "apprised" in spoken American English. Such talk is stuffy and vague.

80. Footnotes should conform to the *Bluebook*, to which an online subscription is available.[10]

    a. The *Bluebook* is flawed and arbitrary, but it is nonetheless the standard that lawyers and courts use. Your work product is usually aimed at that audience and, moreover, for decades Criterion has published its work in law reviews. We should therefore incorporate the citation style (and other style elements) of legal publications into the original preparation of our documents. Cite articles by the full name of the author, title in italics, volume number, abbreviated journal title in upper and lower small caps, starting page, page where the relevant material appears, and date of publication in parenthesis:

[10] *Introducing the Bluebook Online*, Bluebook, https://www.legalbluebook.com/.

> William M. Landes & Richard A. Posner, *Market Power in Antitrust Cases*, 94 HARV. L. REV. 937, 977 (1981).

b. If one is in doubt about what information needs to be included in the citation, it is better to be overinclusive rather than underinclusive, as we can always edit down to the correct cite. Recall that we do *not* use underscoring or underlining *anywhere* in text or footnotes. It looks antiquated—from the days of typewriters. For emphasis, use italics. Cite regulatory proceedings with the name of the matter, the nature of the ruling, and the docket number, along with the volume citation. If referring to a specific passage, cite the page (and paragraph, if applicable). This style deviates slightly from the *Bluebook* to conform to the common practice of real-world regulatory officials and those who regularly appear before them. So, for example, cite:

> Competition in the Interstate Interexchange Marketplace, Report and Order, CC Dkt. No. 90-132, 6 F.C.C. Rcd. 5880, 5904 ¶¶ 138–40 (1993).

> Notice to the Parties at 1, Certain Mobile Electronic Devices and Radio Frequency and Processing Components Thereof, Inv. No. 337-TA-1065 (USITC Sept. 17, 2018) ("Administrative Law Judge Thomas B. Pender has returned to the Commission to complete this Investigation. This Investigation is therefore being reassigned to him. Patricia Chow remains the attorney advisor for this Investigation. SO ORDERED. [Signature] Charles E. Bullock[,] Chief Administrative Law Judge[.]") (boldface omitted).

c. When citing a book, please include the publisher:

> CARL VON CLAUSEWITZ, ON WAR 87 (Michael Howard & Peter Paret eds. & trans., Princeton Univ. Press 1976) (1832).

> William J. Baumol, John C. Panzar & Robert D. Willig, Contestable Markets and the Theory of Industry Structure 71 (Harcourt Brace Jovanovich rev. ed. 1988) (1982).

d. Use the following format to cite (1) a published case in federal district court (designated with a short-form citation) (2) citing a transcript of a hearing in federal district course (3) in a published case that ultimately was affirmed on appeal in the D.C. Circuit:

> Sidak v. U.S. Int'l Trade Comm'n (*Sidak v. ITC*), 678 F. Supp. 3d 1, 10 (D.D.C. 2023) (McFadden, J.) (citing Transcript of Motion Hearing at 39–40, *Sidak v. ITC*, No. 1:23-cv-00325 (TNM) (D.D.C. Apr. 27, 2023) (McFadden, J.)), *aff'd*, 174 F.4th 151 (D.C. Cir. 2026) (Walker, J.).

e. Use the following format to cite a federal agency's response to a Freedom of Information Act (FOIA) request:

> FOIA 19-03 Consultation Records 000599 [Email from "THOMAS PENDER" to Patricia Chow (Sept. 5, 2018, 11:45 a.m. EDT)] ("If anything goes wrong I have done all I can do."), *attached to* Letter from Lisa R. Barton, Sec'y to the Comm'n & Chief FOIA Officer, U.S. Int'l Trade Comm'n, to J. Gregory Sidak, Re USITC Freedom of Information Act Request No. 19-03 (Mar. 11, 2022) [hereinafter FOIA Request 19-03 Final Response (Consultation)].

f. The *Style Edict*'s exceptions to the *Bluebook* include:

i. List all authors of a book or article, rather than writing "Jones *et al*."

ii. Capitalize "over" in titles.

iii. Do not abbreviate publisher names, except for the word "university." Abbreviate University as "Univ." (in accordance with Table 6 in the *Bluebook*).

iv. The correct order for the date parenthetical in a book citation is: (editor(s), translator(s), publisher edition date).

v. Contrary to *Bluebook* Rule 1.5, please include the following parenthetical information when applicable: "(internal quotation marks omitted)" and "(emphasis in original)."

vi. In mentioning the name of a statute in the text, omit the name of the statute in the footnote (similar to what we do with cases in accordance with the *Bluebook*).

vii. When citing to FCC or FTC docs, refer to the following example:

> Memorandum Opinion & Order, Applications of Comcast Corp., Gen. Elec. Co. & NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licensees, MB Dkt. No. 10-56, at 19–20 ¶ 42 (F.C.C. Jan. 20, 2011), http://www.fcc.gov/FCC-11-4.pdf.

viii. Do not abbreviate the name of an institutional author, except for the following words: &, Ass'n, Bros., Co., Corp., Inc., Ltd., and No.

g. Consistent with *Bluebook* Rule 12.3.2, which (in the 22nd edition) specifies that "[c]itations to the federal code, whether official or unofficial, do not require a date,"[11] do not include the year when we cite statutes, unless a congressional change of the statutory wording is the question at hand.

81. Always place the footnote call number outside the ending punctuation of the sentence. In dense legal writing, a footnote call number might be needed somewhere within the sentence,[12] rather than after the ending punctuation.

[11] *Id.* R. 12.3.2.

[12] A footnote in mid-sentence might distract the reader.

82. Although the *Bluebook* no longer prohibits abbreviation of the first word in a case name (Rule 10.2.2), do not abbreviate the first word in a case name.

83. Indicate the name of the judge who authored the cited opinion, even if we are not quoting the opinion: Smith v. Jones, 359 F.3d 138 (7th Cir. 2014) (Posner, J.).

84. The correct citation of the *Journal of Economic Perspectives* is "J. Econ. Persp."

85. Abbreviate (or do not abbreviate) months in footnotes as follows:

Jan.	Apr.	July	Oct.
Feb.	May	Aug.	Nov.
Mar.	June	Sept.	Dec.

86. In an age of spell checkers, spelling mistakes are inexcusable.

87. Fully justify your document. We live in a world of desktop printing. A ragged-right margin looks as archaic or affected today as Courier type. When a document is fully justified, there is only one space after a period at the end of a sentence. Since the early 1990s, editors of web pages have typically used ragged-right margins. Such margins are supposedly groovier than fully justified text.

88. Italicize the following Latin phrases: "*per se*," "*en banc*," "*ex ante*," "*ex post*," "*per curiam*," "*prima facie*," and "*de facto*."

89. Do not capitalize "dollars" in text, unless it is used in a title.

90. Use the curved apostrophe and curved quotation mark. If you cut and paste text from WestLaw or Lexis or AI services, the apostrophe and quotation mark will be straight rather than curved. If you do not fix them, you will create a dead giveaway for any experienced reader that blocks of text were lifted from an electronic source. Clients are not impressed. Fortunately, it is easy to do a global search-and-replace command. In the search function, "^34" denotes a straight quotation mark, and "^39" denotes a straight apostrophe.

91. Do not use an apostrophe with a date or acronym unless it is possessive: "1990s," not "1990's"; "CLECs," not "CLEC's."

92. In text, spell "percent" rather than use the "*%*" symbol. It is fine to use the symbol in tables, footnotes, and the like.

93. Lawyers and courts in Commonwealth countries do not use punctuation as extensively (or, in my view, as precisely) as do American lawyers and courts. Follow the American example, even when working in Commonwealth jurisdictions.

94. British (and Commonwealth) usage often places the closing quotation mark inside the period: "Here is the British example". American usage does the opposite: "Here is the American example." Follow American usage unless the document is intended for a Commonwealth audience.

95. Avoid using "/" to indicate a combination of thoughts, as in "model/actress." In writing, it looks inelegant and disrupts the flow of a sentence. It is also impossible to translate gracefully from printed text to spoken words. The slash signals some superadditive quality, but the superadditivity is often missing, causing the device to appear pretentious. When I lived in Los Angeles in the 1980s, a neighbor of mine on Mulholland Drive was the most literate of American rock stars, Don Henley, who had co-founded the Eagles. When I attended one particular party at his home, he introduced his fiancée as "a model-slash-actress." Not missing a beat, a waitress-slash-aspiring-comedienne asked, "Is that like a brain-surgeon-slash-rocket-scientist?" No laughter followed. Write and speak slashlessly.

For 34 years so far, I have updated this memorandum periodically to identify any other common problems of composition or style. Thank you for respecting these expectations as you draft or edit Criterion documents.

Do not mistake any of this guidance for drudgery. Revising a sentence is not the chore that precedes the writing; it is the writing. An economist will recognize the principle at work. By the envelope theorem, the value of an optimized thing is revealed in the act of optimizing it: once you are at the margin, the small adjustments through which you arrived no longer move the value, and what remains is the worth of the thing itself, now visible because you bothered to find it. So too with prose. You do not know what a paragraph is worth until you have combined and recombined its words—*time yet for a*

hundred indecisions, and for a hundred visions and revisions—and the worth you discover was always latent in the words, waiting for a writer patient enough to optimize toward it.

Sometimes the optimum lies outside the words you have, and you must enlarge the set. Hayek, expounding in English, reached for the German *Machbarkeit* because no English word held the precise idea he needed.[13] Recall how I once went looking for a word to name the opposite of *exceed* yet found that the English language had inexplicably left the space empty. So I recommend once more the new word *subcede*. No lack of success will be as discomfiting as subcess.

[13] *See* Friedrich A. Hayek, The Fatal Conceit: The Errors of Socialism 83 (W.W. Bartley III ed., Univ. of Chicago Press 1988); *see also* J. Gregory Sidak, *Capitalism, Socialism, and the Constitution*, 4 Criterion J. on Innovation 801, 808 (2019).