CULTURAL TEST FOR BRITISH FILMS: BECTU RESPONSE TO DCMS CONSULTATION

BECTU

1. BECTU is the trade union for technical, craft and creative workers, other than actors, in the film industry. We welcome the opportunity to respond to the DCMS consultation on the proposed cultural test. We are also responding to the linked Treasury consultation on the reform of the tax incentives.

2. We support the underlying objectives of the new tax relief proposals to 'promote sustainable production' through 'encouraging the production of films that might not otherwise be made; promoting sustainability in British film production; and maintaining a critical mass of UK infrastructure, creative and technical expertise, to facilitate the production of culturally British films'.

3. We recognise that the proposed cultural test is intended to identify films qualifying for relief by assessing them against the criteria of cultural content; cultural hubs; and cultural practitioners.

CULTURAL CONTENT

4. While recognising the concerns about the requirements of the European Commission's rules on state aid, we have set out in our submission to the Treasury our concern that the emphasis on 'culturally British' film production should not be to the detriment of productions reliant on inward investment - which are industrially British if not always specifically British in content. We seek reassurance on this point.

5. Our concern, therefore, is not with the specific elements and points allocation for cultural content but with the underlying aim of continuing to attract films which may not achieve points under this heading, other than for production in the English language. We believe British cultural content is obviously and self-evidently a desirable element within the range of British film production but that it should not become a compulsory requirement for accessing tax relief.

CULTURAL HUBS

6. We strongly support measures to promote 'the use of the UK's film making facilities'. We accept all of the elements listed as valuable components of the UK as a cultural hub ie pre-production; location shooting; studio production; visual effects; music recording; and post

production. We believe that without such a strong, locally-based industrial infrastructure, aspirations to the production of culturally-British films will be worthless.

7. We would not wish to see any of these proposed elements removed from the proposed framework. However we have several specific suggestions to establish a better balance in this section:-

- Firstly, we propose that Set Design and Construction should be added as a category in this section. It is a key component of our domestic production industry and provides employment opportunities for a whole range of skilled labour. We suggest it should score 1 point.
- Secondly, we believe that some of the key elements in 'other post production' - eg the film laboratories - should be specified.
- Thirdly, we believe that to award 3 unqualified points uniquely to Visual Effects is disproportionate: we suggest that Visual Effects should attract 1 point. (This is on the understanding that the term "Visual Effects" is being used here to refer to CGI and other computer-generated and animated effects, and not to live-action pyrotechnic and physical effects which are generally referred to as "Special Effects").
- Finally, we suggest that Location Shooting should attract 2 points so as to encourage the employment and cultural benefits of film production to be felt throughout the nations and regions of the UK.

8. We have a further and serious concern on the issue of cultural hubs. We are aware that some producers may be tempted to 'cherrypick' UK facilities in specialist areas only eg visual effects or post production. This runs counter to the broader aim of 'maintaining a critical mass of UK infrastructure, creative and technical expertise'. In the long term, without support across the board for what is ultimately an industry with many diverse but interdependent parts, even specialist areas of excellence will fail without a broader base to fall back on.

9. We therefore believe the cultural test should include some incentive for the use of a range of facilities rather than the opportunist use of specialist areas only. For instance there could be a requirement that the production must score on either Location Shooting or Shooting Studio in order to score any points* in the Cultural Hubs section. Alternatively, there could be an award of extra points for the use of Location Shooting or Shooting Studio together with a score under any other Cultural Hubs category.

**We can accept that music recording - as part of a completely separate sector (ie the music industry) - should be exempt from our suggested amendment.*

CULTURAL PRACTITIONERS

10. As a trade union, this is the area of the cultural test of most direct and immediate interest to us. It is also the area which gives us the greatest specific concern.

11. The background to our concern can be characterised as follows:

    - The emphasis on 'key filmmaking roles' is potentially an elitist approach which omits many significant elements of our domestic film-making resources.
    - A number of the specified roles, certainly in our area of organisation, are precisely those which, for inward investment productions, may well not be undertaken by UK/EEA residents eg director, cinematographer, designer. We have consistently taken a flexible and constructive approach to work permit applications for such individuals precisely because they are key to incoming productions which provide significant work for a range of other skilled grades in the film industry.
    - The Cultural Practitioners approach therefore may be suitable for lower budget Section-48 British-content productions but not for larger budget inward investment productions. For the latter, it provides a disincentive to bringing in key personnel and therefore a disincentive to bringing the production to the UK at all.
    - At the same time, the current proposal places no restriction on the use, for example, of a whole shooting crew or construction crew from outside the UK/EEA. We have already had direct experience of Australian crews being used in the UK and of regular arguments from producers for the use of American crew members outside of the grades listed in the current proposals.
    - We believe this aspect of the proposal is therefore pitched precisely the wrong way round for inward investment productions. It discourages the use of key individuals from outside the UK/EEA (who we would see as being instrumental in attracting inward productions which will offer work to large numbers of UK/EEA workers) while providing no restriction or discouragement to the wholesale use of crew members from outside the UK/EEA.

CULTURAL PRACTITIONERS: AN ALTERNATIVE APPROACH

12. Rather than an emphasis only on an elite of 'key filmmaking roles', we believe the proposals should take a more generalised and supportive approach to film skills across the board. We believe that giving recognition to the whole pool of skilled labour in the UK film industry sits more easily with the Government's own aim of promoting a 'critical mass' of 'creative and technical expertise'. It would also be more readily compatible with the Government's support for the development of a film skills strategy through the industry's Sector Skills Council, Skillset, and would represent a practical example of joined-up thinking across separate policy areas.

13. To this end we recommend the following amendments to the Cultural Practitioners section:
    - Delete Cinematographer/Costume Designer/Film Editor/Production Designer.
    - Replace with a 70% labour costs test for occupations other than performers ie to score 4 points in this section the production would be required to demonstrate that at least 70% of (non-performers) labour costs was based on the use of UK/EEA labour.

14. The advantage of the labour test is that it rewards and promotes the use of skilled labour across the board in the UK film production sector - rather than having an excessively narrow focus on a handful of roles. It recognises that one of our key assets - our skilled labour force - stretches well beyond the roles currently designated as Cultural Practitioners.

15. Failing this, the only means of building-in support for the use of UK/EEA skilled labour across the board would be to present a much lengthier and comprehensive list of Cultural Practitioners - including many roles and departments currently excluded such as sound/special effects/hair and makeup, as well as other camera/editing/designer roles. We suggest this would be unnecessarily cumbersome and complicated when set against the straightforward and eminently practical method of the labour costs test.

CONCLUSION

16. We support, in principle, the aims of the proposed reform of film tax incentives. We retain a concern that this 'culturally-British' emphasis should not be to the detriment of inward-investment productions which are industrially British if not necessarily British in content.

17. We propose some specific amendments to the cultural test:
    - Add Set Design and Construction as an extra category in Cultural Hubs attracting 1 point.
    - Reallocate scores in Cultural Hubs so that Location Shooting scores 2 points and Visual Effects scores 1 point.
    - Build in a requirement or incentive to use Location Shooting or Shooting Studio in order to score points in Cultural Hubs thereby discouraging the cherrypicking of specialist facilities only.
    - In the Cultural Practitioners section, replace Cinematographer/Costume Designer/Film Editor/Production Designer with a single 70% (non-performers) labour costs test based on the use of UK/EEA labour, scoring 4 points.

18. This would result in a maximum possible score of 30 points. On this basis we propose that a film should qualify if it scores 16 points or more, of which at least 2 should be in Cultural Content, 6 in Cultural Hubs, and 8 in Cultural Practitioners.

19. In the light of the above concerns, we propose that there be a review of the operation of the cultural test 12 or 18 months after its implementation. We hope you will take note of our views. We look forward to the further progress of the Consultation.