

FILM POLICY REVIEW CONSULTATION – BECTU RESPONSE

Your overall view

This initial part of the consultation is aimed at getting your overall view on the major challenges and opportunities confronting the film industry. After these questions, there are more detailed sections covering in depth the different areas of the industry.

1. What do you think are the key global challenges affecting the film industry in the next five years?
2. How can the British film industry best prepare to address these challenges?
3. What do you think will be the main new opportunities for the global film industry in the next five years?
4. How, if at all, does the British film industry need to take advantage of these opportunities?

Q1-Q4

We foresee at least four key global challenges for the film industry in the coming period – the need for a new business model; the impact of global recession; piracy; and the proliferation of new national production industries. All of this takes place at a time when the industry is already undergoing significant change through the introduction of digital technology in production, postproduction, distribution and exhibition.

The established **business model** has been based on a strategy of ‘release windows’, where a film is made available in different media one after the other: first cinema, then DVD, pay-per-view TV, subscription TV, cable/satellite TV and finally free-to-air TV.

Leaving aside piracy for the moment, a principle problem has been the downward, perhaps irreversible trend in the DVD market (widely seen as the source of profit for a film after theatrical release has – hopefully – reached the break-even point). The challenge is to find a long-term replacement or enhancement (such as Blu-Ray) for this vital revenue source. One opportunity may be in the area of video on demand or subscription film – although there are already indications that sales may not be sufficient. Another may be in ‘cloud-based’ services stored remotely.

Global recession – certainly encompassing the UK – has been reflected in a reduction in investment from financial institutions, private investors, broadcasters and public agencies and in a lack of pre-sales. British government economic policy – with its excessive, ideologically-driven reductions in public spending - is likely to delay economic recovery and to discourage rather than stimulate future investment.

Piracy continues to pose a serious challenge to the existing and any future business model for film. Any release window strategy is clearly undermined if a significant section of the audience can gain access to films without paying – leading to loss of revenue and to a reduction in potential future investment.

The widely-quoted TERA report indicated that the EU creative industries lost a potential £10 billion and 185,000 jobs as a result of piracy, with the UK losing £1.4 billion and 39,000 jobs. The loss of jobs makes piracy, from our viewpoint, a straightforward trade union issue.

Opportunities to tackle the issue of piracy may come from two sources. Firstly, the strategy of shortening release windows serves to reduce the gap – in which piracy thrives – between when a film has been promoted and when it actually becomes available on multiple platforms. Secondly, the Digital Economy Act contains a number of technical measures for dealing with major and repeat offenders in terms on online piracy. If the proposed schedule of warning letters fails to deter such offenders, these measures should, as a last resort, be implemented. Neither the major corporate interests of ISPs nor the right-wing libertarianism of the piracy lobby should be allowed to prevent this.

A further challenge to existing and long-established film production centres such as the UK comes from the **proliferation of new national production centres** – in Asia, in the Middle East and in Eastern Europe. Footloose international productions have no specific national loyalties. They will migrate to the most competitive production base.

In this respect, we have two choices – to compete on price or to compete on quality. In our view the former strategy can only lead to a race to the bottom – a race that we can never win, as the growing predominance of China and other low-wage economies has demonstrated in manufacturing. Instead, we should invest in our key asset, which is our high skill/high value production industry, with its world-class skillsbase and range of facilities. Furthermore, we should nurture our domestic industry by encouraging independent British film production as a cultural benefit, as a training ground and as a counterweight to excessive reliance and overdependence on inward investment (welcome though that investment is). We should also ensure that we have an industrial relations structure that is fit for purpose in a high skill rather than a ‘race to the bottom’ production sector.

Development

5. What do you think is the most important issue to be addressed in the future deployment of public funds for development? Please explain your answer, outlining how you think the issue might best be resolved.
6. There have been past Lottery-funded initiatives offering support to companies for ‘slates’, or a number of projects, as opposed to ‘single project’ support. Do you think this is something to be considered in future?
 - Yes
 - No
 - Don’t knowWhy do you think that?
7. Do you think that script content being developed in the UK should reflect our diverse population in the 21st Century?
 - Yes
 - No
 - Don’t knowWhy do you think that?

Q5

We agree that funding for development should remain a key aspect of public policy. Insofar as public funds are to be deployed for future development we believe there is now arguably a greater need to focus on the financing and rights end of the process than on the creative/screenplay end. Put simply, we sometimes seem to lack not the creative ideas but the ability to make these a reality by assembling a workable financial package. We remain unconvinced that our production industry has sufficient skills, experience and mechanisms for succeeding in this vital aspect of film production. Public funding to address this would be welcome.

Q6

The received wisdom in the industry – based on past experience – often appears to be that backing production ‘slates’ does not work. However, more recent experience (eg. Warp Films and Fragile Films/Ealing Studios) indicates, in our view, that a slate approach can be successful (in this case in the low-budget area – and not without problems, from our viewpoint, in respect of low pay). We therefore believe that with a clear industrial and creative vision, a slate strategy can potentially work – with added benefits in terms of continuities and growth of experience.

Q7

UK script content should of course reflect our diverse population –as should the film production workforce. BECTU has been at the forefront of campaigning for diversity in the media workforce, with our award-winning ‘Move On Up’ events geared to matching skilled BME individuals with key hirers and thereby with enhanced job opportunities.

Production

8. What do you think is the most important issue to be addressed in future deployment of public funds for production of British films?
Please explain your answer, outlining how you think the issue might best be resolved.
9. Do you think that the way Lottery funding is used for production of British films needs to change in any way?
 - Yes
 - No
 - Don't knowWhy do you think that?
10. Government would like to help building viable independent UK film companies. How can this best be achieved? For example, should Government be developing policy to focus support on companies as well as individual productions?
11. The level of Tax Relief itself is not within the scope of this Review. However, do you think the way film Tax Relief is used needs to change in any way?
 - Yes
 - No
 - Don't knowWhy do you think that?

12. Do you think the role of the UK broadcasters in the film industry needs to change?

- Yes
- No
- Don't know

Why do you think that?

13. Should the closer integration of production companies with distribution be encouraged?

- Yes
- No
- Don't know

Why do you think that?

13.5 If you have any other suggestions for improving the way funding for production of British films is used to benefit the creative community and British audiences, please write them down in the box below.

Q8

As already indicated above in a global context, we believe it is strategically vital to nurture our domestic medium-budget production sector. This has been hard hit in recent years – with reduced investment even while inward investment has continued to flow. We believe this is the heartland of British film production. This is where the skills of our domestic workforce are developed and employed. Culturally and creatively, it is where we have built our film tradition. It is where we recognise – as, in a way, does our existing 'cultural test' for access to tax credits – that film is not merely a commercial business but a cultural and creative enterprise with broader artistic and social purposes.

This sector deserves increased focus and support as a training ground but also as a counterweight to overdependence on inward investment (which is governed by factors largely out of our control) and to microbudget vanity productions (which are sometimes associated with serious concerns about exploitation of young people and new entrants).

Specifically, we believe this should be both a priority area for public funds and, potentially, an area for additional tax advantages (with due regard to EU rules). However, we believe equally strongly that public financial support should be conditional on observing appropriate and recognised terms and conditions for the workforce, with no scope for low pay/no pay opportunism. In short, public funds should be conditional on meeting a quality employment threshold.

Q9

We understand that lottery funding is only ever one element – possibly only 5-10% - in a financial package for a production. The question is therefore whether this element can be used more advantageously as a lever for other funding sources (ie. private investors and pre-sales income). This should, in our view, be the focus of lottery-funding decisions.

Q10

We refer to our earlier response on the issue of production slates.

Q11

We strongly support the continuation of the system of tax credits for British films. However, we also have some longstanding concerns (in addition to the point made above concerning a tax break for indigenous medium-budget production).

We believe the 'used or consumed' provision has negative consequences for the provision of UK labour and services abroad and, even more significantly, encourages the use of non-EU labour and services in the UK even when highly-skilled and experienced UK labour may be readily available. In the long term, this harms our domestic skillsbase.

The latter problem is compounded by aspects of our managed-migration system (operated by the UK Border Agency) which, in our view, allows leeway for the inappropriate use of non-EU labour.

Q12

We acknowledge the constructive role played by the BBC and Channel 4 in investing in British films and we see a continuing need for a channel like Film 4 where independent British and other productions can be shown. However, we believe that BSkyB has signally failed – relative to its enormous revenue – to invest in original British film production. We believe this should be highlighted and addressed.

Q13

Our overall view is that closer integration of production companies with distribution could be beneficial – especially if this provides enhanced opportunities to distribute British films.

A subsidiary issue – which is of great interest to us – is that greater integration of this kind would also produce greater corporate continuity and thereby accountability for monies owed to creative and technical labour. Single purpose vehicles are sadly notorious for ceasing to operate or going into liquidation with significant debts owing to their previous labourforce. This sort of tactic - sometimes used in a calculated and pre-planned manner – is unacceptable in any production sector which purports to operate as a worldwide centre of excellence.

Q13.5

We welcome the fact that the UKFC Research & Statistics Unit (RSU) has had its functions transferred to the BFI. We look forward to seeing this vital function supported by stable funding.

We strongly believe that in such a fragmented sector as the UK film industry, the central collection and publication of market intelligence of this kind is vital – in order to inform future strategies and investment decisions. We therefore call for a clear commitment to the continued publication of key production statistics (especially on numbers of productions and UK spend) – without restriction to commercial subscribers or on any kind of '2 tier' basis.

Distribution

14. What do you think is the most important issue to be addressed regarding the UK film distribution business? Please explain your answer, outlining how you think the issue might best be resolved.
15. An aim of Government policy since 2000 was to increase the market share of UK films in the UK market. Should this still be an aim?
- Yes
 - No
 - Don't know
- Why do you think that?
16. What are the implications of new distribution models now entering the industry? If you think Government has a role in addressing these implications, please tell us what you think that should be in the box below.
17. Is there a role for Government in stimulating digital innovation in distribution?
- Yes
 - No
 - Don't know
- Why do you think that?
18. Do you think Government policy in relation to film piracy needs to change in any way?
- Yes
 - No
 - Don't know
19. If you have any other suggestions for strengthening the UK's distribution sector, please write them in the box below.

Q14

As indicated above, we believe that a key problem is the lack of access to distribution deals for UK films - partly reflecting the dominance of Hollywood in this area and partly reflecting the lack of integration between production and distribution in the UK. We therefore face a continuing structural problem of a fragmented production-led industry seeking to compete in a world market dominated by the distribution-led, integrated U.S film industry.

Policies to address this could include: voluntary targets for the increased distribution of British film; and tax incentives conditional on such distribution or on the reinvestment of a proportion of UK revenue in UK production.

Q15

We support the continuation of this aim – both for economic/employment reasons (as outlined above in respect of indigenous medium-budget productions) and for obvious cultural reasons.

Q16

We outlined - in the section above on 'Our Overall View' - our belief that while piracy is a growing challenge, there are also opportunities for new business models for film, including video on demand/subscription film online or more developmental digital 'cloud-based' services. There is, of course, no certainty of success at this point.

At the same time, we believe any such new model should be underpinned by support for strong and enforceable intellectual property (I.P) rights for individual creators and other rights holders across all new markets and platforms – both as a reward for the creators themselves and as an incentive for investors to re-invest in the future.

Q17

Stimulating digital innovation in distribution will first require that Government protects I.P rights by implementing the anti-piracy measures in the Digital Economy Act. Strong IP rights will be the best basis to encourage investment in digital innovation since many potential investors will want a measure of security against piracy.

Q18

Our general view on piracy was outlined in the introductory section on global challenges. We do not think the current focus needs to be on developing new policy; it should rather be on implementing the current policy measures embodied in the Digital Economy Act, ie. the warning regime against significant repeat offenders followed by 'technical measures' only if necessary.

Exhibition

20. What do you think is the most important issue to be addressed for the future of theatrical exhibition of films? Please explain your answer, outlining how you think this issue might best be resolved.

21. Is there a role for Government in stimulating innovation in relation to digital technologies in the exhibition sector?

- Yes
- No
- Don't know

Why do think that?

22. Is there a role for public funding of independent cinema exhibition?

- Yes
- No
- Don't know

Why do you think that?

22.5 If you have any other suggestions for how Government policy could change in relation to the Exhibition sector, please write them in the box below.

Q20

The most important current issue is the switchover to digital exhibition. We have long anticipated a tipping-point where the bulk of the sector switches and we seem to have reached that point. Our concerns remain the job security and destaffing implications for the exhibition workforce.

A significant sign of the times is that Deluxe Laboratories is ceasing its processing work on 35mm and 16mm film and subcontracting such work to its great commercial rival, Technicolor. Deluxe's stated reason is the 'dramatic shift from film to digital capture on UK productions.'

Q21

The Government has already played a role – via the UKFC – in developing the Digital Screen Network. We believe future support for stimulating innovation should focus on assisting non-commercial outlets on making the transition to digital cinema, rather than supporting the major commercial chains, which are well-equipped to invest in digital technology without receiving public funds.

Q22

Given that the UK exhibition sector is one of the most concentrated in Europe – with the top 5 circuits controlling around 70% of total screens – we believe there is a role for public funding of independent exhibition on economic grounds and also on cultural grounds (if independents can be encouraged to feature British productions). Such funding could encompass publicity, geared to exhibitors and distributors, on the availability of recent British productions.

Q22.5

Given the continuing problems in our indigenous production sector, there is a case for re-examining the possibility of recycling a proportion of box office revenue into British production. We further note that the UK is one of the very few EU member states to levy VAT at full rate on cinema tickets. It might be that the German model of reduced VAT, together with a recycling of some of the extra exhibitor revenue into production, is applicable in the UK.

UK Film and the International Market

23. What do you think is the most important issue to be addressed for the future of the UK's relationship with the international market?

24. Is there a need for the UK to engage more proactively with European initiatives relating to film?

- Yes
- No
- Don't know

Why do you think that?

25. Do you think co-production (as distinct from inward investment) is an important business for British film?

- Yes
- No
- Don't know

Why do you think that?

26. How can Government and industry ensure we engage effectively in new and emerging markets – for example, China and India?

27. How can Government strengthen inward investment? Please explain your answer.

Q23

Our main themes in this area have already been outlined in our response in the opening section on global challenges, ie. the need to develop a new business model; to combat the threat of piracy; and to invest in our high value/high skill industry in order to compete on quality rather than just price with proliferating alternative production industries.

As we also indicated above, we should protect ourselves against excessive reliance on the international market by providing additional support for our indigenous medium-budget production sector.

Q24

We should continue to engage with the Media Programme and should reconsider the issue of rejoining Eurimages.

Q25

We continue to value co-production as an additional mechanism for the UK production industry to wean itself away from structural overdependence on inward investment. We believe that tackling the 'used or consumed' issue in relation to tax credits (see our response to Q11) will be a necessary element in supporting the revival of co-production.

Q26

We can best engage in emerging models by developing the UK as a world-class, high-value/high-skill production centre. We can simply never win under any international strategy geared to competing on price in a race to the bottom.

Q27

The UK can continue to attract inward investment:

- by retaining our system of tax credits (with desirable amendments as indicated above)
- by investing in our world-class skillsbase
- by supporting the valuable work of the British Film Commission and reconsidering its currently tight budgetary constraints
- by providing an environment of strong I.P rights to encourage re-investment

Talent Development

28. Do you think enough is being done to find and nurture exceptional filmmaking talent amongst children and young people, compared to other art forms (for example, dance, music or theatre)?

- Yes
- No
- Don't know

29. How can our film schools best prepare for the challenges and opportunities of the digital age?

30. How can Government and industry ensure that talent being developed in the UK truly represents the diverse population of the country?
31. How can Government best support and strengthen the current UK skills strategies for film? Please explain your answer.

Q28

We commend the work of the 'First Light' programme but believe more could be done in this area.

Q29

A point of significant concern – even prior to the point of entry to film schools – is the prevalence of media/media studies courses of extremely questionable quality in secondary and further education. Such courses can produce an oversupply of students with grossly unrealistic expectations of their potential employment prospects in the film industry. There needs to be a far more sober, realistic and joined-up approach encompassing media education and the realities of the film industry labour market.

We further note that the vast majority of our film schools/academies are geared to postgraduate entry and to senior creative and managerial skills. We therefore welcome the establishment of the Skillset Craft and Technical Skills Academy. We believe there should be increased emphasis on developing this area of craft and vocational skills.

Q30

We refer you to our earlier answer outlining the work of our award-winning 'Move On Up' events. We believe more could be achieved in this area.

Q31

As argued previously (questions 1 to 4) the British film industry must respond to technological change and global competition by continuing to distinguish itself as a high skill/high value production centre. There is no future in a race to the bottom based purely on cost.

Continued investment in our skills base is a cornerstone of this response.

We are not starting from scratch. We already have a Film Skills Strategy, co-ordinated through Skillset, which identifies training and skills priorities. We also have mature arrangements for monitoring delivery and responding to new developments. Funding for these activities has come from a variety of sources: Lottery money previously routed through the UK Film Council and now through the BFI; the voluntary Skills Investment Fund levy on film productions; company/employer investment in their own staff training; and investment by individual freelance workers in their own training.

Practical outcomes include a growing series of professional craft qualifications, such as those for Grips and Crane Technicians, which validate the world-class status of UK film skills; and a new emphasis on Apprenticeships, such as the Set Crafts Apprenticeships scheme administered by Skillset's new Craft & Technical Skills Academy.

However it also remains the case that in certain areas of cutting edge technological change - digital Visual Effects, 3D - the domestic skills base remains insufficient to meet demand.

The key contribution Government can make is to work with the industry in supporting and developing the funding mechanisms which underpin this work. In practical terms this means:-

- Confirming support for the use of Lottery Money routed through the BFI to fund the Film Skills Strategy;
- Working with the Film Industry Training Board in moving over time from a voluntary training levy to a mandatory training levy;
- Confirming existing arrangements to match industry investment with public funds to support the development of Apprenticeships and professional Qualifications.

Audience Development, Film Education and Heritage

32. What do you think the role of Government should be in enabling the continuing development of film culture in the UK?

33. Do you think the intellectual property regime needs to be changed to provide better access to the UK's rich screen heritage?

- Yes
- No
- Don't know

Why do you think that?

Q32

We continue to support the work of the BFI in this area. We hope the Government will address the financial constraints following the transfer of significant extra functions from UKFC.

Even though it is technically possible now to see films from all countries and from the past in the UK it is still very difficult to do so. Our industry is culturally isolated and dominated by US culture. We need to allow and encourage audiences to see films from the whole world, past classics and films from the silent era by means of increased exposure on TV channels, the abolition of DVD certification on foreign DVDs, lobbying of DVD services like "Love Film" and increased support for this in the work of the BFI.

Q33

While recognising and supporting our long-established system of copyright exceptions for purposes such as education, we would not approve any significant broadening of these exceptions. We believe that the maintenance of a continuing 'rich screen heritage' requires us to provide strong I.P rights for individual creators who produce their works in the first place. We have no problem with encouraging rights-holders to make their works available voluntarily – perhaps with a system of non-monetary recognition for doing this.

Innovation and Future Proofing

34. What in your view are the main obstacles to change in the British film industry?

With the emergence of new digital technologies, consumers have an increasing array of choice for how they consume content.

35. What, in your view, is the most important challenge in this specific area for the British film industry?
36. What in your view, is the most important opportunity in this specific area for the British film industry?
37. How, if at all, does the intellectual property regime need to be changed to support future growth and innovation in the British film industry?
38. What, if any, changes are needed in workforce skills to support future growth and innovation in the British film industry? What opportunities do you see arising for the British film industry from increasingly convergent digital devices, applications and content?

Q34

There are no structural obstacles to change in the British film industry. Change – especially prompted by digitalisation – is occurring whether we like it not. The issue is how we manage the direction of change (including the threat of piracy), and on whose behalf.

Neoliberal economic analysis – especially given its spectacular failure in the financial sector – has no traction in the British film industry. There is no case for deregulation – least of all in the labour market, where there is already an extremely flexible workforce. The need – as in the case of tax breaks and piracy – is for more intervention not less.

Q35-36

For reasons already outlined above, we believe the key challenges and opportunities in this area concern those of piracy and I.P rights. We need strong anti-piracy measures to protect jobs and stimulate continued investment. We need strong I.P rights to create a climate in which investors will be confident enough to invest in new digital technologies and platforms. If we provide a sustainable environment of this kind, we will maximise the prospect of a new and successful business model for film production in the digital age.

Q37

The issue is wrongly posed. In order to support the future growth of the British film industry, we need to protect the I.P rights we have rather than change the regime. With this as our starting point, we should give careful consideration to the ideas in the Hargreaves report.

Q38

We strongly support any measures to provide continuing professional development and training opportunities in digital skills for the film industry workforce – eg. in the area of new camera and sound formats.

However, we equally strongly believe that it would be a strategic mistake to downplay the importance of retaining traditional craft and technical skills, eg. in set construction. Our skillsbase in this area is one of the UK industry's key attractions for inward investment. We should continue invest in those skills.

Finance

39. What are the barriers to investment in the creative content industries, and in particular film, in the UK?

40. What could we do to address these barriers?

41. How might Government incentivise the private sector to invest more in British film industry?

42. How can Government and industry ensure that UK film makers benefit from the success of their films?

43. How do you think recouped funds from public investment might best be re-invested for the benefit of UK film?

Q39

We have already outlined our views on the significance of piracy and I.P rights in terms of attractive future investment.

We believe the broader economic context continues to be relevant. As referred to in the opening section, the impact of recession and the Government: excessive, ideologically-driven public-spending cuts are delaying economic recovery and provide a discouraging climate for new investment.

Q40

Public funding and fiscal policy – encompassing lottery funding and tax credits– has a strategic role in leveraging additional and significant private investment. As indicated in our response to Q8, this could usefully be focussed on our indigenous production industry, which suffers from structural underinvestment. When linked to recoupment proposals potentially allowing domestic producers to re-invest revenue from previous productions (as referred to in Q43), this could be a means of overcoming the traditional barriers to investment in our domestic production sector.

Q41

The Government can incentivise public sector investment:

- by retaining and reforming (as indicated above) our system of tax incentives
- by dispelling any doubt about its continued commitment to our current system of strong I.P rights and ‘fair dealing’; and by recognising the problem faced by creators who are often compelled to sell all their rights upfront thereby losing any ongoing benefit from the success of their work.
- by vigorously acting on the provisions on the Digital Economy Act to implement a warning regime against significant and repeat offenders (in terms of online piracy) and by following up through the prescribed ‘technical measures’ as a further resort if necessary.

These steps will help to create a climate encouraging to increased private investment in the film industry.

Q42

Among other measures, we advocate above support for a slate approach encouraging continuity; and reconsideration of a mechanism to recycle a proportion of box office revenue into UK production.

Q43

We believe that the PACT proposals on public funding and recoupment should be given consideration – but with a critical examination of the level of production fees proposed and of the implications for future public funding of allowing the entire recoupment to accrue to specific production companies. Furthermore, we strongly believe that any amendment in the direction advocated by PACT should be explicitly linked to a quality employment threshold of acceptable terms and conditions for the workforce (rather than low pay/no pay opportunism and exploitation on the part of producers).

Nations and Regions

44. Do you think current Government policy in relation to film throughout the Nations and Regions outside London could be strengthened?

- Yes
- No
- Don't know

45. Why do you think that?

Q44-45

We believe Government policy in this area could be strengthened. Our perception in respect of Scotland, Wales and Northern Ireland is that their screen agencies continue to play a valuable role. We recognise the role of Creative England but we also recognise that the organisation has been provided with absolutely minimal funding. The location of all three 'hubs' in the West of the Country (Manchester, Birmingham, Bristol) should not pre-empt a fair distribution of investment and support across all regional screen agencies, with due recognition to the strong independent film culture in the eastern regions.

Andy Egan/nc/13 September 2011