

# BFI COMMISSION ON UK INDEPENDENT FILM







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# FOREWORD

## **Josh Berger CBE**

Chair, BFI

In our *BFI2022* strategy we committed to undertake a special commission to look more deeply into the current health of independent film.

Over the years there have been regular commissions, reviews and studies looking at UK independent film. However we are all operating in a very fast moving arena, and it is several years now since the last film policy review. It was therefore acknowledged by the BFI Board that to stay alert to changes and developments a fresh look was merited and would be really valuable.

I would particularly like to thank Zygi Kamasa, who generously took on the task of chairing this new Commission, and the Commission membership who brought expertise from all areas, traditional and new. It is to their credit that they determined from the start that the Commission and its report should be industry-led.

This report is pragmatic in its approach, doesn't hide from the transition the industry is weathering, and identifies that at this point no-one is able to predict which of the many business models will triumph. It does, however, remind us that we live in an era when audiences are clamouring for stories told through the moving image and there is no reason why UK independent film, famed for its creativity, shouldn't aim to benefit as fully as possible. The report is refreshing, with a number of innovative initiatives – which I believe through judicious partnering between the industry, the BFI and Government – will make a difference.

# INTRODUCTION



## Zygi Kamasa

CEO, Lionsgate UK and Europe  
Chair, Independent Film Commission

## Amanda Nevill CBE

Chief Executive, BFI

We are in the midst of an industrial revolution.

The emergence of platforms driven by new technologies and the maturing of a diverse and digitally native generation of audiences and filmmakers has fundamentally challenged the status quo. The traditional business model for independent film is no longer fit for purpose, and new models are still emerging. It is a transformational moment.

The long-established cultural hierarchies between different media such as film and television are disappearing. Major international entertainment businesses are consolidating and new players – large and small – are emerging. Those that succeed have harnessed digital technologies and recognise that increasingly audiences have a different perception of the value of what they watch, and a different expectation of how they consume and interact. The theatrical and online markets are dominated by high budget and mostly US material.

Given increasing bandwidth and connectivity, there is the potential for independent film to better grasp these opportunities and prosper:

- PwC predicts that between 2018 and 2022, the value of the global market for filmed entertainment will grow by 12% to \$99 billion<sup>1</sup>
- Over 10 million households in the UK now have access to one or more SVOD services, with Netflix the market leader with over 8 million homes with access in Q4 2017<sup>2</sup>
- In 2017, the BBC iPlayer received 3.3 billion views, peaking in December 2017 with 327 million views, over 10 million every day<sup>3</sup>
- YouTube has 1.5 billion users worldwide<sup>4</sup>

- Amidst all these changes, watching films at the cinema remains popular. UK box office receipts in 2017 were £1.3 billion, up 1.4% on 2016 and an all-time record<sup>5</sup>
- By the end of 2017, the UK had 4,264 screens, 114 more than 2016, in 774 separate cinema sites.<sup>6</sup> This figure has increased consistently across the last few years, and coupled with the growth in community cinema provision, gives UK audiences more opportunities than ever before to engage with film outside the home.

The next wave of internet innovation will be driven by, amongst other things, the increasing sophistication of artificial intelligence, blockchain technologies and the availability of 5G mobile networks at scale.

All of these technologies are likely to present opportunities for producers, distributors and exhibitors of independent films, including through the rapid analysis of audience data, choice of film and platform, and the ability for filmmakers to see data on revenues and usage from source in real time. It may even allow people to be directly and instantly compensated for their work.

For filmmakers who would otherwise have limited access to sufficient finance and distribution platforms of any scale, there is a significant opportunity to connect to a growing, digitally connected global audience. There is also an opportunity to collaborate with, and learn from, the cinemas, platforms, and other intermediaries who broker the relationship with audiences.

As a sector and as an industry, we must rapidly realign and innovate, not just for economic prosperity, but to ensure that film – and especially UK independent film – remains a popular means of cultural storytelling and a platform for the cultivation of creative and commercial talent.

The aim of this report is to identify some possible paths to future success and stability and, ultimately, to help the UK independent film sector – which makes films that resonate culturally with UK and international audiences – remain accessible and economically viable in a landscape that is increasingly

<sup>1</sup> PwC Global Entertainment and Media Outlook 2018-2022, [www.pwc.com/outlook](http://www.pwc.com/outlook)

<sup>2</sup> BARB Establishment Survey Q4 2017, [www.barb.co.uk/tv-landscape-reports/tracker-svod](http://www.barb.co.uk/tv-landscape-reports/tracker-svod)

<sup>3</sup> BBC iPlayer Report, December 2017, [www.bbc.co.uk/mediacentre/latestnews/2018/iplayer-2017-stats](http://www.bbc.co.uk/mediacentre/latestnews/2018/iplayer-2017-stats)

<sup>4</sup> Statista, Global number of YouTube viewers 2016-2021, [www.statista.com/statistics/805656/number-youtube-viewers-worldwide/](http://www.statista.com/statistics/805656/number-youtube-viewers-worldwide/)

<sup>5</sup> BFI Research and Statistics Unit, The UK Box Office in 2017, Official Statistics Release, January 2018, available at <http://www.bfi.org.uk/education-research/film-industry-statistics-research/official-statistics-release-calendar>

<sup>6</sup> BFI Research and Statistics Unit analysis of data from Dodona Research

characterised by a small number of dominant platforms and entertainment businesses.

## Independent film matters

The UK has the creative might: UK independent film is a cradle of talent, both behind and in-front of the camera, supporting our global reach and attracting the best film and TV players from across the globe to make their homes here in the UK.

UK independent film matters: it has the power to promote our diverse and vibrant way of life, influence how the world sees us with stories that celebrate UK culture and ideas and drive the exports of UK plc. All increasingly important as we leave the EU and shape our new place in the world.

The UK independent film business is a great enabler of film talent, storytelling and innovation.

Many of our most valued (and valuable) actors, producers and filmmakers began their careers thanks to the relative accessibility and creative freedom of independent filmmaking and work across independent, studio and television businesses.

Beyond television, there are clear creative and economic opportunities for our film industry to intersect with the growing independent UK games and interactive communities.

The creative industries sector, including film, has been named by Government as one of the cornerstones of its Industrial Strategy. It has been one of five sectors singled out for an early 'sector deal' to unlock growth for creative businesses.<sup>7</sup>

As a business, independent film can be particularly high risk, but we benefit from a number of competitive advantages that collectively underpin a business worth £6.1 billion to the UK.<sup>8</sup>

- An effective UK film tax relief

- A publicly funded programme of support – via the BFI, its partners (including the agencies in the nations and regions, Creative Skillset and Into Film), the British Council, the BBC and Channel 4 – for the development and promotion of creative and technical talent, for business enterprise and for audience development, as well as the work of internationally recognised organisations such as BAFTA and the NFTS. A strong and distinctive cultural heritage that is internationally renowned (eg film, television, publishing, music, theatre and heritage) and provides rich source material for storytelling and the development of ideas
- One of the fastest-growing creative economies in the world that has the screen sectors at its heart, demonstrating our capability and providing confidence to companies across the globe about the UK as a place to do business
- A Government that is strongly committed to the creative industries and digital as a key driver of economic growth and productivity in an overall climate of economic uncertainty
- A well-capitalised, digitally equipped exhibition sector that has the capacity to show films in increasingly diverse ways, and which will become even more valuable to independent distributors when virtual print fees no longer apply<sup>9</sup>
- High levels of penetration by SVOD services that use both the UK's rapidly expanding superfast broadband network and well-established and widely available 4G mobile networks<sup>10</sup>
- An internet which is, in relative terms, still in its infancy and which is likely to provide huge new opportunities for UK film over the next decade and far beyond, including through innovation driven by the UK's thriving technology sector.

The challenge we face is how UK independent film can take full advantage of its creative success and evolve more swiftly to better compete in the digital age of opportunities.

<sup>7</sup> [www.gov.uk/government/publications/creative-industries-sector-deal](http://www.gov.uk/government/publications/creative-industries-sector-deal)

<sup>8</sup> Office for National Statistics

<sup>9</sup> Though there is no specific date for the end of Virtual Print Fees, integrators are currently working toward their cessation.

<sup>10</sup> The UK has the most developed VOD market in Europe and is home to 603 services - 27% of the EU total. Source: European Audiovisual Observatory, Yearbook Key Trends 2017-2018, May 2018



# THE COMMISSION REPORT

## Our role

This Commission has been convened by the BFI to deliver on its commitment in *BFI2022* to undertake ‘a deeper investigation into the health of UK independent feature films so that we can contribute towards improving conditions for its long-term future.’<sup>11</sup>

Looking at the independent film sector in the round – across development, production, sales, distribution, theatrical exhibition, VOD, pay-TV and terrestrial television – we have set out to identify industry-led actions and recommendations for Government.

Early on, we identified that one of our key goals was to try to identify interventions that contribute to improved conditions whereby meaningful intellectual property (IP) rights can remain with producers and filmmakers in the UK.

We asked ourselves what success looks like for the UK independent film sector and agreed on the following aim:

“The production of a consistent flow of commercially successful UK films by UK independent companies – under the control of shareholders resident in the UK – where significant intellectual property rights in the films, with meaningful and continuing asset value, remain with those companies.”

In particular, we have considered what we could do to:

- Respond to the changing habits, perceptions of value and expectations of audiences, to help grow overall revenues for UK independent film
- Explore how, as a sector, we might better use technology to capture and learn from audience data, to ultimately distribute and monetise UK independent film more effectively

- Identify new sources of public, private and commercial investment to help UK producers make films at a scale that can attract a substantial domestic and international audience, and in so doing attract more commercial investment to the independent film sector
- Consider whether current rights arrangements and sequencing for UK film are fit for purpose in maximising value to filmmakers and investors through maximising audience access
- Strengthen our ability to collaborate internationally.

A range of suggestions and issues arose through regular Commission meetings, feedback from industry roundtables, statistical presentations and consultation responses. We considered every suggestion in terms of likely impact and likely achievability measured against the aims of the group.

A list of consultees can be found in the appendices. In considering the needs of the industry in a holistic manner, we recognise that this report does not tackle some of the more granular or localised issues that were raised during discussions.

We are sensitive to the many reviews of UK independent film in recent years, and wished to avoid repeating common or prevailing arguments, or indeed spend too much time on policy interventions that would be difficult to achieve in a challenging economic environment.

Our report sits alongside the 2017 Olsberg SPI report for Pact, and the recent Michael Franklin research report for the Institute for Creative and Cultural Entrepreneurship at Goldsmiths University, *Examining the understanding and management of risk in the film industry*.<sup>12 13 14</sup>

We also look forward to the publication, later this year, of the *BSAC study on the contribution of independent feature film production to the wider UK Audiovisual production economy*.

<sup>11</sup> BFI, *BFI2022*, November 2017, [www.bfi.org.uk/2022](http://www.bfi.org.uk/2022)

<sup>12</sup> The Olsberg SPI Pact report is available at [www.o-spi.co.uk/the-state-of-the-uk-independent-film-sector-report-launched-at-bafta/](http://www.o-spi.co.uk/the-state-of-the-uk-independent-film-sector-report-launched-at-bafta/)

<sup>13</sup> The Franklin report is available at [http://research.gold.ac.uk/23476/1/20180016\\_research\\_take-away\\_independent\\_film\\_sector\\_DSGN\\_TL\\_v8.pdf](http://research.gold.ac.uk/23476/1/20180016_research_take-away_independent_film_sector_DSGN_TL_v8.pdf)

<sup>14</sup> These reports are hereafter referred to as ‘the Olsberg SPI Pact report’ and ‘the Franklin report’.

## Key emerging themes

The common and prevailing challenges facing the independent film sector were consistent factors in our discussions, stakeholder roundtables and consultation responses:

- A general climate of financial caution towards high-risk business, exacerbated by the overall economic uncertainty caused by Brexit and the volatile global economy. The Olsberg SPI Pact report found that the global recession was one of two main disruptive factors in the UK independent film sector from 2007-2015, the other being digital disruption.<sup>15</sup>
- Traditional sources of finance and revenue for independent film are in decline including a sharp drop-off in the value of UK and international distribution deals. This has been caused both by the diminished distributors' profit margins resulting from the transition from physical (DVD/Blu-ray) to digital media (VOD) and by the continuing fall in the value of film deals to broadcasters. Distributors have therefore become more risk averse, which affects independent films in particular. The Olsberg SPI Pact report estimated that there was a decline in international market value for UK independent films of about 50% from 2007 to 2015. Pre-sales are key to gap finance for production funding, as well as unlocking the legacy EIS funds that require presales to demonstrate a project's commerciality viability.
- Changing consumer behaviour in the wake of digital innovation and massively increased competition from digital platforms. This has put pressure on the value of film to traditional broadcasters.
- A steep rise in the number of films being released in cinemas suggests a vibrant marketplace.<sup>16</sup> But we recognised that this is in part exacerbated by the larger number of films with very limited theatrical value receiving technical releases to trigger access to the film tax relief or ancillary values such as SVOD, therefore making it harder for independent films to hold screens and gain the attention of audiences.
- Films compete for screen and leisure time with social media, online video and gaming, and e-sports, particularly among young audiences.<sup>17</sup>
- In cinemas, the output of the major US studios based on comic books and other franchises predominates, with single releases regularly occupying multiple screens, television and online. There is significant competition for audiences from the increasing volume and high production quality of high-end television.
- Europe is a crucial export market for UK independent film, especially as the latest data indicates that the value of exports to Europe is at a similar level to those of the USA. In 2012-2016 (the latest period for which we have data), Europe represented 41.7% of the UK's film exports, compared with the US market which accounted for 42.2%.<sup>18</sup> The importance of the European market is further highlighted when looking at other key territories for UK independent film, such as Australia and New Zealand. Whilst UK film performs well at the box office in these territories, this only translates into 0.8% and 0.1% of UK film exports respectively.<sup>19</sup>

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<sup>15</sup> Olsberg SPI, *Op. cit.* p11

<sup>16</sup> BFI Research and Statistics Unit, *Yearbook 2017*, September 2017, available at [www.bfi.org.uk/education-research/film-industry-statistics-research/statistical-yearbook](http://www.bfi.org.uk/education-research/film-industry-statistics-research/statistical-yearbook)

<sup>17</sup> Ofcom, *Adults' media use and attitudes*, April 2018

<sup>18</sup> Office for National Statistics

<sup>19</sup> *Ibid.*

A number of more specific issues were also examined:

### Development

The significant time and cost – and the inherent risk – of developing viable and fully realised film projects, including the costs of acquiring properties such as books, and attaching writing talent were identified as barriers. Several sales executives and distributors also observed that there was a decreasing number of compelling scripts with commercial potential. A lack of time and funding in the development process is making projects increasingly difficult to package, finance and sell.

This lack of development financing in independent film has become even more of a challenge in an environment where the US studios, online platforms and producers working in high-end television have a commercial advantage in acquiring valuable properties at any early stage, paying talent substantial fees, and spreading their risks across a broad slate.

### Production

We noted from data presented by the BFI's Research and Statistics Unit that UK independent films in the £10-15 million budget range on average performed better, relative to their cost, than films costing either more or less: films in the £10-15 million budget range released between 2003-2014 had an average UK box office of £10.1 million and international box office (excluding UK) of \$19.3 million, whilst films with budgets of more than £15 million had an average box office of £7.5 million in the UK, and \$7.4 million internationally.

However, we also noted that production spend for UK independent films at this level had declined in recent years (as illustrated in the chart below).<sup>20</sup> We heard from independent producers throughout our consultations that films over £10 million are harder than ever to finance without the involvement of a US studio or major platform.

Number of films made in the UK by budget band 2007-2017

Budget band	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
£15m+	2	2	1	4	1	3	2	4	2	8	1	30
£10-15m	5	2	2	1	4	6	2	2	4		5	33
£2-10m	35	39	48	42	43	38	46	41	41	39	28	440
<£2m	162	218	244	295	278	278	274	253	226	183	108	2,520
<b>Total</b>	<b>204</b>	<b>261</b>	<b>295</b>	<b>343</b>	<b>326</b>	<b>325</b>	<b>324</b>	<b>300</b>	<b>273</b>	<b>230</b>	<b>142</b>	<b>3,023</b>

UK independent films (produced 2003-2014) that have had a UK cinema release

Budget band	Number of films	Average of UK box office (\$)	Average of international box office excl UK (\$)
<£0.5m	354	36,772	25,926
£0.5-£2m	246	266,318	325,415
£2-£5m	149	2,086,725	1,944,046
£5-£10m	67	4,915,425	14,896,666
£10-15m	13	10,105,912	19,327,078
£15+m	6	7,536,570	7,407,523
<b>Total</b>	<b>835</b>	<b>1,072,315</b>	<b>2,003,193</b>

<sup>20</sup> BFI Research and Statistics Unit, comScore, *BFI Statistical Yearbook 2017*, September 2017

Producers are often forced to reduce budgets due to these challenging market conditions, which may lead to reducing their film's ambitions and potentially their commercial value.

As the Olsberg SPI Pact report noted:

“The fact that 92% of film budgets are under £10 million underlines the difficulties that UK producers can have in sourcing finance for large budgets.”

Enhancing the opportunity to create films at such budget levels would also address a concern about supporting talent progression, expressed by Directors UK in its consultation response:

“The virtual elimination of the mid-range budget film (£5 million to £15 million) has removed a key career progression step. This has led to a brain drain of promising UK directors to high-end television or to the US. It is to everyone's creative advantage to keep our talent working here.”

This also applies to writers, producers, cast and crew.

## **UK film tax relief**

We acknowledged the huge boost that the current creative sector tax reliefs, and in particular the film tax relief, have delivered to the creative economy and the production of many culturally British films that might not have otherwise been made.

Government support for the UK's screen industries through the creative sector tax reliefs is stimulating business growth, creating jobs, attracting inward investment into the UK, enabling export of UK productions and services internationally.

Annual data collated by the BFI has shown that expenditure on feature film production in the UK has more than doubled in 11 years since the film tax relief was introduced, growing from £849.3 million in 2007 to a record-breaking £2 billion in 2017.<sup>21</sup>

We have carefully considered Olsberg SPI's report for Pact, and Pact's subsequent proposal of an uplift in the film tax relief for UK producers working on films in the £2 million-£10 million range. We agreed there is a need for additional help to create UK independent films of scale, particularly those with joined up distribution strategies, although the budget range in scope (£2 million-£10 million) does not sit squarely with our own analysis of the commercial opportunities in projects with budgets in the £10 million-£15 million range, and over.

This issue needs to be further explored with the Government and industry.

## **Maximising international cooperation**

We recognised that, while the existing film tax relief is highly effective for films, it works less well for official co-productions – whether made via one of the UK's 11 bilateral co-production treaties or via the Council of Europe's Convention on Cinematographic Co-Production. Currently, these co-productions receive up to 20% less tax relief, as explained in Proposal 7.

Alongside these concerns, we also discussed the importance of the UK remaining in the successor programme to Creative Europe after 2020 and the potential benefits of rejoining the Council of Europe's Eurimages fund, which the UK left in 1996.

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<sup>21</sup> BFI Research and Statistics Unit, *Official statistics for UK production 2017*, January 2018



## Challenges and opportunities of online platforms

The big opportunity is to work more effectively in partnership with the online platforms. The major players – Facebook, Apple, Amazon, Netflix and Google (collectively known as FAANG) – have a collective market capitalisation of just under \$3.25 trillion. We noted the increasing amounts of money that some of these companies are investing in developing and producing content, and believe that developing much stronger partnerships would be beneficial across the board.

BBC iPlayer, traditionally seen as a catch-up service, could also be a valuable tool to help independent films reach a much broader audience as part of an overall strategy of developing partnerships with large online platforms. iPlayer is already regulated as part of our public broadcasting landscape and has a huge repository of data.

We agreed that the independent film sector's relationship with the SVOD platforms was complex.

As Film Export UK noted in its consultation response:

“A common theme running through our comments is the challenge from VOD, especially SVOD, for audiences, talent and revenues which have traditionally been enjoyed by independent films. Any partnership solution that ignores these players will be ignoring the elephant in the room.”

## Challenges and opportunities in distribution and exhibition

Audiences' increasing appetite for film means there are significant opportunities to grow revenues for all those involved in delivering films to audiences.

However, we are frustrated by some persistent issues which are inhibiting the ability of independent distributors to build businesses around UK independent film, and which in turn limits the ability of these films to reach a wide audience.

This has led to a marked and disconcerting reduction in the number of independent distributors actively acquiring and successfully releasing UK independent films. Some concerns we discussed:

- An outmoded chronology of releasing across different media (see page 21)
- The high cost of releasing films in the UK, in what is a very expensive advertising market
- The increasing dominance of a small number of major releases, which are supported by large marketing budgets and occupy increased numbers of screens, making it harder for UK independent productions to find their audience
- The struggle for independent distributors to secure optimal value from the licensing of UK independent films on a consistent basis to both pay-TV and SVOD platforms
- The declining value of film to traditional broadcasters as a consequence of changing audience behaviours, notably the decline in younger audiences' engagement with terrestrial television<sup>22</sup>
- In this context, access to data about audiences on all platforms, domestically and internationally, will become increasingly important. No meaningful audience data is currently publicly available about the performance of films on SVOD platforms
- We were struck by the need to radically rethink the existing model of releasing films and current contractual licensing arrangements, whilst also determined to explore how we can better engage a younger audience for independent film in cinemas and online.

“An independent study commissioned by the Film Distributors' Association in 2017 found that overall films released theatrically earned 90% of their UK/Republic of Ireland box office after six weeks”<sup>23</sup>

– Mark Batey, Chief Executive Film Distributors' Association

<sup>22</sup> Ofcom, Communications market report 2017, August 2017, available at <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2017>

<sup>23</sup> This analysis was based on 1,875 films released in the UK between 1 January 2006 and 31 December 2016 which earned £500k or more at the UK/Rol box office.

## **Intellectual property infringement and theft**

The copying of IP is easier than ever before. Many independent films, especially the most successful ones, are subject to infringement and theft, not just in the UK but across the world.

We want to ensure that UK legislation remains effective in reducing illegal behaviour and that pressure continues to be exerted to ensure that search engines, social media companies, advertisers, and payment processors play their full part in helping to stamp out illegal activity. We welcome the Government's commitments to protect the IP of creative businesses, announced in the recent creative industries sector deal.

The need for more effective protection also exists on a global basis, particularly in territories where the relevant IP framework is weak. Alongside protection, education about IP and legal access to the widest possible range of UK independent films also has a role to play in reducing infringement and theft.

The vital role of IP in sustaining the creative sector must be a priority when the Government seeks to conclude any new free trade agreements. It must insist on strong measures to protect IP including independent film where this does not already exist – in part because IP represents one of the principal drivers of economic growth for the UK.

## **The continued importance of diversity and inclusion**

Socially, politically and globally, it is more important than ever to explore who we are, and to express the diversity of our culture, values, stories and histories. The industry is waking up to the intrinsic value of embracing diversity, and the discussion has become one about social responsibility and commercial opportunity. There is an increased focus on films that resonate with – and better represent – women, people from minority ethnic backgrounds and other historically under-represented groups. These films have the capacity to connect to a huge and hitherto under-served audience for stories.

The Commission welcomes the ongoing efforts of the BFI and the Government to promote greater diversity and inclusion in the industry. It is a commercial and cultural priority for our sector – and they are also issues on which the independent film sector has the ability to demonstrate leadership.

**We urge the BFI and the Government to keep diversity and inclusion at the top of the agenda, and encourage everyone working in our industry to embrace the principles embedded in the BFI's Diversity Standards.<sup>24</sup>**

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<sup>24</sup> More information at <http://www.bfi.org.uk/about-bfi/policy-strategy/diversity/diversity-standards>

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# Proposals for industry and recommendations for Government and the BFI

We are realistic about what can be achieved through this report. Our aim was to identify targeted opportunities to address some of the challenges that the global marketplace poses for the UK film sector.

We also hope to encourage an appetite to challenge the existing paradigm and to explore new models. This entirely befits a creative business community with a reputation for pushing boundaries.

We have arrived at a number of targeted proposals to be led by the industry with the support of the BFI:

- **Maximising the value of rights**
- **Projects to engage and grow younger audiences**
- **EIS fund to channel equity into UK independent film companies**
- **More commercial development funding**

We also present a number of further recommendations for Government and the BFI:

- **Maximising the potential value of the UK film tax relief**
- **Driving growth domestically and internationally**
- **Strengthening conditions for co-production**
- **Continued cooperation with the EU after Brexit**
- **Building our relationships in key growth markets**

# OUR PROPOSALS FOR INDUSTRY

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# 1. Maximising the value of rights

Examining the existing approach to the arrangements governing the licensing of UK independent film – from the theatrical window to free TV – to maximise the value of rights. Developing a better understanding of the applications of technology for independent film, including its potential to improve data sharing and to transform transactional relationships for independent film.

In an environment of emerging technologies, and resulting changes in audience behaviours, we thought it important to examine whether the ways in which UK independent films are made available to audiences are fit for purpose – in terms of both meeting audience expectations and maximising revenues to producers, filmmakers and investors. We also welcomed the remarks in the Franklin report regarding the need for more strategic use of information:

“What is required is the development of new, coherent mechanisms for collecting, processing and disseminating industry data so that, subject to genuine considerations of commercial sensitivity, the benefits of such data become accessible to all businesses across the film value chain.”

As the Independent Film & Television Alliance (IFTA) said in its consultation response:

“Current changes to the structure and functioning of the independent film marketplace are so profound as to amount to a full-scale mutation, driven by technologies and business models capable of radically reorganising the traditional value chain, root and branch.”

The life-cycle of a UK independent film is already increasingly fluid, with distributors and rights holders practising many different strategies to reach audiences and maximise revenues across all media.

For example, of the independent films released theatrically on any given date, some films will be released simultaneously on VOD, some will appear on VOD within a few weeks, while the vast majority of those titles will eventually be released to the home entertainment market approximately 120 days after theatrical release.

The release of UK independent films has also changed as a consequence of the rapid emergence of SVOD services in the UK.

With very rare exceptions, independent distributors have never secured UK pay-TV (eg Sky) output deals. Indeed, very few independent distributors achieve any kind of pay-TV screenings for their UK titles.

But those distributors are now sometimes able to secure the release of UK independent films on SVOD services for a period of 18 months. This release window is concurrent with what would be the first pay-TV window.

As a significant number of UK independent films are now available to consumers in that SVOD window, the value of those films in any subsequent windows, most notably the free TV window, is significantly reduced because many consumers have already seen the films and therefore are less likely to watch them on free TV.

Some films will have a pay-TV window *in addition* to the SVOD window and some will have a pay-TV window followed by *two* SVOD windows (one of 9-12 months and a second shorter one of 6-9 months). This means that viewing demand and therefore value has been further reduced before the film reaches free TV.

Also, secondary SVOD windows are starting to appear at even earlier dates so that the window of exclusivity available to the free TV broadcasters – and therefore the value of the rights - is being squeezed from both sides.<sup>25</sup>

Indeed some platforms are requesting non-exclusivity from the start to allow SVOD to run concurrently alongside the free TV window with no interruption or blackout period at all. Broadcasters are resisting this on the basis that it further reduces the value of their free-to-air scheduled transmissions.

These changes in release patterns are creating serious challenges for the BBC and Channel 4 which, as public service broadcasters (PSBs), make a significant investment in the development and production of UK films. The value that they are able to ascribe to the free TV window is significantly reduced as the audience has reduced. In the case of Channel 4, such an economic impact will be directly measurable as a loss of advertising revenue.

The impact made by both BBC Films and Film4 in the independent film ecosystem in the UK is significant, and we urge both PSBs to at least sustain their current levels of investment in the production of films; BBC Films had a budget of £10 million in 2017 (including overheads) and Film4 had a budget of £25 million. At the same time, we also acknowledge the impact that SVOD services have had on confidence in UK independent film investment, largely as a consequence of these services acquiring the rights to a wide range of titles.

Addressing this aspect of the impact of SVOD services across the range of the BBC's dramatic output, BBC Deputy Director General Anne Bulford recently told the Parliament's Public Accounts Committee that:

“From a public service point of view, people want to be able to watch programmes for longer and all at once – but in the secondary market, commercial players want those rights early and to be able to exploit them.”

There is a complex interplay here between market forces and the funding of UK independent film by the PSBs (both in the form of equity investment and a licence fee for free TV and VOD rights) that is intended to help underwrite the long-term economic and cultural health of the UK independent film sector. This support is to the benefit of the both the industry and audiences.

In a retail economy that is increasingly digital, consumers expect to be able to rent or buy services and products at a time of their own choosing. It is hardly surprising therefore that online copyright infringement remains a problem when there are periods when consumers cannot access some of those same films in any legal form.

Equally, it is to be expected that consumers will want to access the independent films they wish to see on SVOD services as soon as they are able to. Consequently fewer people will be interested in or remember those titles by the time they are screened on free TV.

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<sup>25</sup> In the past, broadcasters would have a five-year period of exclusivity following the broadcast of films

Indeed, some independent UK titles now launch on SVOD services at the same time as they appear on DVD/Blu-ray and electronic sell-through (EST).

It is the view of the Commission that the existing model of release arrangements for UK independent film across all media are out of step with audience behaviour and expectations. These arrangements deter innovative new entrants and enterprise in a growing digital economy.

The theatrical window can be damaging to smaller distribution businesses looking to maximise revenues and value – and to reach the widest audience at the key point of marketing expenditure and visibility – against growing marketing costs.

We do not believe that, in the context of the UK market, legislative interventions (of the kind which operate in certain European territories) are the answer to any of the challenges set out above. Instead, we propose that a structured dialogue between industry players with a focus on flexibility and an openness to different forms of windowing would be the most effective way of helping to maximise the revenues of UK independent films in the increasingly complex digital environment. In so doing, it will of course be crucial to maintain the contractual freedom by which all interested parties negotiate the terms of release of a given title.

**In light of the analysis above, and the legal complexity of the landscape, we propose that the BFI commissions a detailed independent study of the standard arrangements covering the release and exploitation of UK independent films in different media.**

The study would be focused on examining whether such standard arrangements for the film sector could be changed to the benefit of the UK independent film sector and all those with a stake in maximising its revenues – including producers, distributors, sales agents, exhibitors and broadcasters.

This study will make evidence-led proposals to maximise the revenues generated by UK independent films by optimising the ways in which they are made available to audiences across different media.

We also recommend that the study considers the potential application of blockchain to transform the way in which rights are exploited. Blockchain is a digital, decentralised ledger that keeps a record of transactions across a peer-to-peer network, with the potential to allow film rights to be transferred online.<sup>26</sup>

We welcome the recommendations in the Franklin report and propose that the BFI works with the Department for Digital, Culture, Media and Sport (DCMS), alongside other industry partners, to develop a better understanding of blockchain. This could form part of a wider discussion on the transformational potential of comprehensive film data sets for business, and how over time they may lead to a much closer relationship between filmmakers and audiences/consumers.<sup>27</sup>

Any changes to current contractual arrangements alongside the emergence of blockchain might also reduce the ‘warehousing’ of rights and thereby help UK independent companies retain more intellectual property rights in the films and content they produce, with meaningful and continuing asset value. Any changes designed to harness the value of unexploited rights more effectively would need to benefit platforms and PSBs as well as independent companies – perhaps through a more flexible and collaborative approach to sharing rights.

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<sup>26</sup> More info on bitcoin and blockchain <https://www.pwc.com/us/en/industries/financialservices/fintech/bitcoin-blockchain-cryptocurrency.html>

<sup>27</sup> Franklin, *Op. cit.* p11

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## 2. Projects to engage and grow younger audiences

Two pilot projects delivered by ‘ourscreen’ and British Independent Film Awards (BIFA) in partnership with the FDA, designed to build a better understanding of younger audiences for the benefit of the industry, and to develop a younger and more diverse audience for UK independent film over the long term.

It has been a persistent challenge for UK independent films to achieve more visibility in the context of the strong competition of blockbuster films.

As the FDA noted in its response:

“Despite the doubling in the quantity of theatrical releases over the last decade, the marketplace is highly, and increasingly, polarised, leaving practically no viable ‘middle ground.’”

UK independent films will always be of limited attractiveness as a commercial investment unless their capacity to reach and appeal to audiences can be improved. Several producers in our roundtables agreed that UK independent films need to find a point of difference to compete against the event nature of studio tentpole releases.

As the UKCA observed in its consultation response:

“With over 900 films now typically released to UK cinemas in any one year, and the significant marketing budgets brought to the table for individual titles by the US studios in particular, even quality UK independent films – where resources are typically more limited – face considerable challenges in achieving cut-through and generating the level of ‘buzz’ amongst cinema audiences necessary to encourage cinema operators to book and keep them on screen.”

The UKCA encouraged the Commission to look at:

“A genuine cross-sectoral effort to boost audiences and box office for UK independent film, in particular through more imaginative and ambitious release strategies and more coordinated marketing campaigns.”



Given the volume of releases and increasing polarisation of the theatrical market, more effort needs to go into marketing and into directing audiences to independent film. The industry needs to find collective ways to be heard above the noise. Cinema operators have increasingly focused on this area with investment in membership and data management (such as growing their social media presence, bespoke newsletters and podcasts), as their responsibility in engaging audiences for their programmes increases beyond independent distributors' means. More than ever, audiences need trusted voices to help them navigate the market.

One example of a curated audience offer has been developed by MUBI – the curated online SVOD platform that has also recently begun to release selected films theatrically – which plans to provide cinema tickets for their subscribers. Each week, MUBI will recommend a film of the week, curated by their experts from the existing theatrical release schedule, and offer online subscribers a free ticket to see that film at a cinema. It will be an innovative attempt to develop a conversation with audiences and then guide them on their cultural journeys across the film landscape. Over the course of our discussions with MUBI CEO and Commission member Efe Çakarel, the company has committed to ensuring that when possible at least one selected film per month will be a UK independent film.

The operators of the Watershed in Bristol agreed in their consultation that there should be:

“More investment in exhibition to create more innovative ways of engaging with audiences particularly for niche titles, eg more talent touring with screenings, more discussion forums around watching films and cinematic experiences which reach beyond the screen and add value to the experience.”

In particular, we were struck by statistics on how young audiences were watching films:<sup>28</sup>

- There are 12.6 million 16-30 year olds in the UK (making up 19% of the population), a mix of millennials born between 1980 and 2000, and Generation Z born after 2000<sup>29</sup>
- Younger audiences currently make up the largest portion of cinema audiences (47%) and they are also the most frequent: 16-34 year olds make 8.1 average cinema visits per year vs 6.2 for all adults – and this rises to 9.6 for 15-19 year olds<sup>30</sup>
- Only 8% of 16-34 year olds claim never to go to the cinema vs 21% for all adults<sup>31</sup>
- 18-34 year olds are less likely to cite price as a barrier (33% vs 40%), and more likely to value the social experience of watching with others (25% vs 17%)<sup>32</sup>
- However, younger audiences conversely have the lowest engagement with UK independent film<sup>33</sup>
- Online, 16-24 year olds spend 3.8 hours on the phone (vs 2.4 hours for all adults) and 5 hours per day online. This audience is digitally native; highly social, sharing and participatory; they place a premium on being first; and place a value on experience and peer-to-peer recommendation.<sup>34</sup>

We also noted a strong preference amongst younger audiences for genre films and the Commission questioned whether the BFI as a funder, and the sector more broadly, are doing enough to develop UK independent films in other genres as much as drama.

Studios and independent producers in the US have developed a model of smart, low-budget, genre filmmaking that has found considerable creative success and – when strongly connecting with audiences – can generate material returns on investment.

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<sup>28</sup> It should be noted that research cited below uses a range of definitions when classifying 'young people', including those 16-24, 16-30, 18-34 and under 35 respectively.

<sup>29</sup> BARB, Establishment Survey Q1 2018, [www.barb.co.uk/resources/establishment-survey/](http://www.barb.co.uk/resources/establishment-survey/)

<sup>30</sup> CAA Film Monitor 2019

<sup>31</sup> BFI Research and Statistics Unit, internal research

<sup>32</sup> *Ibid.*

<sup>33</sup> BFI Research and Statistics Unit, internal research

<sup>34</sup> Ofcom, *Op. cit.* p12

As part of a push to engage with younger audiences, we encourage the BFI through its Film Fund to explore potential interventions to stimulate more genre filmmaking in the UK.

As a highly engaged audience both in cinemas and increasingly online, there is significant growth potential for UK independent film among this younger demographic.

The Commission brought together key exhibitors and the UKCA to explore a model for an industry-led, collaborative programme to engage this audience with UK independent films. Key distributors and the FDA were involved and have committed to supporting the resulting pilot projects.

As already mentioned, gathering and sharing more data about what, how and when audiences are watching films is key to the industry's strategic growth. As the FDA pointed out in its consultation document:

“It is also very important, from the outset, to know the audience – to have a clear perception of who a film is for, and why, before it is made. There is more that could be done appropriately to share UK audience profiles and data, at least by genre, in cinemas and on other platforms across the value chain.”

**We are proposing two complementary pilot projects that attempt to address the behaviours of diverse, younger audiences, and which will help us to develop an understanding of this audience through data, with the aim of ultimately growing this audience for independent film in cinemas and online.**

## Pilot A

**A preview programme that targets younger audiences, delivered by 'ourscreen'.**

This first project will be delivered by 'ourscreen', which is building a business by re-thinking the relationship between younger audiences and film, and giving those audiences the opportunities to demand, set up, crowd source and promote their own cinema screenings.

The pilot will take the 'ourscreen' model, and the lessons that have emerged from it to date, and build on this to enhance significantly the impact and accessibility of UK independent film across the exhibition sector, from the biggest multiplexes to the smallest independent cinemas. The pilot, which will extend across the UK, will be supported by National Lottery funding through the BFI's Audience Fund, and is backed by the FDA and a major UK broadcast partner.

Planned initially as a one-year pilot to be developed over summer 2018 and running from the autumn, distributors and exhibitors will commit titles and screens for unique, monthly paid-preview screenings of a programme of 12 UK independent films – across a range of films from major saturation releases to more niche titles. These films will be marketed to young audiences in a national above-the-line campaign that gives UK independent film a dynamic new identity.

These inclusive and highly social screenings will be targeted to young audiences as one-off 'see it first' opportunities ahead of a film's primary release.

The programme has many potential multiplier effects. Films in the programme will carry significant added value, awareness and word-of-mouth heading into their initial release and down the line. Over time we believe this approach will build up a passionate base of advocates across the UK, who can set up their own screenings of both headline titles and other UK independent films through 'ourscreen', and promote to a community of connected, engaged young audiences. This will also offer a valuable source of GDPR compliant data for the entire industry.

We think that this is an exciting and credible model within the experience economy, and responds to the value young audiences place on participation, on being first, and being social.

## Pilot B

**A BFI/BIFA Partnership, funded by the National Lottery, to research how young audiences engage with UK independent film. The study will explore attitudes to, awareness of and the value that young audiences place on UK independent film. Funding will be made available for an R&D project to determine how an online marketing campaign or platform could drive greater engagement amongst this key target audience.**

BIFA (British Independent Film Awards) is developing a strong year-round relationship with audiences via impressive campaigns in cinemas, and a strong relationship with UK distributors, building on its position as an authentic champion of UK independent film.

In this second pilot project, the BFI will support BIFA to undertake substantial research into young audiences and their engagement, understanding and interest in UK independent film. Their findings will be shared to help grow engagement and offer solutions as to how we as an industry can better serve, reach and grow this audience's appetite and enthusiasm for UK independent film.

The ambition is to have an 'always on' campaign to communicate information about where to purchase and watch the best UK independent films on any platform (in cinemas, transaction VOD, or SVOD).

This initiative will present us with an informed understanding of how to encourage younger audiences to experiment, take risks, and discover films they might otherwise not know about. Bringing exhibitors and distributors into this project provides an opportunity to help these films rise above the noise, and find the largest audience possible. There is clear potential for this research to grow and develop in tandem with the 'ourscreen' pilot.

Both these pilot projects and the MUBI offer have the potential to engage younger audiences and generate a sizeable amount of valuable data for the industry over time.

**We recommend that the BFI consolidates the data from these pilots and makes it available to the industry.**

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## 3. EIS fund to channel equity into UK independent film companies

To encourage more ambitious films to be produced in the UK, we believe it is important to attract more private investment into helping strengthen and grow UK independent film production companies.

The growth of many businesses in the creative industries is restricted because of their inability to access the finance they need to grow, innovate, export and scale-up.

A potential mechanism for attracting private sector funding into film companies is the Government's Enterprise Investment Scheme (EIS), an initiative designed to spark entrepreneurial investment in companies of high risk, such as film production companies.

As a tax-advantaged venture capital scheme, the objective of EIS is to encourage individuals to invest in small, higher risk early-stage trading companies. In recent years HMRC has been concerned that EIS has often been used for purposes for which it was not intended, including attracting funding into companies where shareholders' investment is exposed only to a limited level of risk, and into companies with no scope for sustainability and growth beyond the three-year holding period.

To counteract this, and to ensure that EIS is better focused on the type of companies for which it was originally intended, a set of measures known as the 'risk to capital conditions' has been introduced.

These measures seek to exclude companies:

- Where there are no clear objectives for the company to grow and develop its trade over the long term, or
- Where investors are insulated from significant risk of loss of their funds via so-called 'capital preservation' arrangements.

The impact of these changes for the UK independent film sector is broadly that the use of EIS for single-picture funding models is no longer possible, and the ability to shelter investors' capital by using collateral value in the film (such as tax incentives or pre-sales agreements) is largely removed.

In terms of independent film, one remaining use for EIS which sits squarely within the spirit and intention of the relief is to attract investment into early-stage film production companies that have clear ambitions for growth. Companies that can set out a compelling vision may seek EIS advance assurance from HMRC, using a viable business plan to demonstrate how money would be used to generate 'growth and development'.

As Nik Bower from financier/producer Riverstone Pictures stated in his response to the Government's Patient Capital Review:

“There have been very few private sources of capital in the UK willing to take the high risk required to back indigenous film production. The EIS has been by far and away the most prominent and consistent contributor.”

However, historically the take up of EIS amongst the creative industries, including for film, has been fairly low. An analysis of films funded through the BFI's Film Fund showed that just 10% of films supported by the BFI between 2011 and 2017 used EIS as a form of finance. The expertise, cost and time needed for an individual company to raise EIS funding is daunting for most producers.

**The Commission and our independent advisors have researched the feasibility and possible structure of an EIS-based vehicle designed to raise funding from individuals to be invested into UK independent film companies.**

Whilst it would exist as a commercial investment model for its investors, the aim would be for the fund management operation to be run on a cost-recovery basis. In a nutshell, this would be a scheme set up to maximise benefit to the investor and the investee (the production company).

For potential private investors, investing in just one film company is an extremely risky proposition. In this proposed new fund, that risk would be mitigated by supporting a diversified group of perhaps ten or more production companies.

Investment from a new BFI-affiliated EIS fund could help early-stage production companies achieve their ambitions to grow to the point where they are sustainable (and potentially capable of raising further funding through other conventional channels).

Companies seeking investment would need to be new or growing businesses (younger than seven years old) with a well-developed business plan explaining how any EIS money received would be used to drive further growth and development of the company.

The fund would need to have an independent (non-BFI) operator responsible for raising funding, evaluating companies to invest in, and monitoring performance.

The proposal has been discussed with a number of fund managers and banks. Managers have said they are keen to be involved, and understand that the aim is to design a scheme that can bring in a new wave of investors to film. Their view is that an additional 'soft' BFI incentive package (such as inviting investors to seminars or giving them priority access to some events, etc.) will be attractive and can help make the EIS fund distinctive.

The banks see the opportunity to build interest for their existing investors and build their own profile within the film industry itself, and have volunteered to help shape our thinking and introduce their clients to the fund.

The BFI will not be involved with the fund's investment decisions, however it will, through a transparent, open process, seek out an appropriate fund manager and be involved in the shaping of the scheme. The aim is to provide funding consistent with the overall objective, and build confidence to bring in a fresh flow of new investors to independent film.

Members of the Commission will work with the BFI to identify a professional operator to model and launch the scheme.

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## 4. More commercial development funding

Attracting investment to commercial development funding, to help UK independent producers develop projects with high-value IP, and offer a return for investors via a portfolio approach.

Through our industry consultation, we identified an opportunity to support UK producers in the development of more commercial film projects.

Currently, the largest investment in development funding for UK independent film comes from national and regional public funds and the public broadcasters – including the BFI Film Fund, BBC Films and Film4. These funds do much to support the development of original and adapted material but work to certain cultural priorities and varying degrees of commerciality.

It is our view that a relatively modest increase in available development funding (as opposed to larger funding for actual production spend) could make a big difference in enhancing the investment appeal and commercial performance of more ambitious films. It would also help UK independent films grow their domestic and international market share over the long term.

As Nik Bower from financing and production company Riverstone Pictures wrote in his consultation response:

“Without capital to fund the speculative process of optioning books, articles and life rights and paying writers to adapt them into screenplays, or commissioning writers to create original screenplays, there would be no autonomous film and television production in this country. . . Private capital to fund development is even scarcer than for production.”

We agree that commercially ambitious film development in the UK film industry could be better supported. Despite the wealth of UK writing, directing and producing talent, such support outside of international studios is in short supply. This can lead to independent producers missing out on opportunities to secure and package film rights for valuable properties (such as books), being unable to engage talent at competitive market rates, or rushing films into production before their full commercial potential has been realised.

**With this in mind, we propose the creation of a Commercial Development Fund, with the goal of raising and investing development funds for commercially ambitious UK independent films as well as delivering a commercial return for its investors when the developed films go into production, and mitigating investor risk via a portfolio approach.**

The aim of the proposed fund would be to attract at least £5 million+ in funding to be invested over a five-year period.

The fund would be operated independently of the existing BFI Film Fund and its development funding, although it would be helpful if the BFI could endorse the initiative during the fundraising stage, and could be called upon to oversee its governance.

Commercial development expertise would be needed to administer the fund on behalf of the investors.

The specific commercial objective of the fund would be to provide financial support to producers to develop high value IP with the potential to reach a wide audience, have the potential to become franchises, or to deliver an outsized value to the UK independent film sector through its production/ distribution impact.

We recognise that raising development finance is notoriously challenging and that raising this fund may take some time. However, based on preliminary financial modelling prepared for the Commission we do see opportunities to attract private investors to the fund.

We also believe that this fund could be an opportunity for content acquirers including the FAANG SVOD platforms, alongside pay-TV and telecoms companies (Sky, Virgin, BT), to engage substantively with UK independent film.

The Commission noted the current discussions around the Audiovisual Media Services Directive (AVMSD), with a number of relevant revisions to the directive due to be finally agreed by the European Union in autumn 2018.

These revisions include a proposal that, for the first time, will allow Member States (if they so choose) to impose mandatory financial contributions on VOD services established in a different Member State but targeting their national audiences. These levies can be direct investment obligations or levies allocated to national film funds.

We were doubtful that a 'levy' scenario on VOD platforms would be feasible in the UK given the long-standing political commitment to a regulatory environment for the audiovisual sector that is 'light-touch'. The Commission recognised that a better business solution would be to seize the commercial opportunities of the digital world and the growing demand for content, by seeking a commercial solution instead of a legislative one.

We have already undertaken high-level conversations with some of these potential investors with Amazon already signalling an eagerness to be involved. The DCMS has also given its initial indication of support for such a fund.

# OUR RECOMMENDATIONS FOR GOVERNMENT AND THE BFI



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## 5. Maximising the potential value of the UK film tax relief

We acknowledge the huge boost that the current creative sector tax reliefs, and in particular the film tax relief, have delivered to the creative economy.

Government support for the UK's screen industries through the creative sector tax reliefs is stimulating business growth, creating jobs, attracting inward investment into the UK, enabling export of UK productions and services internationally, and returning billions to the UK economy.

Annual data collated by the BFI has shown that expenditure on feature film production in the UK has more than doubled in 11 years since the film tax relief was introduced, growing from £849.3 million in 2007 to a record-breaking £2 billion in 2017.<sup>35</sup>

UK independent films are subject to budget pressures caused by global conditions. This can lead to smaller budgets and less ambitious films. We carefully considered Pact's proposal to uplift the film tax relief for UK producers working on films in the £2 million-£10 million range. We agree that evidence shows there is an opportunity to capitalise on talent and infrastructure to create more UK independent films of scale, although the budget range in Pact's scope does not sit squarely with our own analysis around the issue of budgets in the £10 million-£15 million range.

**We encourage Government to explore whether the current film tax relief could be maximised by stimulating the production of internationally successful UK films.**

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<sup>35</sup> BFI Research and Statistics Unit, *Official statistics for UK production 2017*, January 2018

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## 6. Driving growth domestically and internationally

The creative sector tax reliefs have played a crucial role in supporting growth in the sector. Since their introduction in 2007, the GVA of the UK's three main film sectors has grown from £2.5 billion to £6.1 billion.<sup>36 37</sup> Recent Future Film Strategy research commissioned by the BFI from the Work Foundation stated that 10,000 new entrants into the film industry will be required over the next ten years if this current rate of growth continues.

We would like to ensure that as many parts of the UK as possible benefit from the jobs and growth the film tax relief helps to deliver. This requires them to have the infrastructure needed to accommodate increased demand for production activity.

The growing popularity of the UK as a hub for film and television production has led to investment in new studio spaces including Wolf Studios near Cardiff and Church Fenton Studios in Yorkshire; investment in planned new studios such as Pentland, outside Edinburgh, a recently announced new studio space for Liverpool in partnership with Twickenham; and extensions to others such as Leavesden in Hertfordshire and Pinewood Studios in Buckinghamshire. Funding has also been used to support the development and training of the UK's world-class workforce.

Yet this investment in infrastructure has been outstripped by the growing rate of demand. Research for the BFI found that independent producers have found production space to be often either unaffordable or simply unavailable due to the level of competition for it, while there is also very high demand on the UK's available workforce.

The UK's production infrastructure is heavily centralised, meaning many areas are not reaping the benefits of the sector's continued growth. Almost half of all production space is concentrated in London and the South East of England, with much of the workforce also located there. Increasing provision outside of London would both relieve the pressure on the UK's existing infrastructure and reduce production costs, while also supporting the Government's agenda for delivering jobs and growth across the nations and regions.

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<sup>36</sup> Office for National Statistics

<sup>37</sup> The Office for National Statistics identifies film and video production, film and video distribution and film exhibition as the UK's three main film sectors

Local financial incentives can help areas to attract investment and make the most of the tax reliefs on offer. A number of such incentives have already been developed in the UK, ranging from national schemes such as the Welsh Government's Media Investment Budget to more localised initiatives.

Screen Yorkshire's Yorkshire Content Fund is an excellent example of how this kind of initiative can work on a local scale. Established in 2012 using money from the European Regional Development Fund, the fund offers investment of between £10,000 and £500,000 to film and television producers based in Yorkshire or individual projects wishing to shoot in the region. The fund has already supported 37 film and high-end television productions and leveraged a further £143 million of funding into the region from other private and public sources, supporting approximately 500 jobs within its lifetime. The Yorkshire region is now home to the UK's fastest-growing screen cluster.<sup>38</sup> The Yorkshire Content Fund provides the foundations on which the cluster can continue to expand.

Such examples demonstrate how comparatively small incentives can help to develop production hubs to the benefit of the nations and regions, while providing independent producers with access to additional finance and more cost-efficient infrastructure.

We see an opportunity to sustain these existing initiatives and potentially to establish new ones in other emerging centres of production outside London. This could be achieved by encouraging Local Enterprise Partnerships (LEPs) and other local government stakeholders to consider setting up similar funds.

Local financial incentives could be strengthened by partnering with the Government's proposed UK Shared Prosperity Fund, which aims to deliver jobs and growth across the UK after Brexit. This fund, which will replace the Structural and Investment Funds the UK currently receives from the EU to redress economic imbalances, offers an opportunity for the screen sectors to secure funding across the UK.

**We recommend that the BFI works with Local Enterprise Partnerships (LEPs) and local government stakeholders across the UK to consider how targeted financial incentives could help boost local production and investment. We further ask that the Government considers this as a potential use for its proposed Prosperity Fund.**

#### **A new digital marketing campaign to support international sales and distribution of UK films**

While US studio films continue to dominate the international marketplace, larger-scale UK independent films have a proven ability to compete for international audiences.

A consistent flow of ambitious, commercially appealing UK films is therefore key to continued and prosperous international business for UK producers. We have explored a number of factors that influence – and inhibit – the growth and development of UK independent film internationally.

During the Commission's consultation process, major concerns were raised in relation to the drop in the number of international co-productions, the likely impact of Brexit on the funding landscape for independent film and the challenges facing sales companies selling to international markets with the emergence of global platforms.

We were struck by the estimate in the Olsberg SPI Pact report that there was a decline in the international market value of UK independent films of about 50% from 2007 to 2015. This reflects similar challenges in the UK market. Highly cautious international buyers are acquiring fewer films (and for lower sums) as a response to an overall global decline in DVD revenues and acquisition of independent films by broadcasters as audience behaviours change, particularly as the cost of marketing films rises ever higher.

At the same time, a still uncertain picture regarding our participation in the successor programme to Creative Europe funding is causing much anxiety among UK sales companies and producers.

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<sup>38</sup> Analysis of Office for National Statistics on behalf of Screen Yorkshire

When Commission members from the sales and distribution sector were asked what sort of financial intervention would benefit international sales business, the resounding answer was being able to offer more international marketing (P&A) funding for UK films in key territories.

**We are therefore recommending that the BFI seeks additional funding from Government to pilot a series of global digital marketing campaigns for approximately six UK films in the first year – working closely with Film Export UK to identify potential titles and focus territories.**

The aim would be to test a long-term model that could bolster international sales values, grow the films' international audience and reach, and gather valuable insights about international appetite for various films.

The project would achieve this by:

- Enhancing the attractiveness of UK films to international distributors and encouraging those who have already acquired the film to reach more audiences in their territory
- Driving innovation in the distribution space – reaching younger audiences who cannot be reached through traditional P&A campaigns
- Encouraging the alignment and coordination of distributors across a number of territories, enhancing impact and taking advantage of the economies of scale of a single set of digital media assets
- Providing audience insight (especially of vital younger audiences) across a range of UK content across the globe. It would be easily measurable (eg by click-throughs, by country and demographic).

As existing export support for film and the audiovisual sector is currently provided on an ad hoc basis — through interventions such as the Department for International Trade's Tradeshow Access Programme (TAP) grants, the Pact Export Accelerator programme and the BFI's Film Export Fund— this could provide an important new avenue for independent filmmakers to find success in selected markets. The fund would complement the UK's participation in current European interventions such as Creative Europe and, potentially, Eurimages.

We believe this fund is consistent with, and would contribute to, the Government's industrial strategy priority of targeting a 50% increase in creative industries exports by 2023.

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## 7. Strengthening conditions for co-production

An attractive environment for co-production enhances opportunities for growth as it opens up streams of international finance, removes trade barriers and increases audience potential. However as the Oslberg SPI Pact report found: “The majority of independent films (62%) made between 2007 and 2015 were produced by UK companies alone – with only 23% made as co-productions.”

We acknowledge that the UK is involved in a declining number of official co-productions and therefore considered proposals to strengthen the UK’s co-production offer.

The terms of the film tax relief play a key role in UK producers’ ability to participate in international co-productions.

Since its introduction in 2007, there has been a sharp decline in the number of UK co-productions. The lowering of the minimum spend qualification from 25% to 10% in 2014 was helpful in allowing more minority co-productions to qualify, but the changes were mostly designed to benefit the UK post-production and VFX sector.

UK co-productions remain disadvantaged by the ‘80/80’ rule, when a UK co-producer is only able to claim relief on 80% of the UK co-producer’s share of spend (as opposed to the total budget). This can result in an official co-production being likely to receive up to 20% less tax relief than a film spending an identical amount in the UK but qualifying as British under the Cultural Test.

While this rule originates from an interpretation of EU State Aid rules, and is endorsed by HMRC to recognise the unique structure of a co-production, no other equivalent system in Europe imposes such caps on the local co-producer’s spend.

**One way to address the decline in co-productions – and bring the UK onto a level playing field with other territories – would be to amend this rule in the film tax relief so that the UK co-producer can claim 100% of qualifying UK spend (up to a maximum of 80% of the total budget), rather than the current maximum of 80%.**

This would make the UK a more attractive co-production partner to Europe as well as countries around the world, such as Australia, Brazil, Canada, China and New Zealand.

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## 8. Continued cooperation with the EU after Brexit

With the UK due to leave the European Union at the end of March 2019, we stress the importance of continued cultural and creative cooperation between the UK and EU. Working closely with our European counterparts allows the UK independent film sector to take advantage of co-production opportunities, access to skilled European talent, EU funding streams and the benefits of a framework for the protection of, and legal access to, copyrighted works.

We welcome the joint announcement from the European Commission and the UK Government in May 2018 that a co-operative accord for culture and education will be considered as part of the future relationship after the UK's departure from the European Union.

We support the BFI working closely with partners across the whole value chain of screen industries, and with the Government, to ensure any new partnership arrangement with the EU will aim to strengthen our existing relationships with Europe.

### **UK participation in the successor programme to Creative Europe**

The potential loss of access to EU funding is a major concern for all involved in the development, production, distribution and exhibition of independent film across the UK and in mainland Europe.

The UK's screen industries received over £300 million of EU funding between 2007 and 2017.<sup>39</sup> The Creative Europe programme (which supports the EU film and audiovisual industries in the

development, distribution and promotion of their works) was the most significant source of funding, providing over €120 million of financial support in this period.

Creative Europe is a hugely respected international cooperation programme based on reciprocity. This highly targeted initiative, which has both cultural and industrial objectives, helps to reduce risk in the UK's fragile independent sector, promotes the UK's IP abroad and delivers significant economic benefits to the UK.

Between 2014-2017, Creative Europe's MEDIA programme invested €53.2 million in the UK's audiovisual sector. More than 180 companies benefitted directly from grants totalling €28.7 million, with an additional 145 UK films receiving distribution support in other European countries through €24.5 million of investment.<sup>40</sup> UK MEDIA beneficiaries have more than doubled their initial grants by leveraging nearly €120 million in match funding over this period. Distributors and sales agents outside the UK have spent 19% of

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<sup>39</sup> SQW, *Mapping study of EU funding of UK screen sectors 2007-2017*, March 2018

<sup>40</sup> Creative Europe Desk UK, *Creative Europe in the UK, 2017*, July 2018

the grants awarded to their sector on acquiring and releasing UK films in their territories. The revenue generated by these films is just under €400 million.<sup>41</sup>

In addition to vital funding for the UK's independent film sector, Creative Europe also brings the benefit of partnering with international networks on innovation and R&D, developing skills and capacity, audience development and interventions that promote diversity and inclusion.

The Commission welcomed the fact that the UK will continue to participate in the existing Creative Europe programme until the end of 2020 (unless there is 'no deal' by the end of negotiations).

**We urge the Government to secure the UK's participation in the successor programme to Creative Europe, in return for appropriate funding, as we believe it would be challenging to replicate and deliver the same advantage to the sector unilaterally.**

Even if the funding element could potentially be replicated, access to international peer networks and the opportunity to engage in cooperation would be greatly diminished.

UK industry will also need to keep a close watching brief on developments in the Digital Single Market and in the EU cross-border pay-TV competition case. Both of these represent potential threats to the principle of territoriality on which the financing of independent films is heavily dependent.

### **Eurimages**

Eurimages is the Council of Europe's fund that promotes independent filmmaking by providing financial support to feature-length films, animation and documentary films. In doing so, it encourages cooperation between professionals established in different countries.

It has an annual budget of €25 million and 37 of the 47 member states of the Council of Europe are members. Canada joined as an associate member in March 2017. About 80 to 100 feature films, documentaries and animation co-productions are made with support from the fund every year.

The UK left Eurimages in 1996, after the UK Government withdrew for budgetary reasons. However, in the context of stimulating the number of UK co-productions and strengthening our relationship with the European film industry post-Brexit, we feel this is a timely moment to consider rejoining.

**We propose that the BFI undertakes a full analysis of the benefits and costs of rejoining Eurimages with a view to making a recommendation to Government later in 2018.**

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<sup>41</sup> Creative Europe Desk UK and Drew Wylie, *The Impact of Creative Europe in the UK*, July 2018

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## 9. Building our relationships in key growth markets

Beyond the UK's mature film relationships in Europe, the US, Australia, Canada and New Zealand, there are opportunities in growing markets including Asia and Latin America.

The BFI has an active strategy of engagement in key growth markets. In China, for example, it has implemented a plan over the past five years with the aim of building connections, market insights and ultimately business opportunities. This has resulted in a strengthening of our relationship across production, sales, distribution and the cultural film sector, illustrating what can be achieved when industry, Government and its agencies work together with international counterparts. However, we recognise that tangible outcomes for UK independent film are still modest and there is much more to be done with China for independent film to benefit from the plan.

The BFI is refreshing its evidence base to inform future work in growth markets so that opportunities for UK film can be enhanced. This includes the commissioning of detailed research that will be published in 2019. The report will examine the conditions for growth in co-production, inward investment and distribution of UK film in specific territories. It will capture the size and shape of potential growth markets, the regulatory environment, available public support, audience appetite and cultural synergy. It will also provide a robust evidence base for the BFI and the Government to ensure any new trade support initiatives are targeted to markets with the highest growth potential.

**In those new markets identified as offering significant potential to the UK film sector – and notably where a co-production treaty has been signed, such as China – we recommend that the BFI seeks funding for an industry professional representative to be based in the territory. A permanent expert presence in these new key markets would allow the UK to be in pole position as we seek to build new and long lasting relationships with new partners post-Brexit – strengthening both economic and cultural ties between key priority territories and the UK.**





# APPENDICES

## About the BFI

The BFI is the lead body for film and the moving image in the UK. Working with partners, it aims to create a flourishing film environment in which innovation, opportunity and creativity can thrive. It does this by:

- Connecting audiences to the widest choice of British and world cinema
- Preserving and restoring the most significant film collection in the world for today and future generations
- Championing emerging and world class filmmakers in the UK - investing in creative, distinctive and entertaining work
- Promoting British film and talent to the world
- Growing the next generation of filmmakers and audiences

Founded in 1933, the BFI is a registered charity governed by Royal Charter. It is a Government arm's-length body and distributor of National Lottery funds for film. The BFI serves a public role which covers the cultural, creative and economic aspects of film in the UK.

The BFI Board of Governors is chaired by Josh Berger CBE.

## Independent Film Commission members

### Chair

**Zygi Kamasa** is CEO of Lionsgate UK and Europe. He previously worked at Scorpio Productions before co-founding indie distributor Redbus Film, which was acquired by Lionsgate in 2005.

### Commission members

**Chris Bird** is Worldwide Head of Film Licensing, Amazon. He was previously director of film strategy at LoveFilm.

**Efe Çakarel** is CEO of online film service MUBI, which he founded in 2007. Previously, Çakarel worked with Goldman Sachs in London and New York.

**Peter Czernin** is a producer and co-founder (with Graham Broadbent) of Blueprint Pictures, which has produced films including *Three Billboards Outside Ebbing, Missouri* and *The Best Exotic Marigold Hotel*. He is also a BFI Governor.

**Gail Egan** is a producer and co-founder of Potboiler Productions which has produced films such as *The Constant Gardener*, *A Most Wanted Man* and the forthcoming *The Little Stranger* and *The Boy Who Harnessed the Wind*.

**Philip Knatchbull** is CEO of Curzon Cinemas.

**Hakan Kousetta** is COO, TV, at See Saw Films and a council member of UK producers' association Pact.

**Amanda Nevill CBE** is CEO of the BFI.

**Ben Roberts** is Director of the BFI Film Fund. He was previously CEO of Protagonist Pictures and is a veteran of Universal Pictures International and Metrodome.

**Lisbeth (Libby) Savill** is a partner in the London office of Latham and Watkins and a member of the firm's Entertainment, Sports and Media Practice. She is Deputy Chair of the BFI.

**Thorsten Schumacher** is the founder and CEO of sales company Rocket Science, which launched in 2017. He previously worked at HanWay Films for 13 years.

**Kevin Styles** is Managing Director, UK and Ireland for Vue Entertainment.

**Alison Thompson** is a co-founder of sales company Cornerstone. She previously headed Focus Features International and Pathé Pictures International.

## Roundtable participants

To ensure a diverse group of industry voices were being heard beyond the main Commission members, the IFC held a number of roundtable discussions to hear directly from other experts about their views on some of the topics the IFC wanted to address. The IFC thanks those industry experts who participated for the insights and advice they shared:

**Julie Baines**, Dan Films

**Clare Binns**, Picturehouse Cinemas

**Sue Bruce-Smith**, Film4

**Colin Burch**, Verve Pictures

**Iain Canning**, See Saw Films

**Judith Chan**, Coutts

**Phil Clapp**, UK Cinema Association

**Simon Crowe**, Film Export UK

**Finola Dwyer**, Wildgaze Films

**Michael Elson**, Beano Studios

**Matt Eyre**, Cineworld

**Kate Gerova**, Curzon Cinemas

**Andrea Gibb**, Writers' Guild of Great Britain (WGGB)

**Simon Gillis**, See Saw Films

**Trevor Green**, Film Distributors' Association/  
Entertainment Film Distributors

**Sally Griffith**, Chapter Arts Centre Cardiff

**Olivia Hetreed**, WGGB

**Christopher Hird**, Film Distributors' Association/  
Dartmouth Films

**Vince Holden**, AI Film

**Pete Johnson**, British Screen Advisory Council  
(BSAC)

**Line Langebek**, WGGB

**Crispin Lilly**, Everyman Group

**Lex Lutzus**, House of Heath

**Adam Minns**, Commercial Broadcasters  
Association (COBA)

**Rebecca O'Brien**, Sixteen Films

**Andy Paterson**, Archer Street Productions

**Rupert Preston**, Vertigo Films

**Keith Pullinger**, The Light Cinemas

**Justin Ribbons**, Empire Cinemas

**Andrew Smith**, Pinewood Studios

**Nick Toon**, Time Warner

**Otto Turton**, Vue Entertainment

**Dimitra Tsingou**, Protagonist Pictures

**Josh Varney**, 42

**Carol Welch**, Odeon Cinemas Group

**Fabien Westerhoff**, Film Constellation

**Tom Williams**, WGGB

**Stephen Woolley**, Number 9 Films

**Adrian Wootton**, Film London and British Film  
Commission

**Jane Wright**, Counterpoint Partnership

## Consultation responses

We welcomed advice and commentary from a number of industry bodies in relation to the Independent Film Commission. The following companies, organisations and individuals contributed papers that we considered during our discussions:

**British Independent Film Awards (BIFA)**

**Broadway (Nottingham)**

**Casarotto Ramsay & Associates**

**Creative England**

**Creativity Capital**

**Directors UK**

**Film Export UK**

**Film Distributors' Association (FDA)**

**Independent Film & Television Alliance (IFTA)**

**Independent Film Company**

**Martin Smith**

**Little House Productions**

**Raising Films**

**Riverstone Pictures**

**Watershed (Bristol)**

**UK Cinema Association (UKCA)**

## With special thanks to

Stephen Bristow, Isabel Davis, Harriet Finney, Jonna Jensen, Julia Lamaison, Ben Luxford, Wendy Mitchell, Jack Powell, Iain Thomson and Neil Watson.







For questions, feedback and other comments about the Independent Film Commission report, please contact [ifc@bfi.org.uk](mailto:ifc@bfi.org.uk)

To join the BFI industry newsletter to receive updates about UK film industry news, please contact [industry@bfi.org.uk](mailto:industry@bfi.org.uk)

[bfi.org.uk/ifc](https://www.bfi.org.uk/ifc)