



DEPARTMENT FOR CULTURE, MEDIA AND SPORT

**GOVERNMENT RESPONSE TO
THE HOUSE OF LORDS SELECT
COMMITTEE ON COMMUNICATIONS
REPORT ON THE BRITISH FILM AND
TELEVISION INDUSTRIES – DECLINE
OR OPPORTUNITY?**

*Presented to Parliament by the
Secretary of State for Culture, Media and Sport
by Command of Her Majesty
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Introduction

The Government welcomes the Select Committee's First Report of the 2009-10 session.

The Government is grateful to the Committee for its examination of the key issues relating to the film and television industries in the United Kingdom, based on written and oral evidence from stakeholders. We welcome the detailed consideration the Committee has given to these issues, and note its recommendations.

The Government welcomes the Committee's support on provisions contained within in the Digital Economy Bill to support Independently Funded News Consortia in providing local and regional news services. We also welcome the Committee's support for the provision that brings film production within the public service remit of Channel 4, and for the approach the Government has taken in tackling unlawful file sharing.

The Government has carefully considered all the recommendations suggested by the Committee and is pleased to be able to present its response.

Conclusions and Recommendations

- **(1) We recommend that, given current financial circumstances and the value to the international film industry of a stable tax regime, the Government should keep the rate of the tax credit for big budget films at its current level. At the same time, we recommend that the rate of the tax credit be kept under review by the Government, in consultation with the industry, in order to ensure that the UK does not become uncompetitive as a venue for international filmmaking. (para 73)**
- **(2) Given the problems faced by independent film makers in raising finance for their projects, particularly in the current recession, we recommend that the Government should consider raising the net rate of film tax relief for productions under £5m to 30 per cent. (para 78)**
- **(3) We acknowledge that there would be a benefit to producers from a change to the "used or consumed" provisions, to extend the tax credit to production expenditure overseas, and the low cost of this change. We recommend that the salaries of personnel employed on a film should be considered eligible costs whether they are working in the UK or on location overseas so long as the personnel are paid and taxed in the UK. (para 83)**

1. We welcome the committee's acknowledgement that the Film Tax Relief is essential to ensuring that the UK remains an attractive place for inward investment. Recent production figures showed that 2009 was a bumper year. The amount of money spent on making films in the UK in 2009 including Harry Potter and the Deathly Hallows Part I, Robin Hood, Gulliver's Travels and Nowhere Boy totalled £956.9 million.
2. The Total UK gross box office for the year was a record £944 million, up 11% on 2008 and overall territory gross (including the Republic of Ireland) exceeded £1 billion for the first time and cinema admissions in 2009 reached 173.5 million. This represents 5.6% growth year-on-year, from 164.2 million in 2008. This is the highest since 2002 and the second highest since 1971. Significantly, inward investment from international filmmakers, such as the major Hollywood studios locating productions in the UK, increased by 52.6% bringing in £752.7 million into the British economy (£356.8 million in 2008). This is the highest total ever recorded.
3. The new Film Tax Relief plays a key role in supporting the UK's successful film industry. Since the introduction of the scheme in 2007, over 290 films have received support worth a total of £205 million, promoting over £2 billion of investment in the UK film industry. Government is aware of the issues surrounding the "used or consumed" definition of qualifying spend raised by some sections of the film industry. Government has not seen sufficient evidence to justify changing a successful and stable scheme. However, the film tax relief will be kept under review to ensure that it is meeting the policy objective of promoting the sustainable production of culturally British films.
 - **(4) We recognise the claims of the videogames industry for support in the face of foreign government-subsidised competition, and recommend that the Government consider providing tax incentives for videogames production. (para 88)**
4. The 2009 Pre-Budget Report announced that, whilst recognising the challenges currently faced by the sector in competing internationally, the Government is not currently persuaded that the evidence is sufficiently compelling to justify the introduction of a tax incentive for the development of culturally British video games at this time. The Government remains committed to providing a tax system and business environment that is beneficial to businesses from all sectors, including the video games industry. The Government will continue to look at ways to make the UK tax system more competitive and, as with all decisions on tax policy, will keep the situation under review.
 - **(5) Given the difficulties of financing independent British films, particularly following the withdrawal of banks from film financing, we recommend that the Government should look at ways of facilitating greater British private investment in film production. This would need to be done in a way that ensured that the private investment was genuine and not simply a means of tax avoidance. (para 93)**
5. There continues to be a need to encourage private investment in UK independent film, and the Government recognises that the withdrawal of film financing by banks is beginning to have an impact. However, we do not think that the situation is as severe as has been suggested. In 2009 more than £700 million was spent on film in the UK through inward investment alone. Also, there was nearly £170 million spent on domestic UK production.
6. Although the share of the UK market taken by British independent films in 2009 seems relatively low at 8.5%, this is the highest level it has been for ten years and reflects the success of films such as Slumdog Millionaire and In The Loop.

7. Overall, the production figures are generally good, and considering that the country is coming out of a recession, the film industry has fared well. While there is an obvious need to avoid complacency, we are confident that the UK Film Council, the Office of the British Film Commissioner and film and media companies themselves will continue to work hard to attract investment to the UK for films of all sizes.
 - **(6) We question, however, whether an industry body like the UK Film Council should be substantially financed by the Lottery rather than direct Government support. We regret the reduction in funding made because of the demands of the 2012 Olympic Games. We recommend that the funding level should be restored immediately after 2012/13. (para 103)**
8. The Government firmly believes that the Lottery funding to the UK Film Council enables it to run film production, distribution and exhibition funds as part of the Lottery good causes programme. The UK Film Council currently receives circa £25 million in Grant-in-Aid funding and £30 million in Lottery funding annually. Removing that funding would with mean replacing it with £30 million from the Exchequer or discontinuing vital schemes that very effectively support film in the UK. This Lottery funding was originally distributed by the Arts Council England for film activities prior to the creation of UK Film Council in 2000.
9. The 2012 Olympics is an event of national prestige for the UK; all Lottery distributors are making an appropriate commitment and it is right that the UK Film Council is included. The Film Council's contribution will be around £21 million over four years, with the last payment in 2013/14. From 2013/14 all Lottery good causes income will revert to the existing good causes and with Lottery income increasing this will mean more for film. On current projections, UK Film Council can expect to receive 14% more Lottery funding in 2014/15 than it did in 2007/08 (the last year before the transfers to the 2012 Olympics began).
 - **(7) We do not consider that the small saving, which a merger of the UK Film Council and the BFI would be likely to achieve, would by itself justify an amalgamation. (para 107)**
 - **(8) If, however, the proposal for the merger of the UK Film Council and the BFI goes ahead, it will be important that any organisational changes neither prejudice nor deter private donations to the BFI's educational and archival work. (para 108)**
10. The merger of the BFI and the UK Film Council into a new single integrated body for film will provide a strong, well informed voice that will deliver real and visible results for the benefit of UK film audiences and for the UK film industry. Created from the existing expertise, knowledge and assets of the BFI and the UK Film Council, the new body will place equal emphasis on support and promotion of film culture and support for the business of film. The merger will also free up resources that can be redirected towards front-line services to support film. The boards of both the UK Film Council and the BFI have recently given their support to the creation of this new body.
11. Plans are now being drawn up for the merger and we will ensure that the legal character of the new body is compatible with the funding streams both organisations currently enjoy. Great care will be taken to ensure that the merger process does not hinder any ongoing work.

- **(9) We welcome the UK Film Council’s emphasis in its consultation document on supporting British films and filmmakers as its first core activity, and its proposal to use funds recouped from its investment in film to top up the Film Production Fund’s budget. (para 110)**
12. The Government joins the committee in welcoming the approach taken by the UK Film Council. We await with interest the outcomes of the consultation but it is clear that in a more challenging public spending environment prioritising resources is essential and the focus on British film makers is strongly welcomed by the Government.
- **(10) We support the UK Film Council’s continuing commitment, as part of its first core activity, to the promotion of the UK as an inward investment destination for film production. In this context, we strongly support the proposal to strengthen the Office of the British Film Commissioner. (para 111)**
13. We support this recommendation. We welcome the committee’s acknowledgement of the importance of inward investment to the UK Film industry and we are happy that recent production figures have demonstrated significant growth. The UK has a lot to offer international film makers in terms of the skilled professionals, the strength and depth of the infrastructure, as well as fiscal incentives. We welcome the UK Film Council’s more focussed efforts to secure more investment, and targeting the promotion of inward investment to the UK. We are confident that recent successes will be sustained.
- **(11) We welcome the provisions in the Digital Economy Bill, which would bring film production within the public service remit of Channel 4. We encourage the BBC to give greater recognition to the role that BBC Films can play in developing new projects and new talent in the British independent film sector. (para 117)**
14. The Government is pleased to note the Committee’s support for our proposals, in the Digital Economy Bill, to extend the Channel 4 Corporation’s (C4C) functions to include investment in films for cinema release in the United Kingdom. The Bill will also require C4C to broadcast, or distribute on electronic networks, feature films that reflect cultural activity in the United Kingdom, including third party films, that is to say films made by other organisations. These provisions will help to ensure C4C maintain their long-standing and highly successful contribution to UK films and provide a showcase for the wider UK film industry.
15. Whilst the BBC’s film strategy is a matter for the BBC, we welcome the contribution BBC Films has made to independent production in the UK. Award winning films such as *The Duchess* illustrate the value of this contribution.
- **(12) We urge the Government, the UK Film Council and the organisations representing the exhibition sector to find a way of completing the digital equipping of cinemas in the UK which, as necessary, provides help to smaller independent cinemas to purchase or lease digital equipment. (para 123)**
16. The Government recognises that digital conversion for cinemas is and will be for a long time a very serious issue for the industry. A great deal has been and is being done in the UK to support the conversion of independent cinemas, from the UK Film Council’s £12 million Digital Screen Network to the recently established UK Digital Funding Group, set up by the exhibitors to help with the costs of conversion.

17. The UK is still in the lead on the roll-out of digital projection technology in Europe with more than 500 screens now equipped; however the majority of these are in multiplexes and part of major chains. The costs of conversion (around £55,000) are very prohibitive to independent and small-chain cinemas and many of these are in rural areas.
18. This issue does not just affect film – the possibilities presented around alternative content will mean that increasingly people will go to cinemas to watch sporting and cultural/arts events. Football, rugby, opera and theatre have all been shown in cinemas recently, to large crowds.
19. As mentioned in the Digital Britain White Paper, the Government looks to industry to take the lead on this and the UK Digital Funding Group is a very welcome step forward. We also feel there can be benefits to looking to share information and ideas between and across EU Member States. The Spanish Presidency and the Commission are looking to produce Council Conclusions regarding digital cinema that are likely to urge Member States and the EU to work together to find effective solutions.
 - **(13) Irrespective of the outcome of the test case on camcording of films in cinemas, we remain concerned that the law is unclear and provides insufficient deterrent to abuse. We recommend that the Government reconsider the case for specific legislation to make it a criminal offence to record a film in a cinema by camcorder. (para 129)**
20. The Government notes the Committee’s views. However, the Committee will be aware that in November of last year, on the Isle of Wight, a man was summarily convicted under section 6 of the Fraud Act 2006 for camcording in a cinema using a mobile phone. This case suggests that we already have adequate existing legislation.
 - **(14) Given the strength of film industry concern about the threat from audiovisual piracy, as reflected in the evidence we received, the Committee supports the Government’s decision to introduce regulatory measures to combat unlawful peer-to-peer file sharing. (para 132)**
21. The Government welcomes the Committee’s recommendation and is seeking to ensure regulatory measures to help combat unlawful peer-to-peer file sharing are implemented via the Digital Economy Bill. This needs to go hand-in-hand with industry efforts to ensure that there are legitimate, attractive and competitive ways for people to access and enjoy audio-visual and other creative content, and industry working to get the message across that copyright is worth protecting.
 - **(15) We welcome the decision of some companies in the audiovisual industries to change their business models in order to meet the legitimate demands of their customers while generating a return on their investment in content, and encourage other companies to do the same. (para 136)**
22. The Government agrees that as the markets for audiovisual products and services change, businesses will have to adapt – often rapidly and radically – to ensure that they are able to survive and flourish. For example cinemas are utilising digital projection technology in order to provide “alternative content” such as live sport and opera.

23. We also believe it is also vital for businesses and organisations involved in the audiovisual industries to work towards mutually beneficial practises that provide an accessible and legal offer to customers.
- **(16) We support the Government’s intention to sell a part of BBC Worldwide, creating a public private company. We believe that such a company, with a continuing link to the BBC, would be capable of becoming a major global brand for distributing UK content, producing additional profits, employment and opportunities for British production companies. (para 220)**
24. As the report notes, the role of BBC Worldwide was addressed in the Digital Britain White Paper. Government is encouraging the BBC Trust to consider proposals to achieve the greater separation outlined in the White Paper, which could include the sale of a part of BBC Worldwide.
- **(17) We recommend the extension of the film tax credit, on a pilot basis, to children’s programmes and animation productions made for television. This pilot, if successful, might be extended to other genres. (para 226)**
 - **(18) We welcome the provisions in the Digital Economy Bill on support for independently funded news consortia to provide regional and local services. (para 229)**
 - **(19) Given the continuing decline in funding for UK content provision, we recommend that the Government should consider use of the proceeds of the sale of spectrum and a part of the BBC licence fee. (para 239)**
25. The Government shares the Committee’s concerns around the declining investment in non-news content, particularly children’s content. That is why the Digital Economy Bill will place a new requirement for the Channel 4 Corporation (C4C) to include content for older children and young adults in its services. We consider that adjusting C4C’s functions in this way is a more appropriate way of securing increased provision of children’s content without adding pressure on the public purse during this difficult economic period.
26. We will make a final decision on the use of the licence fee nearer the time that Independently Funded News Consortia (IFNCs) are rolled out. This will also be the right time to take a decision on the funding of non-news, in particular children’s content, as we will be able to take into account experience from the IFNCs pilot on funding requirements and workability of contestability, for example, and the state of media markets and potential funding gaps at that time.
27. The Government is also working with the content industry to explore other ways to fund UK content. The Digital Test Bed project, due to go live in Autumn 2010, is expected to trial new monetisation methods for inline content, such as a single-click micropayment billing system for on demand video services.
- **(20) Given the current financial constraints on the commercially-funded PSBs, we do not think it is realistic to introduce quotas on specific genres of television programming. (para 248)**
28. The Government agrees with the Committee’s position on genre specific quotas.

- **(21) We recommend that Ofcom should work more closely with cable and satellite channels based in the UK, to explore ways of ensuring that the aim of the rule on European content, as set out in the EU Audiovisual Media Services Directive, is met. (para 253)**
29. The Government agrees that it is important for Ofcom to work closely with UK-based cable and satellite channels to ensure that these meet the requirements of the Audiovisual Media Services Directive (AVMS). So far as Articles 4 and 5 are concerned, however, we think it is also important to bear in mind that the Directive calls for the requirements in respect of European and independent content to be met ‘where practicable’ and ‘by appropriate means’. Ofcom must strike an appropriate balance between its duty towards consumers and citizens to secure a wide range of television services, provided by a plurality of broadcasters, and the requirements of Articles 4 and 5 of the AVMS Directive. The Government believes that the present arrangements achieve that.
- **(22) Although we do not favour the introduction of industry fees in the current economic climate, we believe that the Government should ask Ofcom to assess research already done on possible use of fees in the UK, and commission them to conduct further research to reach firm conclusions on the likely costs and benefits of such fees. This would provide a firm basis on which Parliament might make any future decisions. (para 268)**
30. The Government agrees with the Committee that industry fees should not be introduced in the current economic climate. We have already conducted research on retransmission fees and copyright levies as part of the Digital Britain Report and A Copyright Strategy for the Digital Age, but we see the merit of a robust comprehensive assessment of industry fees on which Parliament could take future decisions. The Government will therefore ask Ofcom to assess existing research and conduct further research on the likely costs and benefits of implementing industry fees.
- **(23) We welcome the positive impact that the Terms of Trade have had on the growth of the independent production sector, and the benefits this has had on the sector’s contribution to UK content. We support the Government’s proposal to review the Terms of Trade, in the light of changes in the independent production sector and the impact they can have on the commercial PSBs. (para 273)**
31. The framework set up to support the independent production sector is one of the biggest successes of the Communications Act 2003. It has led to the creation of an independent production sector generating revenue of £2.2bn in 2008, mainly from primary television rights.
32. The Government announced in the Interim Digital Britain Report that we would review the existing Terms of Trade in light of new entrants to the market, new business models and new distribution channels. Since then, we published Digital Britain: Assessing the policy framework for Public Service Rights, and held several workshops for both independent producers and commissioners to discuss the Terms of Trade. We published our conclusions arising from this review in the Digital Britain Final Report. We found that the statutory framework for the Terms of Trade is continuing to work well.
- **(24) There is a serious risk that the UK will lose out by the decision to block Project Kangaroo and we strongly regret the Government’s failure to intervene in the Competition Commission’s investigation. We urge that, if other similar**

UK-based video on demand projects are proposed, the Government will ensure that the implications for the British television industry are properly taken into account. (para 280)

33. The Government notes the Committee's comments. Mergers are regulated to ensure that the benefits of effective competition are not lost when previously distinct enterprises operating in the same market come under common control. The Secretary of State does have a reserve power to intervene in mergers but only in cases where he considers that a merger may have a detrimental effect in relation to a specified public interest consideration (such as ensuring a wide range of broadcasting of high quality and wide appeal) that would not be otherwise be considered. This was not the case in relation to Kangaroo.

- **(25) We recommend that the Department for Business, Innovation and Skills should encourage the Higher Education Funding Council to deploy some of its funding to support high-level, post-graduate training in the post-production and animation sectors. (para 295)**

34. The Government is aware that Skillset, representing employers, is engaged with the Higher Education (HE) sector on skills issues. The forthcoming report by the UK Commission on Employment and Skills (UKCES), to which Skillset and other Sector Skills Councils (SSCs) have contributed, is aimed at ensuring providers, educators, and the Higher Education Funding Council for England (HEFCE), are fully aware of the skills required across all UK sectors, highlighting those that are deemed critical to the UK's prosperity. This will inform future funding arrangements.

35. The Government is clear that it expects HEFCE to devise incentives to support the most economically valuable programmes through contestable funding and channelling money away from less valuable programmes. This could potentially include post-graduate training in key sectors, if there is a strong demand from business. We have asked HEFCE to consult the HE sector, but make rapid progress so that the new approach can be implemented in 2011-12.

- **(26) We support Skillset's efforts to promote dialogue between the education and training providers and the film, television and videogames industries. We recommend that the Higher Education and Funding Council should encourage closer relationships between universities and the creative industries, including the introduction of sandwich courses for media studies degrees enabling students to spend part or all of the penultimate year of their degree working in the industry. (para 300)**

36. New Industry, New Jobs (NINJ) set out the need for a continued focus on areas of existing economic strength and these include those driven by high levels of skills and creativity.

37. Universities, HEFCE and the UK Commission for Employment and Skills must come together to identify and tackle specific areas where university supply is not meeting the demand for key skills. It is for individual universities to determine whether sandwich courses are an appropriate response to such demand but, where this is part of any agreed way forward, we would welcome this.

38. However, in addition to using public funds to meet industry demand for skills, as the main recipients of such skilled staff employers and businesses also need to contribute. This could be through joint research programmes, vocationally orientated courses that they

part-fund, sponsorship of students and increased use of universities for management and leadership training.

- **(27) We welcome the work that Skillset is doing on codes of conduct for internships, and encourage them to play a greater role in the coordination of apprenticeships and other on-the-job training. (para 312)**

39. The Government acknowledges that broadening access to entry routes to the creative industries is a key priority. The success of the creative industries fundamentally depends on a vibrant, highly skilled workforce of creative professionals from a diverse range of different backgrounds. We join the committee in welcoming Skillset's work on the forthcoming guidelines for internships, work experience placements and apprenticeships, following on from the Milburn report on Fair Access to the Professions.

- **(28) We urge the film and television industries to provide more equal access to training and skills-based career development through greater use of apprenticeships and graduate internships. (para 313)**

40. We are committed to working with our Sector Skills Councils and Non Departmental Public Bodies and through them their sectors, to agree actions to promote a more diverse work force. As part of diversifying the workforce across the creative industries, including the film and television sectors, our ambitious aim is to create up to 5,000 apprenticeships a year by 2013. These apprenticeship programmes are expected to diversify the pool of entrants into the sector by opening up the entry points to the creative industries and providing clear progression routes for young people and adults to employment.

41. In addition to apprenticeships, across Government, we are looking at the potential for the 20,000 internships announced through Backing Young Britain to provide entry routes into the creative industries, as well as the other NINJ sector.

- **(29) In the light of the variability of training across the sector, we welcome the continuing role played by the BBC and the BBC's willingness to make its training more widely available through the launch of the BBC Academy. (para 317)**

- **(30) We understand the current pressures on the budgets of UK commercial public service broadcasters but believe that the reduction in training budgets threatens the future competitiveness of the UK television industry. We urge the Government to encourage PSBs to revive their investment in training. (para 328)**

42. The scaling back of sector investment in skills and training is an issue which Skillset have rightly raised in their discussions with Government. The Government recognises the importance of continued investment, through the economic downturn, for the future competitiveness of the UK television industry. We therefore accept the Committee's recommendation and will continue to encourage the PSBs to invest strongly in skills and training across the industry.

43. The BBC already has a formal obligation under its Agreement to contribute to the preparation and maintenance of a highly skilled workforce across the audio-visual industry, and continues to invest heavily in training programmes. For example, the BBC spent £44.5 million on training in 2008 and the new BBC Academy has 200 staff and £40 million budget.

44. As indicated in the Digital Britain White Paper, the Government is continuing to work with Channel 4 and Skillset to ensure that Channel 4's potential contribution to engagement and development is fully realised. In addition, the Digital Economy Bill includes an obligation on the Channel 4 Television Corporation (C4C), in carrying out its new functions introduced by the Bill, to support the development of people with creative talent, particularly those at the beginning of their careers and those involved in making innovative content.
- **(31) We regret that, because of budgetary constraints, the UK Film Council should be forced to reduce significantly its funding for training for the next three years, at a time when training should be a priority. We urge the Government to ensure that the UK Film Council is adequately funded to allow it at least to restore its former level of support for training. (para 330)**
45. The Government recognises that the UK Film Council has done a great deal for film skills training since its inception. Since the launch of its *A Bigger Future* strategy with Skillset more than 16,000 opportunities for training have been created. Nurturing skills and creative talent is listed as one of six core skills in their proposed three year plan and will still receive £3.25 million in funding per year.
46. We also recognise that the UK Film Council has been realistic about the amount of funding that will be available to it over the next few years. The Film Council's priority for skills funding will be on training for new technologies (i.e. digital and 3D) and post-production. This, together with the investment into skills by the Public Service Broadcasters, will help to maintain the UK industry's international lead in these areas.
- **(32) We welcome Ofcom's proposals to develop co-operation within the regulatory framework for training in the television industry and recommend that Ofcom should publish guidance to clarify the roles of the organisations involved. (para 334)**
47. Ofcom are working with Skillset and the Broadcast Training & Skills Regulator (BTSSR) on a framework agreement between the three bodies that will clarify their respective roles and the ways in which they will co-operate. The proposals for the framework agreement include ways of improving understanding amongst stakeholders about the roles of each of the bodies. Government welcomes Ofcom's engagement with Skillset and BTSSR on this framework agreement and supports the objectives this will seek to achieve.



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