

Screen Funding Agency Review Discussion Paper Response from SPADA for the Ministry for Culture and Heritage

SPADA thanks the Ministry for Culture and Heritage for the opportunity to discuss key issues for the industry with its representatives conducting the review and to respond to the discussion paper.

A. Executive Summary

The main points that SPADA wishes to make are:

1) Overview:

- While issues on the effectiveness of government's funding arrangements for screen are outlined in the body of the paper the suggested structural options do not appear to provide solutions to the issues identified. It is unclear what the problems are that they are seeking to address. None of the suggested options improve the capability of screen funding agencies or lead to better outcomes for viewers or the development of the industry.
- SPADA understands that the Screen Production Task Force report called for a review to examine the legislation and functions of certain agencies and specific issues for the screen industry in relation to funding agencies such as ownership and exploitation of intellectual property rights, recoupment positions and their effect on the sustainability of business enterprises. While these issues are raised in the body of the discussion paper the options do not provide solutions to address or progress either of these fundamental areas of concern.
- **Contestable funding** arrangements have been very successful for viewers and the industry and SPADA supports the retention of existing funding arrangements with better communication amongst agencies and with the industry, including SPADA and the screen guilds.
- New Zealand public broadcasting policy needs to devise an appropriate mechanism to engage Sky TV and other **satellite and digital** distribution services with the production of **local content** as audiences for these media will continue to grow exponentially.
- SPADA and most of the screen production industry think that the biggest priority for government's arrangements for the screen industry right now is to **prioritize growing the domestic industry base**. Any rearrangement of the current screen support mechanisms for film and television at this time would divert from this urgent priority. Overall review of government

funding mechanisms creates uncertainty for both the industry and government agencies.

- Government's economic development agencies such as Investment New Zealand have poured resources into profiling New Zealand as a location, to promote The Lord of The Rings and incentives to attract overseas productions. Given New Zealand's high profile internationally now is the time to give some urgent attention and real resources into attracting investment into the domestic film and television industries and this needs to be done in partnership with the domestic industry.

2) Principles for Government Intervention

- There are three key principles for government intervention missing in the paper:
 - i) SPADA suggests that the public policy basis for government support of the screen industry should be to **sustain and grow the domestic screen industry** for both economic outcomes and cultural benefits for New Zealand.
 - ii) To enhance the ability of New Zealand audiences to have access to the widest range of **high quality local content** through a variety of production and distribution opportunities. In the absence of quotas, local content targets by television broadcasters are heavily reliant on access to clearly contestable funding. New Zealand On Air has been very successful at administering this contestable funding to create high quality local content and needs to be retained.
 - iii) Diversity of content, risk taking and innovation is an important principle. A principle reason for government support is to allow **innovation and experimentation** and allow risks to be taken that will achieve this and that will have the best outcomes for audiences.

3) Structural Options

- SPADA does not support any of the options as proposed and does not support any amalgamation of existing agencies. **More communication** amongst current structures and with the industry would vastly improve the existing situation.
- More concentration of administration is counter productive and will neither develop the industry nor lead to better outcomes for audiences. A more coordinated, strategic approach which would have government working more effectively with the sector would involve existing agencies communicating more effectively among themselves and with industry

infrastructure such as SPADA and the guilds. The industry must also be able to talk directly to relevant Ministers.

- SPADA does not see any advantages whatsoever for the industry or better outcomes for viewers in trying to integrate **film and television funding** streams. Any advantages would be purely accounting and not necessarily lead to any significant administrative efficiency gains to counterbalance the detriment to the industry of having an even smaller number of gate keepers and decision makers which could in turn lead to stifling of ideas that do not conform to current thinking .
- There is clear differentiation of purpose between NZFC funding, NZOA, Te Mangai Paho and the Film Production Fund. Already there has been muddying of the waters by the introduction of funding for **Signature Television** from the New Zealand Film Commission. This should be administered by NZ On Air. Total investment exposure by government could be clarified by more regular communication.
- Options 2 to 4 all involve some element of combining **cultural and commercial objectives**. SPADA does not support the combining of these objectives in funding structures. The industry and public have not debated the weighty policy implications of pitting culture directly against commerce.
- Commerce is likely to win in any competition under current policy settings and yet the principle reason for government funding is to support cultural objectives in a commercial screen industry. This tension has already led to significant disquiet in the screen industry about the levels of government support aimed at increasing New Zealand's attractiveness to servicing international productions without a clear understanding of the effects on the growth of the domestic industry. **Development of the domestic industry** is the key to a sustainable screen industry future for this country.

B. Responses to Questions 1 through to 10

1. Principles for Government Screen Support

There are three additional and important principles that are a basis for government screen-funding support:

1.1 SPADA believes that a key objective or basis for government support of the screen industry is to **sustain and grow the domestic screen industry** for both economic and cultural outcomes for New Zealand. As the discussion paper outlines, (2.7) certain types of cultural content would not be available in New Zealand without public funding support. To quote from the quotation in the paper from a 2003 UK House of Commons Report: “Public policy has a role to play in strengthening the industry in order to generate substantial economic rewards and important cultural benefits.”

1.2 A key principle for government intervention is to enhance the ability of New Zealand audiences to have access to the widest range of **high quality local content** through a variety of production and distribution opportunities. The New Zealand government has apparently foregone the right to introduce a local content quota and now relies on voluntary targets to increase the quantity and quality of local content on television via the Local Content Group formed at the behest of the Minister of Broadcasting. Broadcaster commitments to these targets are heavily dependent on the ability to access contestable funding via New Zealand On Air.

1.3 A principle reason for government support is to allow **innovation and experimentation** and allow risks to be taken that will achieve this that will have the best outcomes for audiences.

The working principles should therefore include a position on research and development (and funding for it) that does not require a broadcaster and protects the ownership of intellectual property in ideas. Screen producers need to be able to develop ideas without compromising the ownership of them. This applies to government agency funding as well as broadcaster contracting and involves recognition that intellectual property rights and equity rest with the producer and shouldn't be given up as part of payment for the licence fee for broadcast or as an inherent part of contracting for the development of a programme or feature.

Q 2 – Significant issues or challenges for the screen industry which may involve government action

2.1 SPADA and most of the screen production industry think that the biggest priority for government's arrangements for the screen industry right now is to **prioritize growing the domestic industry base** for both cultural and economic reasons. Any rearrangement of the current screen support mechanisms for film and television at this time would divert from this urgent priority.

Government's economic development agencies such as Investment New Zealand have poured resources into profiling New Zealand as a location and incentives to attract overseas productions. Given New Zealand's high profile internationally now is the time to give some urgent attention and direct real resources into attracting investment into the domestic film and television industries and this needs to be done in partnership with the domestic industry.

2.2 Key issues for the sustainability and growth of the industry include the ownership of intellectual property by government and **modifying tough recoupment positions** of screen funding agencies vis-à-vis private investors and producers. **Intellectual property rights** need to be retained and exploited in order for New Zealand businesses to survive and grow and for audiences to see a wide variety of good local content.

2.3 The working principles behind public policy need to include an awareness of the **international market forces** that are impacting on the New Zealand screen industry as this is a principle reason for government intervention in the screen industry throughout the world. Most cultural policies to support domestic industries are aimed at countering the homogenizing and commercially dominant force of Hollywood and enabling viable local screen industries.

The roles of competing regions in Australia, UK and Canada need to be considered in these principles. The US approach to runaway production is to create significant benefits at home for producers. New Zealand government investment policy is currently shortsighted in not concentrating on how to get **foreign direct investment into the domestic screen industry.**

2.4 The broadcasting landscape is ever changing and **pay television** needs to be brought into the equation. Owner of almost all sports rights, dominant in the movie business and now present in over 40% of New Zealand homes, SPADA believes that **Sky TV** must be brought into a regulated environment that requires them to invest in the screen industry and to **enshrine a position for New Zealand content** on all channels. New Zealand public broadcasting policy needs to devise an appropriate mechanism to engage **Sky TV** and any future satellite and digital distribution services with the TV Local Content Group as the audience reach of these media will continue to grow exponentially.

A challenge for existing broadcasters will be to attract a wide audience in the **digital environment** and will be achieved only through delivering original and compelling content to viewers. The independent sector is the seed bed for creativity to develop and independent producers have an important role in bringing new content and diversity to the screen.

2.5 The dominance of TVNZ as a broadcaster and new mandate under the Charter is both a threat and an opportunity for the industry. Any moves towards direct funding of TVNZ which enable further dominance in the market would be detrimental to the health and viability of the independent industry and innovation. It would be likely to lead to increased in-house production by TVNZ to the detriment of the independent industry (as identified in para 4.12 of the paper).

2.6 Contestable funding has been very successful in New Zealand and other countries are now looking to the New Zealand model. Competition among broadcasters is key to high quality, innovative and diverse local content. Audiences of all broadcasters need to have the chance to see New Zealand programmes and this will only be possible if NZ On Air funds these programmes. Local content and diversity has been promoted in New Zealand through access to contestable funding as local content quotas have been ruled out by New Zealand's international legal obligations. Overseas models of screen funding that have elements of integration between film and television are operating in a very different environment in which compulsory local content quotas are a matter of legislative compulsion for broadcasters.

TV3 has stated that currently local content is not a ratings earner for it and that production and encouragement of local content is a matter of public responsibility. Direct funding of TVNZ for local content under the Charter could have the unanticipated effect of increasing TV3 ratings and profitability leading to increased foreign content on TV3, all at the expense of TVNZ and Charter objectives to increase quality and quantity of local content. There is some concern in the current climate of uncertainty about the perceived level of TV3 commissioning, which seems to have dropped.

Q 3. Support for a more coordinated and strategic approach amongst government agencies for better integration of cultural and economic considerations.

3.1 While there are undoubted and sometimes unhelpful tensions for the industry between the cultural and economic objectives of government, SPADA is skeptical of the outcome of combining these areas structurally.

This is because commerce is likely to win in any competition under current policy settings and yet the principle reason for government funding is to support cultural objectives in a commercial screen industry. This tension has already led to significant disquiet in the screen industry about the levels of government support

aimed at increasing New Zealand's attractiveness to servicing international productions without a clear understanding of the effects on the growth of the domestic industry.

3.2 The Screen Production Task Force recommended that incentives for foreign productions be brought in only at the same time as investment assistance for the domestic industry and envisaged channeling incentives through New Zealand companies. The legacy of the manner in which the Large Budget Grants Scheme was handled by government without tying it into the growth of the domestic industry is that there is skepticism in the industry that government understands that **development of the domestic industry** is the key to a sustainable screen industry future for this country.

While the doubling of baseline funding to the New Zealand Film Commission was most appreciated, the industry still needs incentives/or encouragement for **international investment in New Zealand original screen productions**. Recent experience means that the industry does not have sufficient confidence that the part of government responsible for cultural policy objectives will advocate strongly enough for the interests of the domestic industry in any further pitting of economic versus cultural objectives. Confidence could be regained if government set about communicating properly with and listening to the domestic industry, especially before making any policy moves.

3.3 SPADA would like to see a **policy directive** by senior Cabinet Ministers responsible for the screen industry that **growth of the domestic industry** should now be a priority for a **whole of government approach** thus ensuring that the economic development agencies of government need to work with the industry on this.

Q4. Issues in the Interface of film and television for industry development

4.1 Film and television in New Zealand operate under two very different economic models but have many cross overs in personnel. Working exclusively in domestic feature film it is still difficult to sustain a living or a full time business. Many people make television programmes while also working in feature film when opportunity and finances allow. Feature film involves long development periods that may need to be cashflowed by some other means (such as television drama). The paper correctly identifies television production as a major driver of the domestic screen industry (para 4.10).

4.2 A major investment component missing in New Zealand feature film but a key driver elsewhere is investment in film by television broadcasters. The best example of this is the UK's Channel 4 which has invested in new feature films (along with other sources of government and private investment) leading to the making of some of the most dynamic and interesting British cinema such as *My Beautiful Laundrette* and *Trainspotting*.

4.3 The New Zealand Film Commission's funding of **Signature Television** is a strange hybrid that is neither going to lead to new feature films for New Zealand audiences nor making the television production community particularly happy. It introduces an element of competition to New Zealand On Air's support for local drama.

It also muddies the waters of contestable and direct funding for TVNZ for local content and unsettles the television industry because it does not believe that the NZFC is necessarily equipped to understand television network needs in drama and one of the motivations for lobbying for Signature Television appears to be as a training exercise for feature film. SPADA believes that this funding should be administered by **New Zealand On Air**. The tensions arising from this lack of clarity of agency objectives need to be resolved so that the focus returns to the delivery of outstanding screen productions regardless of whether that is in the cinema or on our television screens.

Q5. Integration of film and/or television funding streams.

5.1 SPADA does not see any advantages for the industry or better outcomes for viewers in trying to integrate **film and television funding** streams. Any possible bottom line administrative advantages (and these would be questionable as larger bureaucracies often swallow up more administrative resources than smaller agencies) would not counterbalance the detriment to the industry of having an even smaller number of gate keepers and decision makers which could in turn lead to stifling of ideas that do not conform to current thinking.

5.2 Any commonalities that may have led to a level of integration between film and television funding elsewhere do not necessarily exist in New Zealand. For example some other countries have major, compulsory quotas for local drama content. This synergy with film does not exist in New Zealand.

5.3 While some production houses do make both television and feature film there are no perceived advantages in having to approach the same advisers and decision makers for the two types of production. There are already too few pathways and opportunities for producers to gain acceptance of their ideas and this would lead to stifling of innovation. This would be exacerbated if there were any moves to transfer currently contestable funding for local content from New Zealand On Air directly to TVNZ or even "tagged" for TVNZ via NZOA. It would also strengthen TVNZ's commercial dominance in the market and potential ability to drive down terms and licence fees for the independent industry.

Q.6 Government more effectively working with screen sector.

6.1 A more coordinated, strategic approach which would have government working more effectively with the sector would involve existing agencies communicating more effectively among themselves and with industry infrastructure such as SPADA, the Screen Council and the guilds. The industry must also be able to talk directly to relevant Ministers. We suggest that screen funding agency CEO's and Chairs meet quarterly with Ministers.

6.2 The domestic industry would like **transparency about the international agenda** of the economic development agencies of the government, including Investment New Zealand and New Zealand Trade and Enterprise. Any activities that market the New Zealand industry internationally need to have connection with and be in consultation with the domestic industry. The industry has concerns about inward and outward missions that do not connect with the domestic industry and what messages are therefore conveyed in trying to build awareness of New Zealand's screen capability. New Zealand needs to be very careful about the messages it communicates internationally about its screen capability, including its cost structure.

Q7 Gaps in current arrangements for government support for the screen industry

7.1 Assistance with **creation of an environment that is conducive to long term business planning** would be most appreciated by the screen industry.

Recent experience in television in particular (especially in drama) shows how vulnerable the industry is to peaks and troughs that are not replicated in other countries in which there are compulsory local content quotas.

a) SPADA would like independent measurement of local content targets and consideration of **minimum targets or quotas for genres**. This would help to ensure greater certainty for the production industry and better outcomes for the viewing public who would have consistency of local content in drama, documentary/ factual etc.

b) SPADA would like a mechanism to be found to ensure that **all broadcasters have a target for local programming**. As outlined, digital will soon overtake free-to-air, and therefore a position needs to be enshrined for New Zealand content on all channels for both cultural and business reasons. Sky and other digital and pay TV outlets must be brought into a regulated environment that requires them to invest in local programming and the domestic screen industry.

7.2 SPADA strongly supports the **continuation of the Film Fund**. SPADA encourages multiple funding pathways as a key screen production industry principle. SPADA agrees with the Screen Council's recommendation for the continuation and re-investment into a body separate from the New Zealand Film Commission, designed to support the production of larger budget New Zealand feature films. The success of investment in films made possible by the fund so far indicates how important this Fund is for larger budget domestic films.

7.3 The domestic industry would like Government to reconsider the recommendation of the Screen Production Task Force **that Large Budget Grants Scheme should go through a local entity or production house** and encourage the domestic industry.

The local industry is denied any benefit under the current scheme and this is most unusual in the way incentives are administered internationally. To quote from the Task Force report (page 37): "All incentives should go through a local entity whatever the desired outcome, including attraction of foreign production. This is necessary to stimulate local infrastructure and to ensure that benefits stay in the country. It also ensures that local laws and customs are observed, as the recipient, the local company, will remain long after the foreign producers have left the country."

The Task Force also recommended that any incentives Government put in place need to encourage domestic as well as foreign productions.

7.4 SPADA would like a **review of the recoupment positions** of screen funding agencies that have primarily a cultural imperative. This would result in increasing the viability of New Zealand independent television programming and film making. As the potential return to the funding agency is usually much greater than the return to the producer, tough recoupment positions by screen agencies act as a disincentive to the producer, making it not financially viable for the producer to spend further money on marketing and distribution, both at home and internationally and making it difficult to build viable screen businesses.

7.5 SPADA would like the government to consider with the industry the best means of supporting **R&D for the industry** in order to support innovation and experimentation and allowing risks to be taken to develop new ideas. This would also allow the fostering of **new talent**. SPADA is concerned that new talent needs to be more adequately nurtured. SPADA runs an informal mentoring programme for new producers to team up with experienced producers but recommends that resources may need to be directed to this area as no screen production can get made without a producer.

Q8. Ranking of the four options

8.1 After consideration of all the options proposed we believe that the only workable and tenable option is to maintain existing funding arrangements with more dialogue and consultation. SPADA supports maintaining the “**many doors**” funding approach and believes that any amalgamation of existing agencies would not be in the interests of the industry or lead to better outcomes for viewers.

8.2 SPADA does not endorse any moves to amalgamate film and television funding streams. Nor does it agree with the bringing together of national and “international” aspects of film under one agency. We agree that the “international” aspects of film should be working more closely with agencies supporting the domestic industry. However, SPADA thinks that fundamental and underlying policy tensions around cultural and economic objectives of government risk short term economic objectives being too dominant in any amalgamation as proposed under Option 2.

Q9 Variations on options

9.1 SPADA believes that Chairs and CEOs of screen funding agencies should meet regularly to discuss cross-sector strategic issues. A potential risk with the proposed “formality” of this arrangement in option 1 is that real issues for the industry may however get passed over in favour of more administrative issues and reporting to government (i.e. statements of intent etc). SPADA is skeptical of an added administrative layer and asks why regular meetings aren’t already happening as they do in other sectors. Regular communication should be possible without an added layer of administration.

9.2 Regular discussion with industry bodies such as the Screen Council, SPADA and the screen guilds should go hand in hand with increased communication amongst agencies. There is a need for officials and Ministers to talk more regularly with the industry and to understand what the real issues are rather than potentially second guessing the issues and solutions. The domestic screen industry has never been more united in its approach to moving forward together to build up the domestic industry.

9.3 Regular events such as SPADA’s annual film and television conference ***Small Country, Big Picture*** are the building blocks to identify and air issues for the screen industry. Other industry forums could be convened either for the whole industry or for film and television.

10. Conclusion

SPADA would welcome the opportunity to further discuss the recommendations and feedback to the Ministry for Culture and Heritage in this paper. It would welcome officials and Ministers drawing on the independent industry’s extensive

experience and playing a constructive role in discussions on the future of government mechanisms to support New Zealand's screen industry.

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