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Trade Negotiations Division
Ministry of Foreign Affairs and Trade
WELLINGTON

By email to tnd@mfat.govt.nz

The GATS Negotiations: Public Consultation on New Zealand's Approach to the next stage of the WTO Services Negotiations

Thank you for the opportunity to make a submission.

SPADA represents over 325 screen production industry members including producers, directors, line producers and industry suppliers. This submission has been approved by the SPADA Executive, a board of ten elected members.

Our submission of 18 June 2002 made an especial plea to factor cultural issues into the complicated matrix of trade negotiations. We are very disappointed that in the Ministry's "ten guiding principles" no specific recognition has been made of this point. This is at odds with the Government's emphasis on the cultural industries as a vital part of New Zealand's nationhood and the role they can play in economic development.

We note that the Minister's press release of 2 February 2003 makes no mention of cultural matters in his list of commitments that will not be made by New Zealand.

We note the point that negotiations will be conducted with the overarching Principle One of "advancing the national interest". We assume that the Ministry must include cultural issues in its criteria for assessing the national interest.

We note that Principle Two emphasises advancing improved terms and conditions for New Zealand's services exporters. We assume this includes screen production companies (film, television, commercials production and line production services).

We note Principle Four indicates New Zealand will not change actual current policy settings.

We note Principle Five which confirms that New Zealand's initial offer will in no way override our present GATS reservation regarding the treatment of Maori persons or organisations.

We note Principle Eight confirming New Zealand's initial offer will not require a lowering of any of New Zealand's quality standards in any area

Our submission relates to requests made in:

- Most Favoured Nation (MFN) Exemptions
- Recreational, Cultural and Sporting Services
- Communication Services: Audio-visual Services

Most Favoured Nation (MFN) Exemptions

We note that New Zealand maintains five limited exemptions, including bilateral film production agreements. We note that requests have been received to remove all five exemptions.

We strongly oppose the removal of the exemption relating to bilateral film agreements. This must not be traded away. The New Zealand screen production industry has few advantages compared to our offshore colleagues who enjoy quotas, subsidies, taxation relief, sizeable domestic markets and economies and, in the case of the United States, global dominance of this sector.

Removing this exemption would be in breach of the five Principles guiding New Zealand's negotiating position outlined above.

Recreational, Cultural and Sporting Services

We are uncertain whether requests made in this arena affect the cultural and broadcast sector as MFAT's website information does not reveal the types of requests made. If there are specific requests made regarding, for example, archiving which affects the screen production industry or regarding individual artists, we would appreciate further detail and the opportunity to make additional submissions if the Government intends acting on these requests.

Communication Services: Audio-visual Services

We note that New Zealand has two national treatment limitations regarding funding for Maori broadcasting and Government assistance to the New Zealand film industry (as well as the MFN exemption referred to above). The Ministry is aware of our view that the limited number of such exemptions negotiated was a strategic error by New Zealand, in that these commitments actively work against the growth and development of the screen production industry among others. This industry has been accurately identified by the Government as an industry capable of significantly enhancing New Zealand's economic performance.

We note that New Zealand has been requested to remove current national treatment limitations and to make commitments in "other audio-visual services".

We strongly oppose the removal of these exemptions. They must not be traded off.

Removal of the Maori broadcasting exemption would be in breach of the principles of the Treaty Of Waitangi. The Privy Council has determined that Maori have inherent rights to a broadcasting presence, both in television and radio. Thus this provision must remain non-negotiable.

Removal of Government assistance to the New Zealand film industry would destroy the industry and result in the cessation of almost all New Zealand cultural film (namely films by us and about our country). It is almost impossible to raise production funding from the international market without domestic investment. Compounding this, there are very, very few private investment opportunities in New Zealand, mainly due to Government taxation policy. Without Government support, films such as *Whale Rider*, *Once Were Warriors* and *Rain* could not have been made.

Removal of Government assistance would also deal a body-blow to the development of industry practitioners, most specifically (but not exclusively) film producers, directors and writers. Film makers as diverse as Peter Jackson, Jane Campion, Niki Caro, Lee Tamahori and Merata Mita - and their respective producers and production teams - all derive their film making careers from initial Government assistance.

Altering these exemptions would be in breach of the five negotiating Principles outlined above.

Conclusion

We are assuming the Ministry is aware of the detailed arguments behind the creation of the exemptions, and the cultural industry's unhappiness that the exemptions are so narrow. Thus we will not repeat them (but we are happy to provide a broader paper on request). Suffice to say that rather than considering removing or trading off the precious few exemptions we have, we should instead be considering more.

That such requests can be made of New Zealand demonstrates yet again that cultural exceptions to trade agreements are an important policy issue that has not been adequately addressed. No one will protect New Zealand's culture except New Zealanders. Our country must find a way to take such a position as so many other countries are managing to do.

Irrespective of other elements considered eligible for the Government to trade away in the course of these negotiations, none of the proposals from other countries that negatively affect the cultural sector must be entertained.

If the Government is considering such notions we insist on widespread public consultation and public forums before any decision is made. We must not repeat the errors made in 1994.

Thank you for the opportunity to comment. We look forward to hearing from you.

Yours sincerely

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[sent unsigned by email transmission]