Written evidence submitted by Dr Martin Smith, Institute for Creative and Cultural Entrepreneurship (ICCE), Goldsmiths, University of London

British Film and High-End Television

1. Introduction

The author is a founder member of the Creative Industries Council, public affairs and policy consultant, part-time academic and small investor who has worked in the film industry for sixteen years. Although there has been considerable convergence between the film and high-end TV sub-sectors in recent years, with many producers gravitating from the former to the latter, from a business economics perspective there remain substantial differences between them. This submission focuses on film, and especially independent film, which is the impoverished and neglected training ground for our most celebrated writers, producers, directors and performers. It warns of the serious consequences for the wider 'British film industry' if the decline of the independent sub-sector in film-making is not reversed. [1]

2. How attractive is the UK as a global destination for the production of film and high-end television?

In current global market circumstances, the UK is exceptionally attractive to inward investors in both film and high-end TV, especially to US investors, for reasons which have been well documented, for example in a report for HMRC by Ipsos, London Economics and Olsberg SPI.[2] The British Screen Forum, the UK's major trade association for the audio-visual industries, summarised the situation succinctly in July 2022:

> "The ongoing success of the UK screen sector lies in maintaining its track record of attracting inward investment in a highly competitive global market for production locations…."[3]

It is common ground that inward investors' ability to access tax incentives has been central in maintaining this successful track record. The £500 million Film and TV Production Restart Scheme, a state-backed insurance arrangement launched in July 2022 in response to the Covid-generated industry shutdown and extended in October 2021, was also critically important to maintaining global competitiveness: it facilitated a rapid bounce-back and a production spend of a record £5.6 billion – boom conditions which supported some 95,000 jobs but also introduced significant cost inflation (at least 15% year on year) to both sub-sectors.[4]

[1] The views expressed in this submission are personal and should not be attributed to any of the organisations cited.
[2] Ipsos, London Economics and Olsberg SPI, *Creative Industry Tax Reliefs Evaluation*, HM Revenue and Customs research report 684, November 2022. See especially section 6.1 "Attractiveness of the UK for creative industries."
[3] British Screen Forum, *UK Screen Sectors: A Prospectus for Growth in an Age of Change*, July 2022, p.86.
[4] *Variety,* April 1st, 2022.

There are other reasons for the UK's attractiveness as a destination for inward investment – long-established networks of skilled audio-visual technicians and media business professional services specialists are pivotal to the proposition – but it should not be assumed that boom conditions are a permanent feature of the landscape. In both sub-sectors capital, like labour, is highly mobile: historically, levels of inward investment in film have been driven, in combination with fiscal interventions, by changes in the dollar-sterling exchange rate (1980 and 1981 were particularly bad years), a factor which is rarely acknowledged.[5] An exchange rate of approximately $1.28 to the pound (31st July 2023) is relatively favourable to the UK film and high-end TV industries on a long view.

3. What are the barriers to maintaining and increasing overseas investment in the sector?

There is a global 'arms race' in the competition to attract film and high-end TV production spend: more than 100 countries and states or regions compete fiercely by means of promoting ever more generous tax incentives designed to attract footloose production companies. These incentives, which are tracked twice a year by Olsberg SPI's *Global Incentives Index*,[6] are increasingly popular because of the scale and speed of their positive economic impact on supply chains and thus jobs. There is also an established link to trends in cultural tourism (*Game of Thrones* locations in Dubrovnik in Croatia and Northern Ireland is a frequently cited example).

In recent years the boom in production in the UK has led to a chronic shortage both of studio capacity and skills of all kinds – from lighting technicians to production accountants. Physical constraints have been energetically addressed by industry bodies in respect of new studio development, but skills bottlenecks remain acute in spite of the commissioning of numerous reports and considerable expenditure of public money, partly because most of the businesses in these sub-sectors are micro-enterprises. Skills training delivery has been patchy at best beyond flagship providers like the National Film and Television School (NFTS) and a few others: this inhibits future competitiveness.

The UK is now a relatively expensive place to shoot on a comparative view, highlighting the need to stay ahead of the competition as regards non-cost variables.

4. What are the benefits and challenges of overseas investment for the UK's film-making capacity?

The "benefits" are well understood and widely trumpeted: the "challenges" have consistently been discounted in industry policy discourse despite the best efforts of some trade associations.

[5] For a long term twentieth century view, see Dr Gerben Bakker, "Soft Power: The Media Industries in Britain since 1870" in R. Floud, J. Humphries and P. Johnson eds., *The Cambridge Economic History of Modern Britain*, Cambridge University Press, 4th edition, July 2014.

[6] [The Global Incentives Index — Olsberg SPI (o-spi.com)](https://www.o-spi.com).

The 'official' narrative of the British film industry has for many years been one of an undifferentiated success story, rather than of two inter-related but, from an investor perspective, fundamentally different activities (Studio business and independent business). This makes sense to audiences, for whom a film's financial structure and return on investment is of no interest: equally, it has a regrettable consequence for a proper understanding of the British film industry. Even well-informed commentators on the 'creative industries' tend not to question the unmodulated boosterish narrative associated with British-badged US inward investment films, of which the James Bond franchise is a prominent example, ignoring the fact that bumper levels of Studio investment, producer poverty and extreme commercial fragility are to be found side by side in a polarised screen business ecosystem. It is widely seen as 'unhelpful' to make serious efforts to follow the money.

This established narrative presents few difficulties to the many industry executives who see the UK primarily as an off-shore facilities hub for US Studios and 'streamers' (Netflix, Apple and Amazon, amongst others). For them, this off-shoring perspective is merely an unsentimental recognition of an established fact, namely that some 85-95% of the capital deployed in the UK film industry derives from Hollywood (plus more recently the streamers). On this view, the dire corporate finances characteristic of almost all home-grown UK production companies and distributors are of secondary importance.[7] Plentiful evidence of declining aggregate levels of *domestic* investment in film is, similarly, a matter of regret but little consequence when so much global cash has been swilling around.

Herein lies the main 'challenge' alluded to in the question: it is the most important issue facing the Committee as regards film. Studio (and streamer) business and 'indie' business are two quite different businesses even though they intersect in many and varied ways, often drawing on the same pool of talent and skills and frequently sharing the same output characteristics. Notwithstanding these interconnections and resemblances the two activities are based on radically different business models, are experiencing very different fortunes and are faced with altogether different prospects.

The key point for policy-makers is that the clearly evidenced decline of the UK's independent film sub-sector threatens to have negative consequences for the *totality* of the 'British film industry', especially as regards the incubation of writing, directing, producing and acting talent. This is evident from the findings of a recent study of audio-visual project development commissioned by the British Screen Forum.[8] How are the stars of tomorrow going to progress from film school and subsidised micro-budget first steps on to the

---

[7] For evidence of the sorry state of these corporate finances see Olsberg SPI, *The State of the UK Independent Film Sector*, a study for PACT, April 28th 2017; and Northern Alliance, *The Corporate Finance of SMEs in the UK Film Industry*, *A Report for the British Film Institute*, unpublished, October 2015. This second report updates an earlier study commissioned by the former UK Film Council in 2009.

[8] Narval Media Ltd., for the British Screen Forum, *Hell and High Water,* March 2023. See especially pp. 45-71.

commercial ladder of the business if the indigenous independent sub-sector shrivels to the condition of a rich person's hobby?

5. What are the current challenges facing the UK's independent film production sector?

The challenges are longstanding and were eloquently summarised in the Committee's definitive 2003 report.[9] More recently a 2017 report commissioned from Olsberg SPI by the trade association PACT distinguished between *structural* and *cyclical* factors driving market decline. The *structural* changes were listed as: fall in the value of international rights; increased complexity of closing finance; decline in revenues from ancillaries (for example DVDs); revenues from digital video not fully substituting for physical video; disappearance of mid-budget range films (or 'polarisation' between high and low budget films); and 'piracy' (*ie* organised theft). The short-term *cyclical* factors were identified as: audience focus shifting from film to HETV; the global financial recession (less convincing); and uncertainty around digital models.[10]

This analysis, much of which remains valid as regards structural factors although it largely predates both the rise of the streamers and the deepening of the digital shift in media consumption, accelerated but not caused by the pandemic, was superseded by the publication of an economic review commissioned by the BFI from Alma Economics in July 2022.[11] The Alma report, which focuses on revenue models and confirms much of what we already knew anecdotally, highlights three factors in an ongoing process of decline: **stagnating revenue**; **disruption to traditional distribution models**; and **mounting cost pressures**.

The most urgent question for independent film in the UK is now startlingly obvious: is there still a viable investment proposition? The question is simple but the answer far less so: various classes of investor occupy quite different recoupment positions - some more high risk than others in typically complex and variable financial structures - in what is called the 'waterfall.' The working hypothesis under scrutiny is that it is still possible for knowledgeable investors to make money, but far more difficult than it was.

A major challenge is the opacity and, for commercial purposes, ineffectuality of the data available to investors and other decision-makers in the chain of finance, production and distribution. This issue governs the framing of risk for everyone in the business, and is the subject of a separate, more detailed submission to the Committee by my colleague Dr Michael Franklin.

There have been several attempts to press the case for funding an R&D project (the Film Data Initiative), leading to the building of a demonstrator and (this is the ambition) on to a commercially sustainable industry vehicle, since 2018. Initially, with encouragement from

---

[9] House of Commons Culture, Media and Sport Select Committee, *The British Film Industry*, HC 667-1. See especially p.19.

[10] Olsberg SPI, *op. cit.*

[11] Alma Economics, *An Economic Review of UK Independent Film*, *a Report Commissioned by the BFI*, July 2022.

the then DCMS Minister of State, Margot James MP, it looked possible that HM Treasury might fund the necessary scoping work, but subsequent ministers have shown less interest, even though the challenge is urgent from a competitiveness perspective.

6. **What is the demand for and capacity for production of films with a clear British identity?**

   Others are better qualified to answer this question.

7. **Are the nations and regions of the UK adequately represented and supported in the production of British films?**

   Others are better qualified to answer this question.

8. **What more can be done to incentivise film and high-end television production in the UK?**

   Three broad types of intervention are available: **direct subsidy**; mandated contributions or **levies**; and **incentives to investors**. All are in use or have been tried before in the UK in some form; many have been deployed by other governments.

   Direct subsidy generally takes the form of national and/or regional funds and support for international co-productions[12] and is a significant source of finance for all British film-makers, mainly via the British Film Institute (BFI). **Levies** are commonplace in Europe, especially in the form of levies on broadcasters, pay TV platforms and (increasingly) on 'over-the-top' (OTT) providers like Netflix. As with the principle of copyright levies on the sale of devices like tablets and smartphones, the design and implementation of such levies is highly contested. Given that music and audio-visual content drives the mass take-up of these devices, there is a strong *a priori* argument for part-funding content creation (including film and TV production) from the proceeds of such levies. This argument, and the international evidence on which it rests, should be examined by the Committee.

   Incentives to investors may be divided into three categories: tax shelters; tax rebates; and tax credits. Experience in many countries, including Germany, Belgium and the UK, has shown that tax shelters (especially) and tax rebates are difficult to design and implement consistently. *Bona fide* commercial activity is not always easy to distinguish from 'tax avoidance'. Investor incentives still form a small part of the landscape of UK film production in the form of the Enterprise Investment Scheme (EIS) and the more recent Seed Enterprise Investment Scheme (SEIS), both generic (*ie* not specific to film or TV), but the utility of these incentives for film companies has been dramatically reduced in recent years following the implementation of the last government's Patient Capital Review and associated regulation.[13]

[12] The MEDIA strand of the EU's Creative Europe programme was a significant source of co-production finance for indie film-makers before Brexit, particularly in relation to development slates. The Global Screen Fund administered by the BFI has gone some way to making up the resulting deficit, but is a smaller fund with a wider international remit.

[13] In 2017 it looked probable that film and TV companies might be excluded from eligibility for EIS relief altogether. That

Tax credits, by contrast, as previously observed, are a ubiquitous feature of the global film finance landscape and crucial to the UK ecosystem for film and high-end TV business. Since 2007 these credits have generally only been payable to producers (*ie* not to financiers or independent investors).

9. Are the current funding routes, tax credits and governance for the industry fit for purpose?

There are two distinguishable questions here. "Governance" is taken to refer to institutional arrangements for sector support which mainly revolve around the role of the British Film Institute (BFI). Since 2011 the BFI has been required to carry out not only its historic functions (focused on film heritage and education) but also industry-facing functions previously (from 2000) the responsibility of the UK Film Council (UKFC), which was abolished in 2010. In practice, in combination with funding cuts, this has meant that industry issues have received less sustained attention, and less dedicated resource, than during the UKFC years. This is sub-optimal.

The first part of the question is more consequential and invites a clarifying query: *fit for what purpose?* What is the strategic function of the current film tax credit regime? If it is to attract inward investment, it has succeeded brilliantly. If it is to support the commercial sustainability of home grown independent businesses throughout the film value chain (FVC), it has failed utterly: the regulatory conditions attached to the introduction of this regime were not configured to achieve that objective.[14] This too is regrettable.

10. What are the issues facing the UK's exhibition sector?

Others are better qualified to answer this question.

11. What more can be done to protect and promote the UK's screen heritage?

Others are better qualified to answer this question.

12. What can the industry and government do to ensure British film and high-end television can adapt for the future?

Learn from others. The global market for cultural goods and services, including audio-visual content, continues to grow strongly, but is highly competitive.[15] Because of the story that we continue to tell ourselves there is a widespread presumption in the UK that we have

---

did not happen, but the introduction of a 'risk to capital test' and subsequent HMRC guidance has definitively ended the use of EIS vehicles for single picture financing and undermined the market for raising EIS investment funds for any film business purpose.

[14] See *Hell and High Water, op.cit.,* pp. 68-71.

[15] UNCTAD, *Creative Economy Outlook 2022*, United Nations, 2022. See Overview.

nothing to learn from international competitors. This should change. We can learn from other countries, for example in respect of intervention strategies (look what has been achieved in South Korea) and of more specific industry agendas, for example in data capture and business case research (France, Germany, China and the US) referred to above. Complacency is our biggest enemy.

The proposed package of possible policy interventions for independent film outlined by Alma Economics,[16] which broadly conforms to a market failure approach to economic analysis, is compelling: the remedies outlined should, as the authors propose, "be further assessed in terms of their legal, economic, fiscal and administrative implications" prior to implementation.[17] This should not, however, serve as the only interpretative framework considered by the Committee. Diverse national and regional story-telling is largely the domain of 'indies' - in film and TV as in most audio-visual content. A threat to indie business models is a threat to the future of such story-telling. This should be regarded as a matter of *cultural policy* as well as Treasury economics.

13. What should be prioritised to ensure a strong skills pipeline and retention in the film and high-end TV industry?

Others are better qualified to answer this question.

14. What are the risks and benefits of artificial intelligence to the sector?

The risks are potentially existential for writers, composers and actors and serious for all entertainment business practitioners. They pose a significant threat to the enforcement of long established copyright regimes. AI companies and content producing companies have opposed commercial interests. Conflicts arising from the application of the 'fair dealing' principle in UK copyrighted content can, in theory, be resolved through traditional licensing arrangements, but there is enormous potential scope for ambiguity and abuse. The imbalance of power between the parties, critical in contract environments involving big tech companies, argues for a statutory revision of the UK's IP rules to provide for a robust and bespoke defence of the interests of copyright owners, content creators and performers in an AI-driven world.

15. What needs to change to ensure the industry is supporting inclusivity and sustainability?

Others are better qualified to answer this question.

MS, 8th August 2023

16 Alma Economics, *op. cit.,* pp. 43-50.
17 *Ibid.,* p. 43.