



University
of Glasgow

[Magor, M.](#) and [Schlesinger, P.](#) (2009) '*For this relief much thanks.*'
Taxation, film policy and the UK government. [Screen](#), 50 (3). pp. 299-
317. ISSN 0036-9543

<http://eprints.gla.ac.uk/39608/>

Deposited on: 30 August 2010

‘For this relief much thanks.’

Taxation, Film Policy and the UK Government

Maggie Magor and Philip Schlesinger

Abstract

In 2006, the Treasury introduced a new Film Tax Credit for British productions. Fiscal incentives in the form of tax credits are now regarded as fundamental to the sustainability of the British film industry. In addition to benefiting indigenous filmmaking, an attractive tax credit structure is seen as promoting inward investment, chiefly from the USA, and is seen as important for maintaining the work force and organisational capacity in the British film industry. Securing the continuity of the skills base is at the heart of the UK Government’s drive to make the ‘creative economy’ better fitted for global competition. However, in that broader context, film has been – and remains - a special case, as it is not presently Government creative economy policy to use fiscal measures for other industries. We argue that in seeking solutions to longstanding problems of ‘sustainability’, contemporary UK policy is conditioned by its long history of economic intervention in film production – and has been an important precursor of today’s creative industries policy. Furthermore, in current global conditions, it is crucial to consider the fundamental cross-currents set in train by the competing demands of US inward investment and EU regulation. By undertaking interviews with key players as well as examining evidence in the public domain, this article analyses the complex politics that has shaped the implementation of this policy. We argue that film policy research needs the added depth that such sociological analysis brings to the table. In particular, this empirical approach gives insights into how the low politics of lobbying and inter-departmental rivalry shape present policy outcomes.

Introduction

This essay examines recent changes to the tax relief system for film production in the UK.

To date, scant attention has been paid to the complex politics underlying and impacting on the implementation of film policy. Nor has the role of different actors pursuing competing interests in the policy process received the scholarly attention it merits. Aside from anatomising these aspects of film policy, our analysis, therefore, also has a methodological purpose. In addition to interrogating a range of documentary evidence,

we have gone behind the scenes to interview key players involved in influencing and making policy. This sociological approach adds explanatory richness to film studies. It is important to underline the fact that behind policy as a *product* there is policy as a *process* – a recognition that points us to another level of explanation for outcomes that are publicly known and debated. It is striking, however, that in ostensibly democratic political cultures, very few know and understand the background strategies inherent in the policy process. This is especially so for of film policy – as compared say, with broadcasting policy. That is because film policy generally receives little sustained public attention. It is, moreover, a sporadic object of major policy intervention, unlike broadcasting. And it is much more arcane: the consultations are few and highly limited in whom they invite into the discussion, as may be seen from what follows.

Fiscal incentives for film production in the form of tax relief – the subject of this article - are a relatively recent feature of British film policy. This form of subsidy is given to particular industries when ‘market failure’ means that ‘sustainability’ without support is impossible. Once set up, therefore, film tax incentives are a mechanism for delivering subsidies to an industry without the direct intervention of government officials. The Conservatives were the first government to introduce this kind of support in 1992 when they brought in Section 42 of the Finance (No.2) Act. New Labour introduced a second tax incentive, Section 48 of the Finance (No.2) Act, when they entered office in 1997. This dual-clause tax structure was in place until 2004, when it was reviewed and overhauled, in part due to alleged abuses of the system. The legislation detailing the new Film Tax Credit (FTC) to replace Sections 42 and 48 was eventually contained in the 2006 Finance Bill and Finance Act in the same year.

We shall first sketch the history of government intervention into British film policy leading up to the recent tax relief incentives, noting the various forms of state aid provided to the industry. Our account highlights both change and continuity in film policy, illustrating how governments of different political persuasions have addressed the question of state aid for film from the 20th Century into the 21st. We argue that UK film policy exhibits continuity in its governing assumptions. First, there is a longstanding emphasis on the importance of safeguarding national identity through maintaining a film industry. Second, this is coupled with a recurrent need to invent new forms of economic intervention as older ones are deemed to have failed. If the wheel is not being reinvented, it is certainly being refurbished regularly. These two key elements – cultural nationalism and economic intervention – are at the heart of the UK Government’s present ‘creative economy’ policy.ⁱ It is too little recognised that historically, film policy, has provided one of the templates for New Labour’s decade-long attempt to steer the creative industries towards global competitiveness. However, film remains a special case, as it has not been UK Government creative economy policy to intervene in any other industrial sector using fiscal measures.

Against this backdrop, we analyse a key aspect of New Labour film policy, namely the review of fiscal incentives and the implementation of the new FTC in 2006. As we shall show, the FTC is a policy shared between HM Treasury and the Department for Culture, Media and Sport (DCMS). The Treasury, which controls government expenditure and taxation, formulates fiscal policy. It was the Corporation Taxation Team in the Treasury that devised the new FTC. However, UK film policy falls mainly under the remit of the

DCMS, which consulted with the Treasury over how the FTC was to be formulated. As a small and relatively weak ministry, the extent of the DCMS's influence in fiscal film policy is a moot point, although as we show later, the DCMS did devise the so-called Cultural Test, which articulates directly with fiscal measures and determines whether films qualify for tax incentives. In 2007, administration of the Cultural Test was passed on to the UK Film Council (UKFC), a non-departmental public body (NDPB) formed by the New Labour government in 2000. The UKFC (originally called the Film Council) acts as the strategic body for film in Britain. The role of the UKFC in influencing the FTC is examined below.

As our epigraph shows, the 'sustainability' of the British film industry is a current policy goal. What this actually means in policy terms is one of the themes of this article. A policy of sustainability is presently being pursued within a field of competing interests. In line with our sociological approach, we argue that it is essential to understand the interplay of these forces in order to grasp how current policy positions are shaped. At a global level, two key vectors need to be taken into account. On the one hand, there is the longstanding need to provide a system sufficiently attractive for the major US studios to make big budget films in the UK.ⁱⁱ At the same time, however, it is also necessary to meet the requirements of the European Commission, for which 'indigenous' production conducted within the rules of the EU's Single Market remains a policy priority. To elucidate the processes at work, our account therefore identifies crucial moments in recent film policy, highlights key actors involved in the policy-making process and also considers the role of the different governing parties, ministries and stakeholders at various stages of policy change.

A brief history of state intervention

John Hill has argued that film policy in the UK has a pre-eminently ‘protectionist’ cast as it is ‘concerned with the preservation and support of commercial [British] film making’ in the face of Hollywood competition.ⁱⁱⁱ Early types of state aid from the 1920s took the form of a quota system and cultural subsidies and were in reaction to the fear of US economic and cultural domination of the British film industry. The quota system – introduced by the 1927 Cinematograph Films Act - was the first UK government intervention and the Act required renters (distributors) and exhibitors to acquire and show a certain percentage of British films.^{iv} In 1936, the Moyne Committee was set up to ‘consider the position of British films’. The Committee recommended that the quota system be extended, although it noted the trend towards producing ‘quota quickies’ and a quality test was suggested to ensure that British films registered for the quota were of a high standard. American distributors’ screening of low quality, cheaply produced British films was seen as being against ‘the spirit of the [Cinematograph Films] Act’, which was intended to support a struggling indigenous film industry.^v Moreover, some Hollywood studios had early recognised the strategic importance of Britain in the global film market. Setting up UK subsidiaries, companies such as Paramount and MGM, could employ British citizens and thus meet the demands of the quota system.^{vi}

During the late 1940s, following the end of World War II, the British film industry fell into crisis through lack of film finance and high post-war production costs. Despite the quota system fewer British films were being made for exhibitors to screen. Hollywood’s continued domination was a key concern across Europe. So much so that after the war

more measures were put in place in many countries to further protect indigenous industries from US imports.^{vii} The Motion Picture Association of America (MPAA) formed the Motion Picture Export Association (MPEA, later the MPA) to lobby on behalf of the Hollywood majors in response to these restrictions. Yet, in the face of this exclusion, the strategic importance of Britain to the US studios increased due in part to a shared language, but also because of the size and accessibility of its film market. Moreover, as a principal ally, Britain had influence in Europe, an important factor in pending general trade agreements on film.^{viii} In April 1949, the National Film Finance Corporation (NFFC) was set up under the Cinematograph Film Production (Special Loans) Act to distribute loans for British film production.

With the quota system now firmly established (despite MPEA lobbying to abolish it) and the NFFC in place, the introduction of a trade subsidy in 1950 called the Eady Levy marked the end of a period of intense activity in UK film policy. The Eady Levy^{ix}, a system proposed by Harold Wilson MP, then President of the Board of Trade, required exhibitors to retain a proportion of the ticket price and give half of this sum to fund British film production. The government sought to support indigenous film production with a scheme that would not be regarded as a subsidy. This approach was shaped by both external and internal factors. First, the scheme had to accord with the rules of the General Agreement on Tariffs and Trade (GATT) regarding state aid for film. And second:

The Treasury was opposed to a subsidy paid out of box office receipts because of a general dislike of parafiscal aids and an attachment to the principle that special taxes, like road tax, should be treated as a general revenue. There was also a danger that any form of subsidy would encourage other industries to clamour for similar favours.^x

Initially introduced as a voluntary scheme, the Eady Levy became compulsory under the 1957 Cinematograph Films Act and was administered by the British Film Fund Agency (BFFA) set up in that year.

The film industry in Britain subsequently came under pressure due to the spread of television and the immense popularity of this new medium. The domination of the US film industry also remained a global problem. During the 1950s, Hollywood majors, such as MGM, Columbia and Fox, continued to make films in Britain through their subsidiaries, as not only was technical talent cheaper, but they could take advantage of the state incentives meant to help indigenous producers.^{xi} Into the 1960s, the major US studios continued to be the main investors in British film, and in 1967, 90 percent of funding for 'British films' came from the US with investment peaking in 1968 at £31.3 million.^{xii} The structure of state support for film, comprising the Eady Levy, the NFFC and the quota system, remained in place and was renewed in successive Acts of Parliament in 1960, 1967 and 1970. However, with America in recession during the 1970s, the US studios withdrew and UK government interest in the film industry was reignited. In August 1975, Harold Wilson, now Labour Prime Minister, set up a Working Group to report on 'the requirements of a viable and prosperous British film industry over the next decade'.^{xiii} *The Future of the British Film Industry* report was published in January 1976. Among its recommendations was the formation of a new British Film Authority, which would consolidate all the government's film-related activities and bring together the NFFC and BFFA.

A significant change in policy came in 1979 when the Conservatives entered office and Margaret Thatcher became Prime Minister. Over the course of its first five years in power, the new government set about removing economic support thus transforming how cultural subsidies were distributed for film production. In 1981, the NFFC was restructured and its state funding dramatically reduced. In January 1983, the quota system was suspended. Then in July 1984, the White Paper on *Film Policy* suggested scrapping the Eady Levy and the NFFC altogether to further rid the film industry of ‘the paraphernalia of Government intervention’.^{xiv} These proposals were subsequently implemented in the 1985 Films Act along with the abolition of the Cinematograph Film Council (CFC) and the BFFA. The NFFC’s assets were transferred to a private company, British Screen Finance Ltd, in which the private sector (initially Channel Four, Cannon and Rank) invested. Finally, in 1986, a fiscal measure, which had made films eligible for 100 percent capital allowances in the first year, was phased out.^{xv}

As John Hill has argued, the removal of economic support for film production ‘was not simply destructive’ as the effectiveness of the Eady Levy and the quota system had become increasingly questionable.^{xvi} The NFFC had long been regarded as an organization constrained by ‘inadequate funding resources and ... having to function strictly on commercial lines’.^{xvii}, although it provided an important lifeline for independent producers. Meanwhile, the value of the Eady Levy fund, determined by cinema admissions, had decreased with the decline in cinema-going. As producers received a proportion of the fund in relation to the box office success of a film, the fund tended to pay out to the more successful filmmakers rather than those most in need. Similarly, the quota system had never proved to be particularly effective. During the

1970s, when the number of registered 'British' films dropped by half, largely due to the withdrawal of the US studios from British film production, many cinemas failed to screen the required percentage of indigenous productions.^{xviii} Meanwhile, some argued that the phasing out of the 100 percent capital allowances tax shelter encouraged 'those with gumption and ingenuity to [find] imaginative ways out of a desubsidised environment'.^{xix}

However, as economic subsidies for film were dismantled, no alternatives were proposed. It would seem that, taken in the round, economic measures did have an impact on output as following their complete withdrawal film production went into decline and in 1989 only 30 films were produced in Britain.^{xx} The US studios had returned during the 1980s to make their own films but not to invest in British films. In 1986, £270.1 million was invested in British film production but this fell to £135.7 million in 1988 and declined further to £49.6 million in 1989^{xxi} with filmmakers relying in the main on two key funding sources - British Screen and Channel Four. In June 1990, a seminar was held at Downing Street, chaired by Prime Minister Thatcher, to review the film industry and consider future issues. These included discussions on US inward investment and the promotion of British films abroad. Head of Universal Studios, Lew Wasserman was invited indicating the importance of Hollywood in any debates on the UK film industry. Moreover, the position of the industry in Europe was also considered given the launch of pan-European initiatives. Eurimages (the Council of Europe's fund to support co-productions)^{xxii} began in 1988 and MEDIA I (the programme to stimulate growth and competition among Europe's audiovisual industries) in December 1990. The government subsequently set up working groups to discuss the key matters, one being the use of fiscal incentives for production investment.^{xxiii} In 1991, to stimulate wider debate, the BFI

produced the 'UK Film Initiatives' series of pamphlets. This included Michael Prescott's *The Need for Tax Incentives*, which argued that fiscal support was essential, alongside other forms of state aid, to encourage investment in British film production and enable British filmmakers to compete on a 'level playing field' with other countries offering these incentives in Europe, Canada and Australia.^{xxiv}

It has been argued that the momentum for change in British film policy slowed down when John Major replaced Margaret Thatcher as Conservative Prime Minister in 1991, reflecting uncertainties in the government about how best to proceed.^{xxv} Nonetheless, the initiatives put in place by Major's administration during the 1990s had a far-reaching impact on film policy into the next century. In 1992, the Chancellor, Norman Lamont, introduced fiscal support for the film industry in the form of tax relief covered by a clause in the Finance (No. 2) Act. Section 42 was also referred to as 'large budget tax relief' and provided incentives for films with budgets in excess of £15 million. Also in 1992, the Department of National Heritage (DNH) was established, with responsibility for policy in culture and the arts, leisure, tourism and sport. Funding opportunities for the arts expanded with the new National Lottery established by Act of Parliament in 1993. Regional Arts Councils were in charge of allocating the Lottery money to film projects. The distribution of Lottery funds was initially confined to capital projects and it took intense lobbying from some to have film accepted as a capital asset.^{xxvi}

However, lack of private investment in the British film industry was an enduring problem and in 1995, the then Secretary of State for Heritage, Stephen Dorrell, MP, set up an advisory committee to explore the main obstacles to industry growth.^{xxvii} The Advisory

Committee on Film Finance, led by the banker, Sir Peter Middleton, was subsequently formed with members from the worlds of finance and film. The committee reported in July 1996, pointing to structural problems in how the industry was organized, financial problems (including lack of expertise on film finance in the City) and an overall lack of communication between the industry and the City.^{xxviii} Meanwhile, the Arts Council of England (ACE) commissioned a report by Spectrum Strategy Consultants, published in May 1996. This explored the feasibility of film franchises ‘expressly designed to create vertically-integrated companies’ with a sustained level of output to encourage investment.^{xxix} ACE subsequently invited bids for £96 million of Lottery money to be distributed to three film franchises over a six-year period. These were awarded to The Film Consortium, Pathé Pictures and DNA Films and the franchises were set up in May 1997, just after the election of the New Labour government.

New Labour film policy

The past two decades, therefore, have seen shifts in policy that have confirmed the perceived importance of film to the national economy. This view has been shared by both Conservative and Labour governments. During the 1980s, the Conservatives first removed all economic support from a film production sector already struggling through lack of state aid and private investment. However, during the early 1990s, support was re-introduced through the fiscal system and Lottery funding. In May 1997, the very week that the film franchises were awarded, New Labour, led by Tony Blair, won the General Election. The DNH was quickly renamed the Department for Culture, Media and Sport (DCMS) and the new government set about investigating the state of the British film industry. In 1998, the Treasury under the new Chancellor of the Exchequer, Gordon

Brown, introduced Section 48 of the Finance (No.2) Act - a second fiscal incentive, which applied to film productions with budgets below £15 million. In contrast to Section 42's 'big budget' emphasis, aimed at attracting inward investment (mainly from the USA) to the UK, Section 48 was the 'low budget tax relief' and intended to help indigenous independent filmmakers.

Also in 1998, the Film Policy Review Group (FPRG) was set up by the Labour government to explore issues relating to British film and identify initiatives for future film policy. The FPRG was jointly chaired by Tom Clarke, Minister for Film and Tourism in the DCMS, and Stewart Till, President of International PolyGram Filmed Entertainment, whose appointment as co-chair reflected the special status that global trade and distributor interests were given in the review. The FPRG and its six sub-groups comprised some 50 members who were predominantly film company executives.^{xxx}

Fiscal policy did not fall under the remit of any sub-group as it was now regarded as an issue for HM Treasury, whereas the Film Policy Review was a joint initiative between the DCMS and the UK film industry. Despite this, the FPRG's Film Finance subgroup did make recommendations regarding fiscal issues and these were published in the exercise's final report *A Bigger Picture*. There, it was reported that 'the industry members of the Group agreed unanimously that this was one of the most important issues under review, and that the results of their discussions about the fiscal climate for film investment should be recorded', although it was conceded that the DCMS could not endorse their comments on this matter.^{xxxi} The subgroup made a number of recommendations, including that the recently-introduced Section 48 should be extended beyond its current three-year time limit to encourage inward investment from the US; that the beneficiaries of the tax

incentive should contribute to industry training, and that an additional tax incentive should be introduced to encourage investment in the film business. Finally, the subgroup endorsed the earlier recommendation of the Middleton Committee to establish a Film Finance Forum to develop further tax relief systems and do the necessary economic modelling for these proposals.^{xxxii}

The FPRG appears to have influenced policy outcomes. Although Janet Anderson, who replaced Tom Clarke as Minister for Tourism, Film and Broadcasting in 1998, questioned ‘the ability of an “Action Committee” with as many as 40-50 people to act’, she did identify key achievements of the FPRG: the setting up of a Skills Investment Fund, the opening of the British Film Office in Los Angeles and the establishment of the British Film Commission.^{xxxiii} But in illustration of the difficulties in tracing the precise impact of such policy exercises, Anderson also credited the setting up of a new Film Finance Forum and the implementation of a new tax incentives structure to the FPRG, despite the fact that both of these ‘achievements’ had already been proposed and implemented before the review’s work. Finally, Anderson also referred to the setting up of the ‘long overdue Film Council’, which was finally established in 2000. As we shall see, the next phase in the evolution of fiscal policy involved activity by a major new actor on the scene.

Setting up the Film Council

The establishment of the Film Council was regarded as a ‘major shift in Government policy for film’^{xxxiv} and was described by its first Chair, Alan Parker, as ‘the most radical shake-up of UK public film funding since 1985’.^{xxxv} Despite Janet Anderson crediting the Film Council as an achievement of the FPRG, *A Bigger Picture* had only alluded to a

potential new structure and had recommended a review of ‘the machinery for providing government support to film’.^{xxxvi} This intention was later developed in the DCMS publication *The Comprehensive Spending Review: A New Approach to Investment in Culture*^{xxxvii} and consultation paper *A New Cultural Framework* by the first New Labour Secretary of State for Culture, Media and Sport, Chris Smith.^{xxxviii} These two publications stated the government’s intention to set up a new strategic film body overseeing both industrial and cultural objectives, which at this point they called British Film. This agency would absorb the public and semi-public bodies in the UK concerned with film. Chris Smith confirmed that the idea for the new body had been overwhelmingly accepted during consultation and the celebrated actor/director and former chairman of the BFI, Richard Attenborough, was asked to consult further with the film community in developing the shape and direction of the agency.^{xxxix}

As Dickinson and Harvey note, the proposal for a new Film Council was ‘realizing an idea with a long history’ as different funding structures for the UK film industry had been discussed since the 1940s.^{xi} Harold Wilson, in the mid 1970s, had proposed setting up a British Film Authority and his Working Group led to the formation of the Interim Action Committee (IAC), which published *Proposals for the Setting up of a British Film Authority* in 1978.^{xii} This proposal was quashed when the Conservatives entered office in 1979. However, the IAC did continue to meet, discuss and produce further reports on the film industry until April 1981.^{xiii} The IAC’s industry representatives considered it to be a useful forum for discussion. The IAC subsequently mutated into the British Screen Advisory Council (BSAC), funded mainly by annual subscriptions from members across the film industry. When New Labour’s FPRG published *A Bigger Picture* in 1998, BSAC

was named as one of the bodies to be consulted on the development of a new structure for film policy.^{xliii} BSAC responded positively to the DCMS's proposals as finally bringing about 'the fulfilment of Harold Wilson's original objectives'.^{xliv} One source told us that the government then asked BSAC if it wanted to become the Film Council. However, since its original formation in 1981, BSAC had broadened its remit, keeping up with changing technologies and the introduction of new media platforms, thereby evolving to represent a transforming audiovisual sector of which film was just a part.

The Film Council was finally launched on 2 May 2000 as a non-departmental public body, working at arm's length from government, with the status of a company limited by guarantee (the guarantee being the £1 provided by the DCMS). It absorbed a number of public and semi-public bodies in the UK concerned with film including the Lottery Film Department of the Arts Council, British Screen Finance, the British Film Commission, and the production and regional funding roles of the British Film Institute (*bfi*). All remaining activities in the *bfi* came under the Film Council's control. Although the *bfi* retained its formal autonomy, it now received its funding from the Film Council, which also appointed the Chair of its Board. The Film Council's annual budget was composed of a combination of Lottery funding (which it was designated to distribute) together with a grant-in-aid from the DCMS. At launch, the annual budget came to some £55 million, a total that would vary in line with the number of Lottery tickets sold.^{xlv}

The Film Council was set up to act as a conduit between government and the British film industry, as its CEO, John Woodward has made clear:

The Film Council sits smack in the middle between the Government and the industry, and *one of its key functions is to act as a kind of translator*. Our job is to explain the industry to the Government, because the Government ... knows relatively little about the film industry... And vice versa, the UK Film Council is there to explain the Government to the film industry, because the film industry cares relatively little about the Government as long as the money's coming in... I think that perhaps our mistake was not making it clearer from the start that the establishment of the UK Film Council did not now mean that the film industry had a direct line to Government, and that it would get everything it wanted. It was never going to be that way.^{xlvi}

At first, the relationship between the Film Council and government was unclear to many of its key stakeholders and the new body's strategic vision for film in Britain was also subject to criticism. It was formed to fuse industrial and cultural objectives and the launch document *Towards a Sustainable Film Industry* (2000) proposed that it work both with the US and Europe in developing UK film policy. As with the earlier FPRG, the first Film Council Board chiefly comprised business leaders and film industry players with a track record in Hollywood, including producers such as Tim Bevan and Duncan Kenworthy.^{xlvii} The producer, Alan Parker, was appointed as the first Chair. Such key appointments were seen as fundamental in signalling and influencing the early direction of the Film Council and placing industrial objectives – and an orientation towards Hollywood - to the fore. Some have argued that this approach failed to consider that the British film industry might compete successfully against the US studios by building on its differences from Hollywood.^{xlviii} Instead, strategy appeared to be more about cooperating fully with the US industry to attract inward investment. This was evident from early Film Council initiatives such as the expansion of the British Film Commission and the setting up of the British Film Office in Los Angeles.

The UK was not alone in its pursuit of US inward investment – other competition had come particularly from Canada and Australia since the early 1990s. Dickinson and

Harvey have argued that the objective of obtaining tax credits for film has always been ‘to enable the British industry to compete, not against Hollywood, but against potential rivals for Hollywood investment’.^{xlix} The global film industry had become highly mobile with US filmmakers seeking out a widening number of locations with competitive skills bases and production capacities. Moreover, the US studios would increasingly cost several different territories before deciding where to shoot a film, and consider a variety of factors, including local skills and services, exchange rates, language, culture and the tax incentives on offer. These points were emphasised in a BSAC report to the Film Council published in August 2000, in which the UK’s fiscal arrangements were reviewed two years on from the introduction of Section 48. BSAC argued that the UK’s indigenous film sector was at risk without inward investment from the US studios. The report also noted that in the previous twelve months some structural changes had begun to emerge in the UK production sector as a result of the fiscal incentives. These included more upfront payments to production, direct equity investment in films, direct investment in production companies and more distribution deals.¹ In conclusion, BSAC recommended to the Film Council that Section 48 be extended for a further two years beyond its existing expiry date in 2002.

The Film Council rapidly addressed the question of tax breaks. At its July 2000 Board meeting, only two months after being set up, the Film Council’s Chair, Alan Parker, proposed to write to the Secretary of State for Culture, Media and Sport, stating that the current 100 percent relief should be extended until the Film Council had undertaken ‘a comprehensive examination of the current and new incentives which would help achieve the government’s objective of a sustainable British film industry’, a decision unanimously

agreed by the Board (Film Council Board Minutes, 25 July 2000: 4).^{li} The Film Council was subsequently asked by the government to prepare a paper stating the case for extending Section 48 (Film Council Board Minutes, 22 August 2000: 2). In the March 2001 Budget, the Treasury announced its intention to extend tax relief on films until 2005. Prior to this announcement, executives at the Film Council had met Inland Revenue officials to discuss tax proposals. The Film Council had also invited producers to speak at Board meetings to illustrate their use of Section 48. A meeting was held with Jack Valenti, President of the MPAA in advance of his own meeting with the Chancellor of the Exchequer (Film Council Board Minutes, 27 February 2001: 3). Reflecting the easy access to Number 11 Downing Street that the MPAA evidently enjoyed, Valenti had told the Film Council that the Chancellor would be renewing Section 48 in the forthcoming budget. The extension was welcomed by the industry, although this success could hardly be attributed to the Film Council's influence.

Fiscal policy came further into focus in 2002. First, in the March Budget, when the Chancellor closed a loophole in Section 48 to restrict relief to films for theatrical release, thus preventing television programmes from qualifying. And next in November 2002, when the House of Commons Culture, Media and Sport (CMS) Select Committee invited responses to the provocative question, 'Is there a British film industry?' The call for evidence, *inter alia*, asked for views on the nature of support from government, the structure and performance of the film industry, and the performance and approach of the Film Council to date. The CMS Select Committee received over 100 written responses and papers from a broad range of stakeholders.^{lii} From February 2003, a number of witnesses were invited to give oral evidence on these issues. Additionally, the Committee

visited film production facilities in the UK (Ealing, Pinewood, Leavesden and Framestore CFC) and took a trip to Los Angeles in June 2003 where their programme consisted of meetings with all the major studio heads.^{liii}

The committee's report, published on 18 September 2003, noted that witnesses from the UK and the US were almost unanimous in their support for tax incentives. However, the 'historical cycle of change in the tax regime' was said to be 'a huge disadvantage' in encouraging long-term investment and planning.^{liv} BSAC and the Producers' Alliance for Cinema and Television (PACT) had both argued that structural changes becoming apparent in the industry were largely due to fiscal incentives, and to maintain these predictability was required, as opposed to the current 'boom and bust' seven year cycle' (ibid: 32). Meanwhile, the Hollywood studio heads had referred to growing competitiveness between filmmaking destinations, such as Canada, Ireland, Australia, New Zealand and the Czech Republic, noting that the UK's current fiscal structure had 'created a level playing field', thereby bringing other criteria 'such as facilities and talent' to the fore in deciding where a film is made (ibid: 32, 33).

Nevertheless, it was widely believed that Section 48 needed to be revised. The Film Council had outlined their ideas for a 'son of 48' which would tie in with distribution, as well as production. BSAC had similarly promoted a distribution-led strategy in a study of potential new tax mechanisms submitted 'in confidence' to the DCMS. The CMS Committee called for clarity over fiscal policy and support from all the government departments with an interest in film to 'end the current uncertainty plaguing the industry'.^{lv} The report had also acknowledged the work of the Film Council (renamed the

UK Film Council [UKFC] in May 2003)^{lvi}, which throughout the year had met officials at HM Treasury and the Inland Revenue to discuss priorities for a new tax relief. While a paper outlining these plans was now in place, the Treasury had reiterated to the UKFC the need for the industry to appear united behind the report's principles 'in order to command serious attention for its proposals' (UKFC Board minutes, 29 July 2003: 6).

From consensus to crisis

On 10 February 2004, the Inland Revenue announced that it was closing a loophole with immediate effect to prevent tax avoidance schemes whereby tax partnerships were formed purely to claim 'sideways loss relief'. Tax avoidance schemes such as this (also known as GAAP [Generally Accepted Accounting Principles] schemes) had become increasingly commonplace since the introduction of Section 48 in 1997 and were used by producers to raise capital for film production. The practice was to encourage rich individuals to invest lump sums in film projects. Such investments were used by investors to reduce their tax liabilities. Investors would claim tax relief in return for making over lower sums to film producers. By contrast to the mid-1990s, when the Middleton Committee had reported on the lack of City expertise for filmmakers (a point reiterated in the FPRG's *A Bigger Picture*), specialists in film finance able to help producers put together funding plans for their films now abounded. Such expertise included asset management companies such as Grosvenor Park and Ingenious Media, whose scheme 'Inside Track' was created in 2002 specifically for film investors, and guaranteeing that even if a film made a loss, the investor would still receive a tax break under the GAAP scheme.^{lvii}

The Treasury's sudden decision to close this loophole was described in *Sight and Sound* as an 'almighty jolt'^{lviii} because it came with no prior warning to the industry. It surprised producers, film financiers, the UK Film Council, and even the DCMS's Films Minister, Estelle Morris.^{lix} The production of some 40 films financed by the GAAP tax partnerships was immediately put into question and high profile productions put on hold included *The Libertine*, *Tulip Fever* and *The Constant Gardener*. Filmmakers spoke to the media expressing their despair at the closure of the loophole with no advance warning. Kate McCreery, producer of *The Houdini Girl*, which had lost 40 percent of its budget overnight, spoke to the BBC about the uncertainty now facing her production team, stating that:

You have to be confident – you have to think that there's a body like the [UK] Film Council that has to be able to sort something else out. Otherwise, what's the point of having it?^{lx}

The UK Film Council lobbied furiously to protect the affected productions; some thought this was 'with little noticeable effect'.^{lxi} The Board compiled a case for emergency funding for 17 productions while acknowledging that the UKFC 'would certainly be blamed for not obtaining full transitional relief for all the films' (UKFC Board Minutes, 24 February 2004: 3). Tessa Jowell wrote to Alan Parker in April 2004 explaining that the government could not provide any assistance to the films affected (UKFC Board Minutes, 27 April 2004: 2). BSAC had also attempted to negotiate with government at this time, lobbying unsuccessfully for 'grandfathering' (whereby films at a certain stage of production could continue under the scheme). Some producers were therefore moved to lobby the government directly. For example, John Malcovich, co-producer of *The Libertine*, was reported to have approached Hartlepool MP and former

Industry Secretary, Peter Mandelson, and Labour peer and former filmmaker Lord Puttnam^{lxii} before his production relocated to the Isle of Man.

Production plans were evidently still in limbo when the Chancellor, Gordon Brown, made his budget statement on 17 March 2004. Confirming the closure of the tax partnership loophole, he also proposed a review of the Section 48 tax scheme with the aim of introducing a *new* tax relief measure that would transfer ‘the available reliefs for British made films with budgets below £15 million from the third parties... *to pay reliefs directly to the film-makers themselves*’.^{lxiii} Section 48 had been due to expire in July 2005, so this announcement came as little surprise. The clause had been subject to routine ‘abuse’ as financiers, lawyers and accountants had found loophole after loophole to exploit. Secondary legislation had been passed since 2000 to close loopholes, and for this reason Section 48 was losing political credibility.

The Treasury’s intentions for fiscal film policy were confirmed at a reception held for film industry representatives at 11 Downing Street on 21 September 2004, hosted by Gordon Brown and the Paymaster-General, Dawn Primarolo. Leading filmmakers attended, including Sir Alan Parker, Lord Attenborough, Tim Bevan, Andrew MacDonald and Barbara Broccoli. The new provisions would not take effect until after Section 48 had expired in July 2005. The announcement - ten months in advance - was intended to enable filmmakers to ‘plan the finances of films in development with confidence about what the tax arrangements will be when those films are completed’.^{lxiv}

The Chancellor's December 2004 pre-budget report ended what had proved to be an eventful year for fiscal film policy. As part of a package of measures intended to tackle tax fraud more generally, Brown announced the shutting down of further film tax avoidance loopholes with immediate effect. In addition to preventing so-called 'sideways loss relief', this was also intended to prevent 'double dipping' (when relief was claimed more than once on any given film), as well to stop companies converting tax deferrals into tax gains by exiting from film tax deferral arrangements.^{lxv} The need quickly to return confidence and certainty to a British film industry thrown into turmoil was also restated, with the government promising to complete a review of the fiscal structure for film by the end of January 2005.

It was clear that the Treasury was in control of steering the fiscal aspects of film policy. Although the UKFC had responded positively to the government's announcement about the new film tax relief in September 2004^{lxvi} it did not react publicly to the pre-budget news. Some saw the Film Council's lobbying credentials as damaged due to the unpredictable nature of the policy announcements by the Treasury.^{lxvii} Meanwhile, BSAC released a gloomy press notice predicting 'a dramatic collapse in film production over the next few months' due to the latest set of announcements as US filmmakers would be unlikely to invest in the UK without a clear fiscal film structure.^{lxviii} This proved to be the case, as the value of UK spend from inward investment dropped from £729.54 million in 2003 to £548.49 million in 2004 with a further fall to £308.66 million in 2005.^{lxix}

In January 2005, Estelle Morris Minister of State for the Arts, reconvened the Tax Strategy Working Group (TSWG), which included members from the UKFC, BSAC,

PACT, DCMS and the Inland Revenue. A smaller group called the Industry Working Group on Fiscal Policy for Film (also known as the Hoon Committee, after its Chair, Société Générale's, Premila Hoon) was subsequently formed to speed up the review process. The Hoon Committee's thirteen members came from the UK film industry as well as comprising legal experts and City media consultancies.^{lxx} This group's influence on policy was questionable, according to members interviewed for this research, as few of their recommendations were adopted. Arguably the Hoon Committee was formed to indicate industry cohesion on policy required by HM Treasury.

Meanwhile, as this 'official review' was taking place, the Treasury was carrying out its own consultation, as well as liaising with other stakeholders behind closed doors.

Meetings were organized for independent film producers to meet personally with the film taxation team and give their views on policy proposals. Additionally, all the US studios met Treasury personnel, as their endorsement of the new fiscal structure was vital. It is open to question whether the DCMS and UKFC were centrally involved in these discussions. John Woodward has said that he was in direct talks with ministers at this time. However, when asked whether the UKFC would work closely with government in designing the new tax relief system, Woodward replied:

The truth is, and I'm afraid that this is an inescapable reality of Government, the Treasury doesn't work that way. They talk to you, they listen, they ask, they take the views and then they shut the doors and say, 'Thank you very much, we'll come back to you', and then they announce. It's a fact of political life in Britain.^{lxxi}

However, Woodward did accompany a Treasury official to LA in April 2005, where they met representatives of the US studios to discuss the uncertainty surrounding UK tax reliefs. The studios confirmed that while it was currently not economically viable

to make films in the UK, they said they would return if the value of tax relief increased. In the meantime, they criticised the ongoing Treasury consultation as ‘one-sided and not well handled’ (UKFC Board Minutes, 26 April 2005: 2).

The European Union and the Cultural Test

So far, we have illustrated how a fiscal structure for film has been developed in the UK. Fiscal incentives, initially conceived under a Conservative administration, became central to New Labour film policy. The approach taken rests predominantly on the need to offer attractive tax incentives to encourage inward investment from the US. The influence of US stakeholders on government in devising and implementing this framework is clear. The pre-eminent role of HM Treasury, the driving force behind the implementation of tax reliefs, has been demonstrated, despite the policy being shared with the DCMS.

In 2005, the DCMS announced its intention to introduce a new ‘cultural test’: this would determine whether a film was ‘British’ and therefore whether or not it was eligible for tax incentives. In this way, a ‘cultural’ criterion was brought together with more self-evidently economic ones. The cultural test was to replace previous criteria for defining films as ‘British’ (outlined in Schedule 1 of the 1985 Finance Act). These had focused on the level of UK spend and the number of British film practitioners working on a production. The method for testing a film’s British credentials had changed little since its introduction in conjunction with the screen quota system in 1927.^{lxxii}

So far, the role of the European Union has figured little in our account. However, the EU had become increasingly important in shaping British film policy towards the end of the

20th Century. In 1992, the Maastricht Treaty was signed and the promotion of European culture was a central principle of this agreement. As noted, in the early 1990s, the UK began to participate in pan-European initiatives, such as the then European Community's (EC) MEDIA Programme (focused on industry and competition) and the Council of Europe's Eurimages (which emphasised culture). It was during the 1994 GATT negotiations that the EC member states confronted the USA's dominance in the audiovisual sector and acted as a counterweight to the strength of the MPAA lobbyists. The EC, largely led by the French, argued that audiovisual 'goods' should be treated as a 'cultural exception'. The US government and the MPAA argued that this was protectionism. The matter was never resolved under GATT.^{lxxiii} In 1998, the Commission reviewed 'state aid' policies in the European cinema sector. It noted the many different forms of support across Europe, arguing for clarity in the legal framework, particularly in light of new digital technologies.^{lxxiv} The review found that many state aid initiatives had not been notified to the Commission, despite such notification being required by treaty. Such was the case in the UK, where the fiscal system set up by the Conservatives in 1992 was regarded as an investor relief system rather than 'state aid' and therefore was not notified to the Commission.

In September 2001, the Commission adopted a Communication on the future of the film and the audiovisual industry in Europe, which included an outline of the criteria for state aid schemes. These are supposed to strike a balance between 'cultural diversity and economic competitiveness'. The Commission has discretion over how it assesses the appropriateness of state aid.^{lxxv} The concept of a 'cultural derogation' is

provided for in the Treaty, which, in principle, ensures favourable treatment for the cultural sector, and implements a solution which ensures a balance between the objectives of cultural creation, the development of audiovisual production in the Union and compliance with Community law on State aid.^{lxxvi}

While the criteria included practitioners and expenditure, the Communication first and foremost stipulated that Member States must also ‘ensure the cultural content of the works supported’.^{lxxvii} To ensure that the UK’s FTC was eligible for state aid, its beneficiaries had to produce ‘cultural products’. However, when the DCMS announced its proposals for a new Cultural Test in July 2005, the Creative Industries Minister, James Purnell, stated that the new test would allow producers a number of routes to classification and it was not the government’s intention ‘to dictate the content or subject matter of British films’.^{lxxviii} The final framework was published in November 2005 after consultation with the industry.^{lxxix} The test comprised a points system for films. To be certified as ‘British’ and thus be eligible for tax credits films needed to accumulate 16 points out of a possible 32. ‘Cultural content’ could be awarded up to 4 points), ‘cultural hub’ relating to the location of production and post-production facilities and activities could score up to 15 points, and finally, the nationality of key ‘cultural practitioners’ could bring in up to a further 13 points.

The fact that the largest single number of points was allocated for being a ‘cultural hub’ drew on broader New Labour creative industries policy, which emphasised maintaining the UK’s skills base. To this end, film policy now prioritised US inward investment, which could benefit from a state aid structure comparable to other film locations around the world. This was justified as ‘a positive attempt to develop a sustainable film industry through the development of an indigenous film industry in a highly transnational

market’.^{lxxx} However, clear tensions were evident, illustrating the UK’s unique market position. On the one hand, the UK sought to attract the Hollywood majors, influenced by their lobbying when formulating the new FTC. On the other hand, the UK as part of the EU had to adhere to the Commission’s rules regarding state aid for film. These rules were at odds with the government’s focus on the UK as a ‘hub’ aiming to attract inward investment.

It was the UKFC’s task to address these contradictory imperatives, although, as stated earlier, from the outset, industrial objectives and relations with the US were at the forefront of the film agency’s strategic vision. Meanwhile, relations with the EU were more secondary, as was engagement with the Commission’s cultural agenda. That said, the Board had acknowledged early on the need for the UKFC to build up and develop its relationship with the European Commission (UKFC Board minutes, 25 September 2001: 11). In May 2002, the UKFC - together with France’s Centre National de la Cinématographie - had formed the European Film Agency Directors’ group (EFADs).^{lxxxi} In April 2003, the UKFC published its European Strategy outlining its aims, key activities and initiatives, plus the measures for determining the strategy’s success. Additionally, the Board held meetings in Brussels to engage with key people at the Commission.

The UKFC worked with the DCMS to devise the Cultural Test. Following industry consultation, this was passed by Parliament in April 2006. The legislation detailing the new FTC was announced in the March 2006 budget and contained in the 2006 Finance Bill, although the government still needed final approval from DG Competition at the European Commission. It was at this point, however, that the Cultural Test was rejected

because it failed to comply with the Commission's cultural agenda. This could have resulted in a delay in rolling out the FTC and concerned an industry already subject to months of uncertainty. The government, therefore, had to negotiate quickly with the Commission to amend the test, although, according to one of our sources, many in the industry thought that the government had conceded too much.

The amended test differed greatly from the first version, with more emphasis placed on cultural factors. It still comprised three key sections, and 16 points was still the required pass mark. However, the apportionment of points to each section had changed considerably. The number of points for 'cultural content' rose from 4 to 16, whereas 'cultural hub' was reduced from 15 to 3. Films could now score no more than up to 8 points for British 'cultural practitioners' (down from 13). Meanwhile, a fourth section was added for 'cultural contribution', whereby producers could score up to 4 points by demonstrating the role of their film in the 'promotion, development and enhancement of British culture'.^{lxxxii} The test was also subject to a 'Golden Point Rule': this prevented films with no British content except the English language from being made in the UK. This aimed at stopping US studios from making US films in the UK and thereby becoming beneficiaries of the FTC.^{lxxxiii}

Conclusion

We have argued in this essay that UK film policy should be understood as the outcome of contending political, economic and cultural forces and – at the same time – as the product of a long history of state intervention. Since the 1920s, British policy makers have sought to address competition from Hollywood by using a succession of economic measures.

The most recent of these is the Film Tax Credit. This is just the latest instance of a long-term policy bias towards giving film special treatment. For HM Treasury, the FTC is first, intended to encourage the production of films that might otherwise not be made. Second, it is meant to promote the ‘sustainability’ of British film production. And third, fiscal policy is supposed to maintain a ‘critical mass’ in the UK’s infrastructure for creative and technical skills.^{lxxxiv}

Ensuring the viability of a ‘sustainable’ UK film industry has been central to the UKFC’s mission. But it is clear that sustainability does not – and cannot – rest alone on the capabilities of either domestic production or public investment. The UKFC’s *Statistical Yearbook 2007/08* underlines yet again the crucial importance of inward investment productions, chiefly from the US studios, which accounted for 71% of overall expenditure on production. The rationale for the FTC could hardly be clearer, given the strategic dependence of the entire film economy on the core contribution of US investment.^{lxxxv}

It is clear from our account that the Treasury’s capacity to control the broad conditions that shape the environment for film production in the UK is limited. The British film industry has been profoundly shaped by its relationship to Hollywood for the best part of a century. Now, as the EU’s impact on competition policy becomes increasingly felt, this too has to be factored in, as was evident from the recasting of the Cultural Test under pressure from Brussels.

Effective competitiveness for UK plc across all fronts has been a preoccupation of New Labour in office from the very start. As the UK’s creative industries have been seen as

enjoying a special advantage in the global economy, the DCMS has for more than a decade argued for enhancing the importance of this sector. Film – as one of the 13 industries designated ‘creative’ – has come under the aegis of this policy drive, and indeed, formed part of the context in which the UKFC was set up as a bridge between government and the film industry. However, as we have shown, the low politics of interdepartmental competition has meant that the small and weak DCMS has shaped the economic aspects of its policy in line with the Treasury’s thinking. Consequently, while at first glance it looks as though the FTC is a quintessential measure of creative industries policy, which emphasises the development of the talent base in order to engage in global competition, that is far from the case.^{lxxxvi} The FTC is entirely of a piece with the Treasury’s historical interventionism. Film policy has always borne the distinctive stamp of the Treasury’s thinking, where the perceived special status of film has resulted in distinctive fiscal measures not so far afforded any other of the creative industries. Film is somehow seen as a special asset to the national economy and to a lesser extent, as crucial to national identity. This standpoint, deriving from longstanding competition with Hollywood, has been deeply encoded in British policy-making, irrespective of party. The creation of the FTC, devised during Gordon Brown’s watch at the Treasury, undoubtedly benefited from the fact that the Chancellor was known to be ‘sympathetic’ to the film industry.

Our sociological approach to film policy has begun to unravel some of the plays made by the DCMS and the Treasury over the ownership of policy. It has also allowed us to illustrate aspects of the complex and obscure dynamics of lobbying that has long surrounded film policy and which became particularly prominent under New Labour.

Expertise – especially that mobilised through the use of film industry figures – has shaped the debate and secured policy outcomes. So too have the contradictory pulls across the Atlantic of the USA and the EU. British film policy has now reached its most recent fiscal accommodation. Just how long this will last – as the new loopholes in the Film Tax Credit are discovered and exploited – is quite another question.

Acknowledgements

This essay is based on research undertaken as part of an AHRC-funded project on ‘Creativity: policy and practice: A Study of the UK Government, the BBC and UK Film Council’, ID No.112152. Thanks are due to the project’s co-investigators, Simon Frith and Richard Paterson for their insights and critical comments. We are also grateful to all our interviewees for their candour.

ⁱ DCMS, *Creative Britain: New Talents for the New Economy*, (London: DCMS, 2008). For a

ⁱⁱ The six major US studios are Fox Entertainment Group, Paramount Motion Pictures Group, Sony Pictures Entertainment, NBC Universal, Time Warner and Buena Vista Motion Pictures Group.

ⁱⁱⁱ John Hill, ‘UK Film Policy, Cultural Capital and Social Exclusion’, *Cultural Trends*, vol. 13(2), no. 50 (2004) p.32.

^{iv} Margaret Dickinson and Sarah Street, *Cinema and State: The Film Industry and the British Government 1927-84*, (London: BFI Publishing, 1985), pp.1-2.

^v Moyne Committee Report, Cmnd 5320, 1936, p.20, cited in Dickinson and Street, *Cinema and State*, p.66.

^{vi} Anne Jäckel, *European Film Industries* (London: British Film Institute, 2003), p.6.

^{vii} *Ibid*, p.7.

^{viii} Dickinson and Street, p.177.

^{ix} The Eady Levy was named after the Treasury official, Sir Wilfrid Eady, who introduced the measure.

^x Dickinson and Street, p.225.

^{xi} Bill Baillieu and John Goodchild, *The British Film Business* (London: John Wiley and Sons Ltd, 2002), p.70; Jäckel, p.7.

^{xii} Baillieu and Goodchild, p.84; 89.

^{xiii} Prime Minister’s Working Party report, Cmnd 6372, HMSO, 1976, cited in BUFVC, *Film and Television in Education: The Handbook of the British Universities Film and Video Council*, 2nd ed. (London: Routledge, 1995), p.284-285.

^{xiv} *Film Policy*, (Department of Trade, 1984), p.12, cited in John Hill ‘British Film Policy’ in Albert Moran, (ed.) *Film Policy: International, National and Regional Perspectives* (London: Routledge, 1996), p.103-104.

^{xv} Hill, ‘British Film Policy’, p.103-104.

^{xvi} *Ibid*, p.103.

-
- ^{xvii} Dickinson and Street, p.241.
- ^{xviii} Hill, 'British Film Policy', p.103.
- ^{xix} Alan Stanbrook, 'When the Lease Runs Out' *Sight and Sound*, vol. 53, no. 3. (1984), p.173.
- ^{xx} Hill, 'British Film Policy, p.109.
- ^{xxi} John Hill, 'Government Policy and the British Film Industry 1979-90', *European Journal of Communication*, vol. 8, no.2 (1993), p.209.
- ^{xxii} The UK joined the Eurimages programme in 1992 only to withdraw in 1996. This was despite protests from British filmmakers. During 1994 and 1995, a third of British films had received support from the scheme (Jäckel, *European Film Industries*, p. 79).
- ^{xxiii} The working groups also considered the structure of the industry and its impact on private investors, the setting up of a screen commission to promote Britain as a filmmaking location, and the setting up of an organization to market British films overseas (Jane Headland and Simon Relph, *The View From Downing Street*, (UK Film Initiatives series, London: British Film Institute,1991), p.1.
- ^{xxiv} Michael Prescott, *The Need for Tax Incentives*, UK Film Initiatives Series (London: British Film Institute, 1991), p.4-5.
- ^{xxv} Hill, 'Government Policy and the British Film Industry, 1979-90', p.220.
- ^{xxvi} Wilf Stevenson, Director of the BFI, was particularly involved in lobbying at this time.
- ^{xxvii} Stephen Dorrell, MP, had published a document in 1995 called 'The British Film Industry' responding to the House of Commons National Heritage Committee recommendations from April 1995, which included the setting up of a film finance committee.
- ^{xxviii} Advisory Committee on Film Finance, *Report to the Secretary of State for National Heritage* (London: Department of National Heritage, 1996), p.3.
- ^{xxix} BSAC/PACT Industry Working Group on Fiscal Policy for Film, *Response to HM Treasury Consultation Paper on the Reform of Film Tax Incentives* (London: BSAC, 2005), p.9.
- ^{xxx} The six FPRG subgroups were Film Finance, Achieving 20 Percent Market Share, Broadening the Audience, Inward Investment, Export, and Training and Education.
- ^{xxxi} Film Policy Review Group, *A Bigger Picture* (London: DCMS, 1998), p.21.
The members of the Film Finance sub-group were: - Colin Leventhal (Hal Films, Chair); Jonathan Davis (London Economics); Charles Denton (Arts Council of England); Michael Foster (Ginger Productions); Billy Hinshelwood (Marriott Harrison); Simon Perry (British Screen); David Potter (Guinness Mahon); Sawtantar Sharma (Stirling Cooke); and Bob Watts (KPMG).
- ^{xxxii} Film Policy Review Group, *A Bigger Picture*, p.22, 23.
- ^{xxxiii} BSAC, 'BSAC Interview Series: Interview with Janet Anderson MP' (London: BSAC, 2000a), p.1.
- ^{xxxiv} John Woodward, 'Covering letter from Chief Executive Officer of the Film Council, John Woodward', *Film Council Annual Review 2000/01* (London: UK Film Council, 2001), p.1.
- ^{xxxv} Film Council, *Film Council Annual Review 2000/01* (London: Film Council, 2001), p.2.
- ^{xxxvi} Film Policy Review Group, *A Bigger Picture*, p.50.
- ^{xxxvii} DCMS, *The Comprehensive Spending Review: A New Approach to Investment in Culture* (London: DCMS, 1998).
- ^{xxxviii} Chris Smith, *A New Cultural Framework* (London: DCMS, 1998).
- ^{xxxix} *Ibid*, p.8.
- ^{xl} Margaret Dickinson and Sylvia Harvey 'Public Policy and Public Funding for Film: Some Recent Developments in the UK', *Screen*, 46: 1 (2005a), p.89.
- ^{xli} Interim Action Committee, *Proposals for Setting up a British Film Authority*, Cmnd 7071 (London: HMSO, 1978).
- ^{xlii} The Interim Action Committee published a further four reports on British film from 1979 to 1981: *The Financing of the British Film Industry* (1979); *Film Industry: statistics, technical developments and cable television* (1980); *Film and Television Co-Production* (1981); *Distribution of Films for Exhibition in Cinema and by other means* (1981).
- ^{xliii} Film Policy Review Group, *A Bigger Picture*, p.50.
- ^{xliv} BSAC, *A Response to Proposals for a Film Council issued by the Department for Culture, Media and Sport* (London: BSAC, 1998), p.3.

-
- ^{xlv} Film Council, *Towards a Sustainable Film Industry* (London: Film Council, 2000), p.7.
- ^{xlvi} BSAC, 'BSAC Interview Series: Interview with John Woodward' (London: BSAC, 2005), p.5, emphasis added.
- ^{xlvii} Nick James, 'In Bed with the Film Council', *Sight and Sound*, January 2001, p.16.
- ^{xlviii} Dickinson and Harvey 'Public Policy and Public Funding for Film', p.91.
- ^{xliv} Margaret Dickinson and Sylvia Harvey, 'Film Policy in the United Kingdom: New Labour at the Movies', *Political Quarterly*, vol. 76, no. 3, (2005b), p.427.
- ⁱ BSAC, *BSAC Review of Fiscal Incentives for the UK Film Industry*, Submission to Film Council (London: BSAC, 2000b), p.2.
- ⁱⁱ The UKFC Board minutes referred to in this article were accessed at the *bfi* National Library, Stephen Street, London.
- ⁱⁱⁱ The range of responses received included those from filmmakers (including Michael Kuhn, Tim Bevan, Alex Cox, Barnaby Thompson, Lord Attenborough and Martin Scorsese); broadcasters (the BBC, Channel 4, ITV Network and BskyB), and key organizations (such as Equity, PACT, Cinema Exhibitors' Association, BSAC, BECTU, bfi, MPA).
- ^{liii} The CMS Committee's LA programme comprised meetings with Warner Bros, 20th Century Fox, MGM, Walt Disney, Paramount, Sony Imageworks, HBO, Universal, Dreamworks and Columbia Tristar Motion Picture Group (Sony Pictures). They also met the MPAA, the Hollywood Heritage Museum and the American Film Marketing Association. (Culture, Media and Sport Select Committee, *The British Film Industry: Sixth Report of Session 2002-03, Vol. 1* (London: The Stationary Office, 2003), p.63).
- ^{liv} *Ibid*, p.31.
- ^{lv} *Ibid*, p.34, 58.
- ^{lvi} The Film Council became the UK Film Council in May 2003, its aim being to reflect the geographical remit of the UKFC globally and to make its international image much clearer (UKFC, *Film Council, Three Years On: a Consultation on our Findings and Policy Priorities* (London: UK Film Council, 2003), p.10-11). The British Film Commission was also renamed as UKFC International while the British Film Office was re-branded as the UK Film Council US.
- ^{lvii} Patrick McKenna, 'Utilising Fiscal Incentives Including Sale and Leaseback', *Skillset Film*, URL: http://www.skillset.org/film/knowledge/article_5098_1.asp [accessed 22 August 2007].
- ^{lviii} Geoffrey Macnab, 'Break Dancing' *Sight and Sound* (May 2004), p.36.
- ^{lix} In a House of Commons debate on 8 March 2004, Estelle Morris defended her ignorance of the Government's intention, arguing that tax loopholes were usually closed without warning to prevent investors taking advantage and sheltering money. She claimed £100 million of taxpayers' money was saved by the Inland Revenue's action (Hansard (House of Commons Debates) 'Culture, Media and Sport: Film Industry' 8 March 2004, Volume no. 418, Part no. 551, Column 1229). The Inland Revenue's timing was later referred to as more 'a case of botched announcements and broken communication lines than of the tax authorities turning against film' (Macnab, 'Break Dancing', p.38).
- ^{lx} Ian Youngs, 'Filmmaker Tells of Tax Crisis' *BBC online*, 23 February 2004, URL: <http://www.bbc.co.uk> [accessed August 2007].
- ^{lxi} Macnab, 'Break Dancing', p.38.
- ^{lxii} Nigel Bunyan, 'Tax Disaster puts British Film Industry in Peril, says Malcovich' *Daily Telegraph*, 1 March 2004.
- ^{lxiii} HM Treasury, *Chancellor of the Exchequer's Budget Statement* (London: HM Treasury, 17 March 2004) URL: <http://www.hm-treasury.gov.uk/budget> [accessed May 2007].
- ^{lxiv} HM Treasury, 'Treasury Announces New Tax Relief for British Films' (London: HM Treasury Press Notice, 21 September 2004).
- ^{lxv} HM Treasury, *Protecting Tax Revenues* (London: HM Treasury pre-budget report, 2 December 2004).
- ^{lxvi} UKFC, 'UK Film Council Welcomes New Tax Credit for Lower Budget British Films' (UKFC news release, 21 September 2004), URL: <http://www.ukfilmcouncil.org.uk> [accessed August 2007].
- ^{lxvii} Tim Adler, 'British film industry likely to be weakened by tax credit, says City law firm' *Screen Finance*, vol. 17, no. 7 (7 April 2004), p.2.

-
- ^{lxviii} BSAC, 'Difficult Year Ahead for the UK Film Industry' (London: BSAC press release, 2 December 2004).
- ^{lxix} UK spend from inward investment increased in 2006 to £569.60 million, a rise attributed directly to returned confidence in the UK as a filmmaking destination due to the new film tax credit (UKFC, *Statistical Yearbook 2006/07* (London: UK Film Council, 2007), p.140, 143).
- ^{lxx} The Hoon Committee's members were Premila Hoon (chair), Larry Chrisfield, Fiona Clarke-Hackston, Christine Corner, Ken Dearsley, Ivan Dunleavy, Thomas Gardiner, Margaret Matheson, Andy Paterson, Marc Samuelson, Libby Savill, Barnaby Thompson, and Tim Willis.
- ^{lxxi} BSAC, 'BSAC Interview Series: Interview with John Woodward', p.5.
- ^{lxxii} Dickinson and Harvey 'Public Policy and Public Funding for Film', p.92.
- ^{lxxiii} Philip Schlesinger, 'From Cultural Defence to Political Culture: Media, Politics and Collective Identity in the European Union', *Media, Culture and Society*, vol.19, no.3, (1997) pp.369-391.
- ^{lxxiv} European Commission, *Principles and Guidelines for the Community's Audiovisual Policy in the Digital Age*, COM, 657 final (Brussels: European Commission, 1999), p.2.
- ^{lxxv} Caroline Pauwels, Sophie de Vinck and Ben van Rompuy, 'Can State Aid in the Film Sector Stand the Proof of EU and WTO Liberalisation Efforts?' in Sarikakis, K. (ed.) *Media and Cultural Policy in the European Union* (Amsterdam, New York, NY: Rodopi, 2007), p.24-26.
- ^{lxxvi} European Commission, 'Commission Adopts Communication on Future of Cinema and Audiovisual Industry in Europe' (Brussels: European Commission Press Release, 27 September 2001).
- ^{lxxvii} Ibid.
- ^{lxxviii} DCMS, 'New Cultural Test for British Films' (London: DCMS Media Release, 2005a).
- ^{lxxix} DCMS, *Cultural Test for British Films: Final Framework* (London: DCMS, 2005b).
- ^{lxxx} Nick Redfern, 'Defining British Cinema: Transnational and Territorial Film Policy in the United Kingdom', *Journal of British Cinema and Television*, vol.4. no.1. (2007), p.159.
- ^{lxxxii} The EFADs group comprised an informal network of the directors from the national film agencies of 25 member states and effectively lobbied on issues around European audiovisual policy.
- ^{lxxxiii} DCMS, *British Film Certification, Schedule 1 to the Films Act 1985: Cultural Test Guideline Notes*, (London: DCMS, 2007), p.22.
- ^{lxxxiv} The 'Golden Point Rule' is applied when a film scores the maximum points for 'cultural hub' and 'cultural practitioners' and is also filmed in the 'English language'. If the score is low for the Britishness of its setting and characters, it must instead score points for British subject matter (DCMS, 2007: 18).
- ^{lxxxv} Chris Stark, 'Film Tax Credits: Policy Context' presentation to the UKFC Industry Seminar on Tax Reliefs and Cultural Test, 13 December 2006, notes on URL: <http://www.ukfilmcouncil.org.uk> [accessed 22 May 2007].
- ^{lxxxvi} *UK Film Council, Statistical Yearbook 2007/08*, ch.15: Film production, <http://rsu.ukfilmcouncil.org.uk/?y=2007&c=15&skip=0>, page 1 of 1.
- ^{lxxxvii} DCMS, *Creative Britain: New Talents for the New Economy* (London: DCMS, 2008); Philip Schlesinger, 'Creativity: from Discourse to Doctrine', *Screen*, 48, no.3 (2007) pp.377-387; Work Foundation, *Staying Ahead: The Economic Performance of the UK's Creative Industries* (London: Work Foundation, June 2007).