PREM 19/1202

MT

PART ONE

Confidential Filing

Review of Policy on Film Finance

ECONOMIC

POLICY

JUNE 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~25.7.79~~		~~19.11.84~~					
~~26.7.79~~		~~12.12.84~~					
~~27.7.79~~		13.12.84					
6.3.80		PT 1					
~~13.3.80~~		END					
~~24.4.80~~							
~~9.1.84~~							
~~8.4.84~~							
~~29.5.84~~							
~~12.6.84~~							
25.6.84							
~~2.7.84~~							
~~6.7.84~~							
~~12/7/84~~							
13/7/84							
[illegible]							
2.8.84							

PREM 19/1202

PART 1 ends:-

L/C to MS/DTI. 13.12.84.

PART 2 begins:-

BP to DTI. 18.4.90.

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
L(81) 5	09/01/1981
L(81) 4	09/01/1981
L(80) 7th Meeting, item 2	11/03/1980
L(80) 16	06/03/1980

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed J. Gray Date 13/9/2013

PREM Records Team

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

House of Commons HANSARD, 19 November 1984, columns 29 to 110: Films Bill

House of Commons HANSARD, 12 June 1984, columns 811 to 872: Greater London Council (Money)(No.2) Bill

Parliamentary Debates: House of Commons Official Report: Finance (No 2) Bill, 7 June 1984. Published by HMSO: Parts I and II. ISBN 0 10 908284 2

House of Commons HANSARD, 26 July 1979, columns 395 to 396: Film Industry (Finance)

Signed J. Gray Date 13/9/2013

PREM Records Team

CC: [illegible]

FROM THE LEADER OF THE HOUSE

HOUSE OF LORDS

13 December 1984

14/12

Dear Norman

FILMS BILL

Thank you for sending me a copy of your letter of 12 December to John Cope about the handling of the defeat which the Government suffered on the Films Bill in Committee in the Commons, and of any further defeats which we might suffer on Clause 3 this week.

In the fourth paragraph of your letter you say that you do not know what the reaction of the House of Lords would be to any changes made in Committee in the Commons. A Short Debate is taking place here in the Lords next Wednesday 19 December on the Films White Paper which underpins the Films Bill and, unless it is essential that a decision on handling the defeats is taken immediately, it might be prudent to wait and see what if anything is said next week on the matters on which we are in trouble in the Commons.

I am sending copies of this letter to the Prime Minister, the members of the Cabinet, PUSS, DTI (Lord Lucas) and Sir Robert Armstrong.

Yours

Willie

Norman Lamont Esq MP

Econ Pol June 79
Filing

PO TF

CC/PO

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5186
GTN 215)
(Switchboard) 215 7877

From the Minister of State for Industry

N 12/1

Norman Lamont MP

John Cope Esq MP
Government Whip's Office
12 Downing Street
LONDON SW1

12 December 1984

Dear John

FILMS BILL

I am writing to you about problems encountered during Committee on the Films Bill and about the line we propose to take.

As you will know, the Government were defeated in Committee on 6 December by 11 votes to 7 on amendment 39 to the Films Bill. The amendment, which was proposed by John Gorst and supported by the Opposition and four Conservative Members including Mr Gorst, is intended to prevent the Secretary of State repealing the current legislative framework for the Eady levy until he has imposed upon the independent television companies and the BBC a means for them to pay makers of films in proportion to the television audience viewing them: in other words, a levy on the BBC and ITV for the benefit of the film industry.

I should also forewarn you that, in the light of the instability of our support revealed on 6 December, it is possible that we shall be defeated again this week on clause 3 of the Bill, which provides for the dissolution of the National Film Finance Corporation (NFFC) and the new arrangements for the financing of film production. These arrangements include a transfer of assets from the NFFC to a new private sector body.

I do not know what the reaction of the House of Lords is likely to be to the changes made in Committee. There are a number of people in the Lords with a special interest in films and the film industry will no doubt lobby hard.

However, I do not believe that there should be a change to Government policy as contained in the Bill and I shall be seeking to overturn at Report stage amendment 39 and any others that may be unacceptable to us. I do not expect that the opposition of some

MONAML

Conservative Members in Committee would be reflected much more widely during Report, but I should be grateful if you would let me know how things stand when you have had an opportunity to assess the position.

I am copying this letter to the Prime Minister, other members of the Cabinet and to Sir Robert Armstrong.

Yours ~

Norman

NORMAN LAMONT

12 DEC 1984

MONAML

Kersc

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

The Prime Minister was grateful for your minute of 31 July (AO83/2198) covering a report from the Machinery of Government Division of the Cabinet Office about Ministerial responsibilities for the film industry. The Prime Minister agrees with the view of the Secretary of State for Industry, the Home Secretary and the Minister for the Arts, and with your own view, that the balance of advantage is against any change in present responsibilities.

The Prime Minister notes that there need not be any public announcement but that the position might be made clear in a debate on the White Paper on films policy in the autumn. No doubt you will arrange for those concerned to consider whether as a matter of courtesy the Chairman of the Select Committee should be given advance warning of such an announcement.

E. E. R. BUTLER

2 August 1984

520

1

Prime Minister

Agree with the conclusion at X, which the Ministers concerned have accepted?

Yes md

FERB 1.8.

Ref. A084/2198

PRIME MINISTER

One of the issues left unresolved following the 1982 report from the Select Committee on Education, Science and the Arts was whether there should be any change in current Ministerial responsibilities for the film industry.

2. Responsibility is shared by three Ministers. The Secretary of State for Trade and Industry is responsible for commercial aspects of the industry. The Minister for the Arts is responsible for cultural aspects, including Government support for the British Film Institute. The Home Secretary is concerned with questions of taste, decency and cinema safety. The Select Committee suggested that responsibilities should be concentrated on one Minister, preferably the Minister for the Arts. That suggestion was repeated during questions in both Houses on 19 July following the statement on the White Paper on film policy.

3. The Secretary of State for Trade and Industry, and the other Ministers concerned, agreed last summer that the Machinery of Government Division of the Cabinet Office should prepare a report on this for you once the major review of policy towards and funding of the film industry was complete. Their report is now attached. The Secretary of State for Trade and Industry, the Home Secretary and the Minister for the Arts have all seen the report and agree its main conclusion that the balance of advantage is against any change in present responsibilities.

X

4. I think this is probably right. Lord Gowrie's predecessor felt very strongly that his own office would be able to do a more convincing job in helping and encouraging the British film industry than a department whose interests were necessarily commercial, and that a single department would be able to put the Government's effort into clearer focus than one. There is

no doubt something in this argument, and certainly some, but by no means all, British film makers would very much welcome such a move. But I think it underestimates the problems of satisfactorily detaching the appropriate parts of the industry from the much wider industry, and the difficulties inherent in asking a tiny department like OAL to take on the task of industrial sponsorship of an industry which cannot rely on permanent or even significant temporary Government support. It could also be short sighted to detach the film industry from the wider field of cable, satellite and information technology generally.

5. The alternative of transferring the Arts Minister's responsibilities for film to the Secretary of State for Trade and Industry is, at first sight, more attractive. It would bring together Government support for the industry in an area in which the broad policy objectives of the two Ministers are much the same, in the sense that both DTI's commercial and OAL's cultural interests require a successful and largely self-supporting industry. But there would be no presentational advantage in the transfer; there would be concern that legitimate Government support for film for arts purposes would eventually fall before DTI's harsher commercial interest. Lord Gowrie also believes that it would be wrong in practice to detach responsibility for funding of film for cultural reasons from responsibilities for other parts of the Arts Budget.

6. In simple terms, a transfer of responsibilities to the Minister for the Arts would raise expectations of greater Government support than the Government would want to deliver, and could make pressures for greater support harder to resist if the industry again got into difficulties. A transfer of responsibilities to the Secretary of State for Trade and Industry would raise the opposite fears, and might undermine the impact of the limited funding arrangements that the Government has been able to offer in its recent White Paper.

7. If you agree that no change is justified, there need not be, and indeed there would be no advantage in, any public announcement. But the question may come up again if there is any debate on the White Paper on films policy in the autumn. There would then no doubt be a need for the position to be made clear.

RTA

ROBERT ARMSTRONG

31 July 1984

MINISTERIAL RESPONSIBILITY FOR FILMS

1. This paper considers the case for changes in Ministerial responsibilities for films following the proposed deregulation of the film industry. It covers an earlier recommendation for concentrating responsibilities under one Minister which was made in a 1982 report by the Select Committee on Education, Science and Arts.

THE FILM AND CINEMA INDUSTRIES AND EXISTING RESPONSIBILITIES

2. The film and cinema industries employ around 35,000 people, some 25,000 on the production side, and the balance on sales, distribution and exhibition. Annual turnover is around £300-400m and the industry's export record and potential is good, particularly in the growing cable, DBS and video markets.

3. The Government's main interest in the industry, as with other industries, is in its contribution to the economy as wealth and job creators, and as sources of overseas earnings. But it has an importance greater than its size. This is partly because the existence of a British film industry has for some years had a particular political appeal and some influential supporters, partly because it is significant culturally and artistically, and partly because continuing production of good quality British films may influence other countries' perception of Britain. The industry is important as part of the developing and potentially significant entertainment and leisure industry, with its links through both to tourism and to exploitation of new technologies. Industries which have previously had largely separate identities, for example the film and television industries, are increasingly coming together as part of this wider development. The industry is also important as part of the tradeable information sector which includes publishing (by whatever medium), recording, computer software and databases.

4. The Government interests and related responsibilities are at present split between three main Departments - the Department of Trade and Industry, the Office of Arts and Libraries, and the Home Office. In addition, the Scottish Education Department has responsibilities for film in Scotland which are broadly comparable with those of OAL. The detailed responsibilities are set out below.

5. The Department of Trade and Industry is responsible for the commercial aspects. Its detailed responsibilities are;

(i) general sponsorship. It provides the industry's point of contact with Government, represents its interests with other parts of the Government machine, and seeks to provide an appropriate business environment;

(ii) regulation and financial assistance. DTI administers the distribution of the Eady levy (which is a hypothecated tax on cinema takings used to support domestic film production).

It sponsors a number of quangos - the British Film Fund Authority which distributes the levy, the National Film Finance Corporation which spends a large part of it, and two advisory bodies, the statutory Cinematograph Films Council and the non-statutory Interim Action Committee on the Film Industry. It registers films as British, provides certificates of British origin for tax purposes, and until 1982 administered a quota system requiring cinemas to show a minimum percentage of British films. It licenses renters and exhibitors and administers the law in relation to exhibition practices and co-productions.

Related functions are:

(iii) film copyright law, as part of DTI's wider responsibilities for copyright;

(iv) sponsorship of other tradeable information industries;

(v) sponsorship of the electronic and information technology industries, including those supplying studio apparatus and video equipment.

6. The Office of Arts and Libraries is responsible for cultural aspects of film. Its main tasks are:

(vi) support for film as an art form. The OAL sponsors and grant-aids (£7.7m in 1984/5) the British Film Institute which also receives £125,000 p.a. from the Eady Levy. The BFI's main function is to promote the understanding of the art of film and television. It runs the National Film Theatre and finances regional film centres, the National Film Archive and some experimental film productions. It is also developing a self-financing "Museum of the Moving Image" with some £5m of private sponsorship.

(vii) support for the professional training of film makers through sponsorship of and grant-aid to the National Film and Television School (£1m in 1984/5). The NFTS also receives about £0.5m from the Eady Levy.

7. The Scottish Education Department's responsibilities for film in Scotland are largely discharged through sponsorship of the Scottish Film Council, to which it pays an annual grant (£338,000 in 1984/5). The SFC promotes interest in and access to film; provides a Scottish Film Archive, and gives help to the training of film technicians. The Scottish Film Production Fund, jointly supported by the Scottish Film Council and the Scottish Arts Council, has a joint budget in 1984 /5 of £103,000.

8. The Home Office is responsible for questions relating to cinema licensing, and obscenity; the classification of videos

under the Video Recordings Bill; and for cinema safety. These particular responsibilities form part of the Home Office's more general responsibilities for the criminal law concerning obscenity and for fire service and safety matters. Detailed responsibilities are:

(viii) Video Recordings Bill. The Bill establishes a classification system, under which it is proposed that the British Board of Film Censors will classify video works.

(ix) policy on cinema licensing and censorship, obscenity and the issue of exemption certificates for non-commercial film shows (under the Cinematograph Acts). The existing censorship arrangements give powers to local authorities to control the exhibition of films; traditionally most local authorities abide by the guidelines given by the British Board of Film Censors, which is a voluntary body established by the industry.

(x) cinema safety. There are strict rules about this, which date from the time when cinema used highly flammable nitrate film. The regulations are made under the Cinematograph Acts which also empower local licensing authorities to attach conditions to licenses related to safety, and to enforce these conditions together with the Regulations as they apply to individual premises.

Related functions are:

(xi) broadcasting policy and sponsorship of the BBC, the IBA and its programme companies. The Home Secretary's responsibilities are to protect their independence, to ensure that broadcasting is adequately financed and to plan broadcasting policy. Television is already an important purchaser of film rights and Channel 4 has in the last few years contributed significantly to the production of films for both cinema and television.

(xii) policy on the development of satellite broadcasting and cable.

THE NEW APPROACH

9. The Department of Trade and Industry's policy review proposals will significantly alter the responsibilities in (ii), and marginally affect those in (vi) and (vii).

10. Under the review proposals, the Eady Levy and the statutory regulatory regime would disappear as would the British Film Fund Authority and the Cinematograph Films Council. The Interim Action Committee would be replaced by a new non-statutory body, which would eventually sever all links with Government and become a free standing consultative committee for the film industry. The National Film Finance Corporation would be replaced by a new private sector company, administering a fund designed to help emergent film makers enter

commercial production with low budget feature films of distinctly British character. The fund would have the former NFFC's income from its rights portfolio, and would also be supported by voluntary contributions from the film, television and video sectors. The new company would also run a Film Development Fund, financed by the Department of Trade and Industry for the next five years, to provide finance for the very early stages of film production. The National Film and Television School and the British Film Institute would lose their Eady money, but the former would receive voluntary support from the cinema and television industries, /‾and the latter would receive a termination payment of £250,000 from the levy, as well as the remaining annual payments for two levy years, so that from now they will receive further payments totalling some £500,000_7 /‾. There would also be changes to the taxation arrangements, which, though less generous than in the past, would continue to give films registered as British special treatment. Investment in film production companies would also be brought within the Business Expansion Scheme_7.

11. The responsibilities under (ii) would thus shrink to a general "after care" watching brief on the new private sector arrangements, /‾administration of the BES_7, continuing certification of the British origin of films, and provision of grants for the Film Development Fund and appropriate monitoring arrangements. OAL's responsibilities under (vi) and (vii) would similarly require some extra work in co-ordinating the private sector contributions which would replace the automatic subsidy from the Eady levy.

CASE FOR CHANGE

12. The Select Committee (Eighth Report from the Education, Science and Arts Committee "Public and Private Funding of the Arts" October 1982) argued that the present arrangements for film within Government were confusing and unsatisfactory, that the Government's responsibility for the film industry needed to be clarified, and that film policy needed a new impetus. They believed the solution was to concentrate responsibilities under one Minister, the Minister for the Arts, who should also be given responsibility for Heritage and Tourism. But the same arguments could equally be used for concentrating responsibilities under the Secretary of State for Trade and Industry, or indeed under the Home Secretary.

13. The Government's response to the Select Committee's report (January 1984) said that the question of whether any changes in Ministerial responsibilities were called for would be decided in the light of the film policy review. But the Prime Minister has already decided against expanding the Arts' Minister's role to include Heritage and Tourism, one part of the Environment Secretary's responsibilities, the other part of the Trade and Industry Secretary's responsibilities. The basic test now therefore is how closely the present arrangements match the proposed approach to film and the policy objectives and priorities which go with it. The main questions are:

(i) does the pattern of responsibilities look credible to Parliament and the outside world? Or is accountability confused?

(ii) are the departments concerned competent to carry out their planned responsibilities under the new proposals? Do they have the right expertise and knowledge within the Department, and the right working relationships outside it? Do they have the necessary powers and authority to deliver? Is there any risk of departments pulling in opposite directions?

ASSESSMENT

14. The Select Committee produced no evidence to back their suggestion that the present arrangements were confusing. The separate responsibilities are based on genrally clear departmental remits, and it seems unlikely that the various sectors of the industry and Parliament cannot distinguish the DTI's interest in the commercial aspects of film, from OAL's interest in the artistic and cultural side, and from the Home Office's interest in censorship and cinema safety.

15. It is also not unusual for an industry to be affected by policies which are the responsibilities of more than one department. Employment and taxation policies are obvious examples. In most cases the industry is only one amongst many affected and its particular interests will be only one factor, and usually a subordinate one, influencing policy development and decision. The responsibility may be one which requires little or no knowledge of the industry. The Home Secretary's responsibility for cinema safety,for example, is more concerned with his general responsibility for the safety of the public and its protection from hazards in buildings to which it may have access than with a particular activity carried out in a particular building. Similarly his responsibility for broadcasting policy (and particularly its financing) may have quite significant effects for the financial position of the film industry, but he does not need to be an expert on the film industry to take its interests into account in developing policy, where this is appropriate.

16. On the other hand, there may be arguments for bringing together responsibilities whose policy aims, despite differences of emphasis, are broadly similar, and where the type of work, range of contacts and so on are not far apart. Concentration of the main film responsibilities under either DTI, OAL or even the Home Office would bring together all the main instruments of Government policy (apart from the taxation regime) and allow a more single-minded approach, with differences being reconciled within one Department rather than being separately represented by different departments working through different programmes. With Government responsibilities shrinking under the review proposals to the very minimum of regulation, basic sponsorship and selective support, a continuing split of responsibilities at least between the DTI and OAL, might look less

sensible than it does now when there is a considerable body of DTI-type regulation. Although DTI is mainly concerned with commercial criteria, and OAL with artistic and cultural criteria, their policy objectives run quite closely together. The Minister for the Arts is concerned to promote film as a creative activity and as a representation of British life and values abroad. Without massive Government subsidy, that requires a healthy and developing industry, which encourages new talent and is not regulated in a way which stifles initiative. These are precisely the objectives of the Secretary of State for Trade and Industry.

17. But concentration would also bring disadvantages.

18. Concentration of films work under the Home Secretary would have the advantage of bringing it alongside his other films responsibilities (censorship and film safety), and his wider responsibilities for television, broadcasting and cable. The actual tasks would be small, and the residual regulatory role well suited the Home Office's existing style of tasks. But the Home Office has no other industrial sponsorship responsibilities, and no natural range of contacts either in the arts or commercial world. The Home Office's internal structure would need substantial reorganisation to bring film-related functions together. An addition to the Home Secretary's already considerable and disparate work load of this kind might look credible and sensible if linked to a transfer of other responsibilities (for example the whole of the arts responsibilities - but there are strong arguments against this) but it is hard to justify without it. The move would be unlikely to be welcomed by either the film industry or the arts world generally.

19. Concentration of responsibilities under the Minister for the Arts would bring film industry sponsorship alongside his support for film as an art form, which includes film making and training, and his wider responsibilities for theatre and the performing arts. The Home Secretary's responsibilities for film censorship and cinema safety would have to stay where they were. But there would also be problems in confining a transfer simply to DTI's responsibilities. Feature Film making, which fits most naturally with the Arts Minister's other responsibilities, is only one part of the film industry. Sectors like advertising, industrial film production, and film processing, are unlikely to want their interests represented by a Department which has no day to day experience of industry's needs nor a natural way into discussion of more general concern to industry. It would be possible to detach oversight of the new private sector arrangements and the residual regulation from wider aspects of sponsorship, but this would be messy (given that some film companies are involved in more than one activity). A department of OAL's size (only 49 staff) with an already large range of tasks on the arts side, might also find it difficult to develop the expertise and contacts outside the arts world which might be necessary. It is important also to recognise the enormous size of those segments of the film industry which might be added to the Arts Minister's present responsibilities

for supporting film as an art form. The growing field of pop promotion videos, for example, is by itself spending as much as the OAL subsidises film as an art form each year. This option would also detach films from the DTI's related responsibilities for information technology, publishing, copyright, tourism etc. There would also be a presentational disadvantage, if a transfer led the industry to expect a switch of policy towards more direct support.

20. The third option, transfer of OAL's direct responsibilities for film - sponsorship of the National Film and Television School and the British Film Institute (assuming that this kept an interest in film production) to DTI would bring the residual and small direct Government subsidy under the direction of one Minister, and would also mean that only DTI, and not both DTI and OAL, were looking after the private sector contributions which would replace the Eady Lévy. One disadvantage is perhaps in initial presentation. Those who lobbied the Select Committee for films responsibilities to be transferred to the Minister for the Arts because they thought that would mean the chance of more Government support for the British film industry would see not only no more support, but the risk of the end of selective support on "arts" grounds, as DTI's commercial interests took over. But there would also be concern at handing to a department with essentially commercial interests the National Film Archive, the cultural involvement in film and a training institution (the NFTS).

CONCLUSION

21. The present distribution of responsibilities for film is based on reasonably clear Ministerial remits but looks untidy. If the industry is deregulated and the Eady levy arrangements replaced by a largely private sector run scheme with only small, selective Government support, there will be less for Government departments to do, and it might seem more sensible - and less labour intensive - to concentrate that work on one department. But only the OAL and DTI are serious contenders for that role, and with both there are practical and presentational difficulties. A slightly stronger case can perhaps be made for transferring OAL's responsibilities for selective support to DTI which is better placed to fulfil the general industrial sponsorship role. But such a move could be seen as signalling the beginning of the end of even such small Government support for the industry as there is. Conversely a move from DTI to OAL might raise hopes of greater support than the Minister for the Arts would be able to deliver. There can be no certainty that the new strategy will produce a more financially viable British film industry, and, if the industry again ran into difficulties, it might be harder for a Minister for the Arts to resist pressure for help. It can also be said that the public pressure for a single point of responsibility, which was running quite strongly when the Select Committee made the recommendation, has largely died away. All this suggests that the balance of advantage lies in leaving responsibilities unchanged.

/cc NO

CONFIDENTIAL

File.

Treasury Chambers, Parliament Street, SWIP 3AG
01-233 3000

19 July 1984

N M McMillan Esq
Private Secretary to the Minister of State for Industry and Information Technology
Department of Trade and Industry
1-19 Victoria Street
LONDON SW1H OET

Dear Neil

FILMS POLICY REVIEW: STATEMENT

- WITH AT

You wrote to Andrew Turnbull on 17 July, enclosing a draft statement which Mr Baker hopes to make to the House of Commons today, announcing the conclusions of your Department's review of films policy.

The Chancellor is concerned that, as currently drafted, the two paragraphs of the statement covering the tax changes for the film industry might raise expectations excessively. He would therefore be grateful if they could be revised as in the enclosed text.

The Chancellor would also like to suggest the following two changes to the statement:

(i) page 3, line 7: <u>insert the words</u> "for 5 years" after "A further £½m a year";

(ii) page 3, line 18: <u>insert</u> after "provide £250,000 for this" the words "purpose in 1985-86. This will come from the fund of £1½m a year to which I referred earlier".

As you will see, these changes simply bring Mr Baker's statement into line with the text of the White Paper.

I am copying this letter to Andrew Turnbull (No 10), to the Private Secretaries to the other members of E(A), to Mary Brown (Office of Arts and Libraries), Murdo McLean (Government Whip's office), David Morris (Lord Privy Seal's office), Richart Hatfield (Cabinet Office) and Bernard Ingham (No 10).

Yours sincerely,
Margaret O'Mara

Miss M O'Mara
Private Secretary

During the passage of the Finance Bill through Parliament, my Rt Hon Friend the Chancellor of the Exchequer made two amendments designed specifically to help the film industry. First, qualifying investment in film projects will now come within the scope of the Business Expansion Scheme. This will be a valuable incentive to equity investment in films and will help the small producers who have lately gained the confidence of the City.

Secondly, my Rt Hon Friend has announced that films will have a further option to write-off expenditure on a cost recovery basis against income as it arises, instead of spreading it over the income producing life of the film. The industry will therefore not normally pay tax on its profits until all expenditure has been written off.

Econ Pol 6179 Film Finance

The British film industry is undergoing a renaissance. We are fortunate to have so many talented producers, writers, directors, and actors; and outstanding technical skills in film making. Several companies in Britain have achieved commercial success in quality films. Channel 4 has effectively encouraged the thriving independent production sector.

However, cinema attendances have continued to decline dramatically. From an annual average of 338m in the 1960's they have dropped to 66m in 1983. In the same period the number of screens declined from some 3,000 to 1,300.

Against this background we have drawn up the following proposals which are contained in the White Paper published today.

Our first and most important conclusion is that the outdated Eady levy on cinema receipts must be ended. Introduced to recycle money from the cinemas to the producing companies it has become an extra tax on seats which cinemas cannot afford. Its revenue in real terms has fallen by six sevenths. It's an elaborate and unfair burden on the industry's weakest sector. The Government proposes to bring in legislation to end this in 1985, and at the same time

SP7/SP7AAP

to wind up the British Film Fund Agency, the Cinematograph Films Council, and the National Film Finance Corporation. The legislation will also repeal eight Acts of Parliament and twenty-five Statutory Instruments relating to films.

I have considered carefully the case for extending an Eady-type levy to television or to videos. I am, however, convinced that no sort of recycling mechanism is sensible. A levy on TV could lead to an increase in the BBC licence fee and ITV companies are already paying a subscription to Channel 4 which will be financing film making at a level of £8m a year. In its review of copyright the Government is still examining the question of a levy on blank video and audio tapes to protect copyright owners and we intend to invite further comments on this.

I have been able to make satisfactory arrangements to replace the money which the Eady levy raised.

Revenue from the Eady levy has in the past provided finance for the NFFC, which has done valuable work to encourage emerging young talent in the British film industry. It has contributed to many notable films including "Gregory's Girl" and "Another Country" and fostered talent which has come to the fore in such international successes as "Chariots of

SP7/SP7AAP

Fire" and "Local Hero". The valuable contribution made with Eady levy finance will in future be secured by a new company in the private sector whose shareholders will initially provide contributions of over £1 million annually. The Government, in addition, will make £1½ million a year available for five years to co-finance low- and medium-budget films to be made in Britain. A further £½ million a year for five years is to be made available to help in the early stages of the development of film projects. The new company will therefore be able to deploy more than double the resources which NFFC has had in recent years. It is an important new deal for the British film industry.

The National Film and Television School is well respected, and enjoys an international reputation. We have secured independent funding for five years which will more than replace the current level of the Eady contribution. Lord Wilson of Rievaulx and the Interim Action Committee on the Film Industry recommended updating the equipment at the School and the Government will provide £250,000 for this purpose in 1985/6.

The British Film Institute Production Board also receives a small Eady contribution and I propose in consultation with the Cinematograph Films Council to see whether a final payment out of the Eady levy can be made.

During the passage of the Finance Bill through Parliament, my Rt Hon Friend the Chancellor of the Exchequer made two amendments specifically to help the film industry. First, qualifying investment in film projects will now come within the scope of the Business Expansion Scheme. This will be a valuable incentive to equity investment in film and will help the small producers who have lately gained the confidence of the City.

Secondly, in addition to the measures announced in the Budget, My Rt Hon Friend has announced that films will have a further option to write off expenditure on a cost recovery basis against income as it arises, instead of spreading it over the income producing life of the film. The industry will therefore not normally pay tax on its profits until all expenditure has been written off. This will give a greater measure of certainty for those investing in films.

I am very pleased that the industry is pressing ahead strongly with plans for British Film year in 1985. This will focus attention on film in education and industry as well as in entertainment. In particular it will aggressively promote the sales of British films overseas.

Our policy is to free the film industry from Government intervention and from an intrusive regulatory regime dating from the days of the silent films. Our policy will clear the way for the industry to operate in a more confident framework and to consolidate upon its success.

SP7/SP7AAP

050

2

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215)
GTN 215) 5147
(Switchboard) 215 7877

From the Minister of State
for Industry and Information Technology

RT HON KENNETH BAKER MP

Prime Minister

Andrew Turnbull
PS/Prime Minister
10 Downing Street
LONDON
SW1

17 July 1984

18/7

Dear Andrew,

FILMS POLICY REVIEW: STATEMENT

I attach a copy of the statement which Mr Baker hopes to make to the House of Commons on Thursday 19 July announcing the conclusions of the films policy review. The Policy has been approved by Ministers, and we propose to publish the White Paper on Thursday 19 July.

Briefing on the White Paper, including defensive points will be circulated as soon as possible in advance of the statement.

I am copying this to private secretaries to members of E(A), Mary Brown (PS/Lord Gowrie), Murdo McLean (PS/Chief Whip) and David Heyhoe (PS/Lord Privy Seal), Sir Robert Armstrong and the Chief Press Secretary at No 10.

Yours

Neil

N M McMILLAN
PRIVATE SECRETARY

M54/M54ABE

JU794

STATEMENT ON FILM POLICY

With permission, Mr Speaker, I should like to make a statement on the film industry.

The British film industry is undergoing a renaissance. We are fortunate to have so many talented producers, writers, directors, and actors; and outstanding technical skills in film making. Several companies in Britain have achieved commercial success in quality films. Channel 4 has effectively encouraged the thriving independent production sector.

However, cinema attendances have continued to decline dramatically. From an annual average of 338m in the 1960s they have dropped to 66m in 1983. In the same period the number of screens declined from some 3,000 to 1,300.

Against this background we have drawn up the following proposals which are contained in the White Paper published today.

Our first and most important conclusion is that the outdated Eady levy on cinema receipts must be ended. Introduced to recycle money from the cinemas to the producing companies it has become an extra tax on seats which cinemas cannot afford. Its revenue in real terms has fallen by six sevenths. It is an elaborate and unfair burden on the industry's weakest sector. The Government proposes to bring in legislation to end this in 1985, at the same time winding up the British Film Fund Agency, the Cinematograph Films Council, and the National Film Finance Corporation. The legislation will also repeal eight Acts of Parliament and twenty five Statutory Instruments relating to films.

I have considered carefully the case to extend an Eady-type levy to television or to videos. I am, however, convinced that no sort of recycling mechanism is sensible. A levy on TV could lead to an increase in the BBC licence fee and ITV companies are already paying a subscription to Channel 4 which will be financing film making at a level of £8m a year. In its review of copyright the Government is still examining the question of a levy on blank video and audio tapes to protect copyright owners and we intend to invite further comments on this.

I have been able to make satisfactory arrangements to replace the money which the Eady levy raised.

Revenue from Eady levy has in the past provided finance for the NFFC, which has done valuable work to encourage emerging young talent in the British film industry. It has contributed to many notable films including "Gregory's Girl" and "Another Country" and fostered talent which has come to the fore in such major international successes as "Chariots of Fire" and "Local Hero". The valuable contribution made with Eady levy finance will in future be secured by a new company in the private sector whose shareholders will initially guarantee contributions of over £1m annually. The Government in addition will make £1½m a year available for five years to co-finance medium budget films to be made in Britain. A further £½m a year is to be made available to help in the early stages of the development of film projects. The new company will therefore be able to deploy more than double the resources which have been made available to NFFC in recent years.

The National Film and Television School is well respected, and enjoys an international reputation. We have secured independent funding for five years which will more than replace the current level of the Eady contribution. Lord Wilson of Rievaulx and the Interim Action Committee on the Film Industry recommended updating the equipment at the School and the Government will provide £250,000 for this.

The British Film Institute Production Board also receives a small Eady contribution and I propose in consultation with the Cinematograph Films Council to see whether a final payment out of the Eady levy can be made.

My Rt Hon Friend the Chancellor of the Exchequer has made two significant tax changes to help the film industry. First, investment in film projects will now come within the Business

Expansion Scheme. This will be a valuable incentive to equity investment in film and will help the small producers who have lately gained the confidence of the City.

Secondly, in addition to the measures announced in the Budget, My Rh Hon Friend now proposes to give films a further option to write-off expenditure on a cost recovery basis against income as it arises, instead of spreading it over the income producing life of the film. This will help the industry by allowing it to write-off expenditure more in line with its accounting practices and by giving a greater measure of certainty.

I am very pleased that the industry is pressing ahead strongly with plans for British Film year in 1985. This will focus attention on film in education and industry as well as in entertainment. In particular it will aggressively promote the sales of British films overseas.

Our policy is to free the film industry from Government intervention and from an intrusive regulatory regime dating from the days of the silent films. Our policy will clear the way for the industry to operate in a more confident framework and to consolidate upon its success.

7.15a

CONFIDENTIAL

cc RY

NBPM

AT 12/7

Treasury Chambers, Parliament Street, SWIP 3AG
01-233 3000

13 July 1984

Andrew D Lansley Esq
Private Secretary to the
Secretary of State for Trade & Industry
Department of Trade & Industry
1-19 Victoria Street
LONDON SW1

Dear Andrew,

FILM INDUSTRY WHITE PAPER

You wrote to Andrew Turnbull on ~~11~~ July, with PM enclosing a draft of the White Paper on the film industry for which your Secretary of State was seeking urgent clearance.

The Chancellor has only two comments on the text. First, he would be grateful if paragraphs 3.6 and 5.12 of the White Paper could be revised as in the enclosed drafts in order to clarify the tax position. He has also asked that Treasury officials should be shown your department's proposals for monitoring and evaluating the support to be provided through the Film Development Fund scheme, described in paragraph 7.6.

I am copying this letter to Andrew Turnbull (No 10), to the private secretaries to the other members of E(A), to Len Appleyard (FCO), to Hugh Taylor (Home Office), to Mary Brown (Office of Arts and Libraries) and to Richard Hatfield (Cabinet Office).

Yours sincerely,

Margaret O'Mara

MISS M O'MARA
Private Secretary

3.6 There have also been a number of changes in the taxation treatment of films. Until 1979 expenditure on the production of a film was treated as a revenue expense. However in the light of legal advice there was then a change of practice. A master film negative was regarded as plant, with the result that expenditure incurred in producing or purchasing a negative was eligible for capital allowances. At that time the capital allowances available for plant were 100% in the first year.

3.6A The 1982 Finance Act withdrew the entitlement to capital allowances and provided for the expenditure to be treated as a revenue expense, laying down a formula for matching expenditure against expected revenue. However films and television productions, which would normally qualify as British films under the Eady levy, were given a transitional period of two years before the new provisions would apply; and this period was extended to five years in the 1983 Finance Act.

3.6B The Finance Bill now before Parliament provides for first year allowances generally to be phased out by 1986: expenditure on plant will then qualify for writing down allowances at 25%. Makers of British films are being given an option between those allowances - their entitlement is being made permanent - and writing expenditure off against revenue. The 1982 formula is being re-cast to allow the expenditure to be written off £ for £ against income. Finally investment in film production companies is to qualify under the Business Expansion Scheme.

5.12 The decision to abolish the Eady levy has not been taken in isolation. It is part of a new outlook in which the Government intends to shift its approach to the film industry away from the statutory intervention of the last 30 years and towards the creation of the right business environment. The effect will be to encourage innovation and to reward success. This policy is part of, and wholly consistent with, the Government's approach to industry generally. The thrust of the changes in business taxation made by the Chancellor of the Exchequer in his 1984 Budget was to encourage efficiency and enterprise. By making the tax system more even-handed, investment decisions will be more surely founded and resources better allocated.

5.12A Against the background of these changes, the current success of the film industry gives it an excellent basis from which to develop and prosper. Already there have been strong indications that the normal investment mechanisms have been showing positive changes in favour of the industry; and there are excellent prospects for a completely new City-based fund to be in operation within the next 6 months, with a second comparable one not far behind. The package of measures now proposed is designed to consolidate this change that has taken place, and to encourage its development. It will remove the need to take money away from any part of the industry itself and thus avoid cumbersome and bureaucratic recycling mechanisms.

From: The Private Secretary

CONFIDENTIAL

NBPM
AT 13/7

cc RY

Home Office
QUEEN ANNE'S GATE
LONDON SWIH 9AT

12 July 1984

FILM INDUSTRY WHITE PAPER

Thank you for sending us a copy of your letter of 11 July covering the text of the draft White Paper on Film Industry.

The Home Secretary is broadly content with the proposals of your Secretary of State. He would however be glad if two minor drafting amendments could be made to the text. First, at paragraph 2.5, it might be better not to speak of a "new film" channel on the DBS joint project, particularly as the White Paper makes clear elsewhere the shortage of new English language films to meet the demands of film channel providers. We suggest that the second sentence of paragraph 2.5(b) might read

> "This service will provide three new television channels, one of which will be a film channel providing an important new market for film".

Second, the final two sentences of paragraph 5.9 perhaps over-compress the arguments against a levy on the screening of films on television and, given the Government's relationship with broadcasting interests, go slightly too far in the last sentence in enjoining the BBC and ITV to adopt a particular course. In addition, Channel 4 have now embarked on plans to spend more money on film finance than was known when the original draft was produced. We therefore suggest that the final two sentences of the paragraph might be replaced by the following:

> "Nor do we believe that the Government should intervene by introducing a levy on television film purchases, which would increase the costs both of the BBC, with consequent implications for the TV licence fee, and the ITV companies, thus reducing the Exchequer levy. Moreover, the ITV companies pay for Channel 4, which is now planning to finance film making at a level of £8m a year. We believe that Channel 4 has shown the way for increasing the mutual support of television and film, and that this type of approach by television is to be encouraged".

I am copying this letter to the recipients of yours.

MRS C J HEALD

CONFIDENTIAL

Andrew Lansley, Esq

Econ Pol: Film Ind 6/79

File

MR TURNBULL   12 July 1984

FILM INDUSTRY WHITE PAPER

I have just spoken to Margaret O'Mara and Max Felstead, and to Steve Mummery in Kenneth Baker's office. There is now agreement between the two Departments on the White Paper. There will be just two minor changes from the draft you already have. I have marked these in pencil at paragraphs 3.6 and 5.12. Neither is a substantive point; the aim is quite simply to clarify the tax position of the industry.

DTI are happy to accept that the Treasury's comments would not actually reach them until 13 July rather than 12 July.

RIP?

RY

ROBERT YOUNG

10 DOWNING STREET

Prime Minister (2)

Agreement has now been reached on the outstanding issues on films. The offset to the ITV levy was, after consultation with the Home Office, found not to be feasible so the grant route has been agreed instead - £2 million a year for five years comprising

- £ ½ million a year for the National Film Development Fund

- £ 1½ million to the successor to the NFFC.

No action required

MT

AT
12/7

O10

CONFIDENTIAL

BY

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5422
GTN 215)
(Switchboard) 215 7877

Secretary of State for Trade and Industry

11 July 1984

Miss M O'Mara
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

Dear Margaret,

FILM INDUSTRY WHITE PAPER

You will have received separately a copy of a attached ~~letter~~ I have sent to Andrew Turnbull and Private Secretaries to EA members, seeking urgent clearance of the draft White Paper on films policy. I spoke to you on the telephone today about the arrangements for additional support to help the film industry discussed at the Prime Minister's meeting on 6 July.

2 My Secretary of State is concerned to avoid premature disclosure of the proposed allocation of £2 million a year for five years to the film industry, and references to this have not been included in the draft for general circulation. He has, however, asked me to send you the attached draft paragraphs which will, if the Chancellor of the Exchequer agrees, replace those in the circulated text. You told me that the Chancellor had been attracted to the idea that this might come from an offset of the ITV levy. Kenneth Baker has discussed with officials here and from the Home Office the feasibility of this offset arrangement and has concluded that it is not a feasible option. This option would clearly have resulted in a loss to the Exchequer of £2million a year of the revenue it receives direct from the levy. My Secretary of State would accordingly propose that an additional allocation to this Department's budget of £2million a year for the years 1985/86 to 1989/90 in order to cover this commitment - and which will have the same resource effect as the levy option. But my Secretary of State is content to leave the resolution of this matter until the forthcoming PES discussions, and he does not believe that this need delay the White Paper's publication. In order to keep to the timetable for publication of the White Paper on 18 July, my Secretary of State will, unless he hears to the contrary by the close tomorrow (12 July), assume that the Chancellor does not wish to object to the proposals in the attached drafts.

JH3APY

3 I am sending a copy of this letter to Andrew Turnbull (No 10), Nigel Pantling (Home Office) and to Richard Hatfield (Cabinet Office).

Yours ever,

Andrew Lansley

ANDREW D LANSLEY
Private Secretary

Encs

JH3APY

for film we believe that this important work should be firmly based in the private sector and directed towards the development of talent for the commercial market. The Government has made outline arrangements with certain organisations in the film, television, and video sectors that they should provide annual contributions of £1.1 million for a period of three years to a new company whose primary purpose will be to part-finance low budget feature films involving largely British talent. The Government will also contribute by placing at the disposal of the new company the portfolio of rights from past and present projects of the NFFC, which has an income-generating capacity of not less than £200,000 a year and which, if intensively managed, many consider could yield considerably more for the next few years. There is therefore already at least £1.3 million a year, and possibly as much as £1.5 million a year available to the successor company to the NFFC. The Government hopes that other companies in the industry and in the television industry, which is so dependent on good film production, will invest in the new company. In order to encourage this the Government is prepared to establish a fund of £1.5 million a year for five years to be available for co-financing films jointly with the new company. Details will be subject to discussion with the industry. It is envisaged that the new company will take over from the NFFC in Autumn 1985.

8 THE EFFECT OF EADY ABOLITION ON OTHER BODIES

8.1. Apart from the NFFC, three other bodies are entitled to receive money from the proceeds of the Eady levy. The arrangements we intend to adopt for these organisations are as follows.

The National Film and Television School

8.2. The School currently receives some £½ million a year from Eady funds. We believe that it is essential for this money to be replaced and have negotiated arrangements which provide a satisfactory solution. The cinemas, the independent television companies, and the BBC, all recognise the benefit that they ultimately derive from the School and they have jointly undertaken to provide £600,000 a year, rather more funds than are currently provided from the Eady levy, for a period of five years from the cessation of that fund. For the BBC and the independent television companies, this is in addition to their existing level of contributions. This effectively secures the funding of the School until the end of this decade. Whilst it seemed to us unreasonable to seek firm commitment for any longer period, the Government hopes that participants in this scheme will consider in due course how they might continue to assist the School. Meanwhile, the Interim Action Committee on the Film Industry recommended that further support should be given to improve the television facility at the School. The Government proposes to contribute up to £250,000 for this purpose in the year 1985/86. This will come from the fund of £1.5 million a year described in paragraph 7.3.

The Children's Film Foundation

8.3. As mentioned in paragraph 4.8, the Foundation no longer seeks funds from the Eady levy, and has diversified into television. We do not feel that there is any need to make further provision after the abolition of Eady, and the Foundation is content with this.

The British Film Institute Production Board

8.4. The Eady levy currently supplies £125,000 a year towards the finances of the BFI. The receipt of this money is not a prescriptive right, and it represents some 10 per cent of the Production Board's current budget. We do not believe however that this funding should cease entirely at the end of the current year. There are no other obvious sources from which money can be found for these purposes, and the Government therefore, in consultation with the

Effects of These Policies on Public Expenditure and Public Service Manpower

9.4. The continuation of the NFFC's work of supporting new British talent, will require £1.5 million a year for five years of public money by way of co-financing in addition to the contributions from the private sector and the income from the NFFC's portfolio of rights. The project development scheme will involve £500,000 of expenditure annually by the Department of Trade and Industry.

9.5. The removal of legislation requiring among other things the registration of exhibitors and distributors will permit a small saving of staff (1 post) within the Department of Trade and Industry. The project development scheme will need more Departmental oversight than its predecessor scheme, operated by the NFFC, but this can be contained within existing Departmental provisions due to the cessation of work involved in oversight and monitoring of the NFFC.

CONFIDENTIAL

cc ~~BSI~~ ~~TF~~ ~~BY~~ - Covering letter only.

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5422
GTN 215)
(Switchboard) 215 7877

Secretary of State for Trade and Industry

11 July 1984

Andrew Turnbull Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Dear Andrew,

FILM INDUSTRY WHITE PAPER

Having completed the review of film policy, with the exception of some matters of detail still under discussion with the Treasury, my Secretary of State seeks urgent clearance of the attached draft White Paper. Mr Kenneth Baker is proposing to make a statement to the Commons on 18 July and therefore hopes it will be possible to publish on the same day.

2 In view of the extensive consultations that have taken place with both Ministers and officials in those Departments most closely concerned, my Secretary of State does not envisage that his colleagues will see any particular difficulty in early publication, and therefore unless he hears to the contrary by the close tomorrow (12 July) he will assume that there are no objections to his proposals.

3 I am copying this letter to the private secretaries to members of EA, the Home Secretary, the Foreign and Commonwealth Secretary, the Minister for the Arts and Sir Robert Armstrong.

Yours ever,

Andrew Lansley

ANDREW D LANSLEY
Private Secretary

JH1ANZ

NINTH DRAFT

FILM POLICY

Contents

1 INTRODUCTION

1.1. The British commercial film industry is small when viewed in terms of the normal measures of economic significance, such as employment and turnover. But it has an importance and influence, both in our national life and internationally, out of all proportion to its size. And that importance is already growing with the advent of the new communications media worldwide - video, cable and direct broadcasting by satellite (DBS). It is therefore an opportune time for the Government to be reviewing its relations with the industry.

1.2. The year 1983 was one of considerable optimism in the production industry. The signs of renaissance were clear - production levels were being sustained and in the all-important American market there was a much greater acceptance of British film than ever before, as 'Gandhi' followed 'Chariots of Fire' as an Oscar winner. The demand for good quality product to feed the new media worldwide was at an all time high. Domestically, the traditional film outlet, the cinema, checked its previously steady downward trend, and video after a mere three years achieved a 30 per cent penetration of households with colour television sets. The contrast with the years when our present protective measures were enacted could not be more complete. As a result there has been a growing conviction that the bulk of the legislation currently applicable to the industry, and structured principally around cinema exhibition, is wholly inappropriate to the changed situation. Moreover, some of the legislation - that relating to the National Film Finance Corporation and to the Eady levy - has a limited life and will run out towards the end of 1985.

2 THE PRESENT STATE OF THE INDUSTRY

Employment

2.1. The film making and cinema exhibition sectors currently employ some 35,000 people. The production industry, including the many and various support companies - commonly known as "facilities" - such as film processing laboratories, film studios, editing, cutting and dubbing houses etc, employ about 25,000 in total. A very large proportion of this number are actors, technicians and other support staff, who work on a free-lance contract basis. In 1982 the cinemas had some 5,500 full-time and some 6,000 part-time employees.

Turnover

2.2. It is difficult to be precise as to the turnover of the industry - partly as a result of its fragmented structure, and its constantly changing profile, depending on the number of films in production at any one time. Annual turnover of the three principal sectors of the industry - production, exhibition, and processing and facilities - varies between £300 million and £400 million, with each of the three sectors accounting for a third of the total. Production is split into feature films (including cinema documentaries) with a turnover varying around £70 million currently; commercial advertising films, principally for television at about £20 million; and industrial and training films accounting for about £50 million. Gross box office receipts for cinemas were £125 million in 1983. Turnover in processing and facilities was in the region of £100 million a year. Video sales and distribution, principally of feature films, is a significant new sector of the industry and annual turnover here is already estimated to be approaching £200 million.

2.3. The television industry on the other hand has a turnover of nearly three times that of the film industry. But despite this, television's export performance is not as good as that of film.

Feature Film Production

2.4. The last two decades saw a decline in the numbers of long films (those over 72 minutes) registered as British: from a level in the 1960s of about 70 a year to only 27 in 1982. However, 1983 saw an improvement, with 34 films registered during the year. (Full details are given in Annex E on page). Also there are strong indications of a rekindling of interest in the making of commercial British films, and growing market opportunities abroad.

New Market Opportunities

2.5 There are also a number of exciting opportunities in prospect based particularly on domestic exhibition:

(a) Video The video cassette has revolutionised the home entertainment market in the remarkably short space of three years.

(b) DBS The Government has recently announced changes in the legislative arrangements which will enable a consortium of the BBC, ITV and other private sector companies to introduce a direct broadcasting service in the autumn of 1987. This service will provide three new television programmes one of which will be a "new film" channel, and will provide an important new market for film. The Satellite Broadcasting Board, which will supervise the new service, will have the same statutory duty as the IBA, namely to satisfy itself that proper proportions of programmes of United Kingdom origin and performance are included in the services.

(c) Cable Similarly the advent of cable

television is providing an important new market for film. As a result of a Government amendment recently introduced into the Cable and Broadcasting Bill, the Cable Authority will be required, when considering applications for licences, to have regard to companies' plans for increasing their use of United Kingdom programme material over the period of the licence.

DBS and cable will inevitably provide a valuable and growing stimulus to production, with feature films likely to be the most sought-after and marketable programme source. That is not to claim that every new project will prove an unqualified success and of itself prove beneficial to production, but it is undoubtedly true that over the next five to ten years there will be enhanced demand from these media, and that taken as a whole they will provide significant additional outlets for feature films.

2.6. Moreover, traditional broadcast television itself has become a very important user of feature films. In terms of total audience, four billion individual film viewings a year is a reasonable estimate. The trend of showing feature films on television began in the early 1960s and has reached the stage where in 1983, BBC1 and BBC2 between them showed some 786. The individual ITV companies showed between 325 and 360 films in 1983. In its short existence so far, Channel 4 has also become a significant user of films, showing over 380 in 1983 including 22 of their own commissioned "Films on Four". It has also had a remarkable positive impact on the independent production sector. In its first year over half the new material was produced by independents and the twenty or so feature films commissioned by Channel 4 cost about £6 million, about four times the annual amount deployed by the National Film Finance Corporation. Channel 4 has thus proved to be a revitalising force and much credit is due to its far-sighted management in this respect.

Cinema Exhibition of Films

2.7. By contrast, the traditional means of showing films, the cinema, has suffered a massive decline. Cinema admissions averaged 338 million annually during the 1960s, 136 million in the 1970s and by 1983 had fallen to only 66 million (see Annex D on page). In 1960 there were some 3,034 cinema screens in operation: by 1983 this had fallen to 1,327. Total box office takings adjusted for inflation show a steady fall. Receipts, however, have not declined at the same rate as admissions, as admission prices have risen sharply. (See Annex F on page). Over the last ten years average admission prices have risen from 43 pence to

£1.77, an increase of 312 per cent. This trend in admission prices is in sharp contrast to experience in other countries in Western Europe and North America. For example, over the same period in the USA, admission prices rose by only about 70 per cent. Other countries have shown a long term decline in cinema admissions, but nowhere has it been so steep or so apparently continuous and irreversible as in the United Kingdom. Although 1983 was a better year for attendances social habits have changed to such an extent that a return to the annual admissions measured in the hundreds of millions is highly unlikely.

The Small and Large Screen

2.8. Many reasons have been put forward to account for the decline in cinema attendances in the United Kingdom particularly in relation to other countries. The high quality of British broadcasting; the growth of demand for entertainment in the home (not only in respect of feature films); the changes in patterns of urban and suburban dwelling; seat prices; the total package for an evening's entertainment offered by the cinemas; the cost of making films; the size of fees demanded by principal participants; have all been put forward as contributing to the decline, but none provides a complete answer. It was not the purpose of this review to analyse and account for the change. It is enough to note the effect that the decline has had on the cinema exhibition sector itself, and the part that the cinema can play in the totality of the film industry's operations. Moreover, whatever justifiable arguments may be adduced in support of the particular experience of seeing a film made specifically for cinema, shown on the big screen with all that goes with it, the choice of the vast majority of feature film viewers over the past decade has been increasingly to watch films on the small screen in their own homes. This movement in opinion cannot be ignored, and it means that the film production industry in Britain will need to see its future as increasingly, though not exclusively, bound to the developments of small-screen viewing and in the provision of product for small screen media.

2.9. In comparing our film and television industries with experience elsewhere in the world, it is noticeable how the two arms of the "moving image business" have not directly collaborated in providing domestic television services in this country. In the USA for example the major film production companies have always provided the production arm of television programming to a substantial degree, and this pattern has been repeated to a greater or lesser extent in the industrialised countries of the world.

2.10. There are a number of reasons why the United

Kingdom film and television industries have developed separately. History suggests that the film industry did not recognise the positive value of collaboration with the emerging television industry of the late 1940s and early 1950s, and opportunities for the established film production companies to make programmes for new media were not developed. On the other hand the BBC, which had been producing all its own radio programmes, had become self-reliant and was able to produce its television material in-house. Moreover, the independent television system, which has operated under a regime of regional franchises, assisted the trend of separation. A franchise applicant who did not propose to operate a strong in-house production arm, but preferred to buy in material from outside (for example from the film industry) would have been less likely to gain the franchise.

2.11. There are signs that the gap between film and television is being closed. The BBC has begun to enter co-production agreements, though the bulk of its production continues to be in-house. Independent television programme companies have produced programme material, sometimes in co-operation with the independent production sector, which in terms of content is indistinguishable from feature film; and Channel 4 has already contributed substantially to the production of material by the film industry suitable for both cinema and television and is likely to make a growing contribution in future years. It is now becoming common for film production companies to make both films and television programmes. It may well be that this interface of films and television is where the key to much of the film production industry's future is to be found, although the importance of theatrical exhibition in the cinema will remain. For it is in the cinema that a film establishes its reputation and its value to the small screen. In order to decide on what attitude Government might take to future developments in the industry as a whole, it is necessary to consider in more detail the existing legislation and business framework within which the industry currently operates.

3 THE CURRENT FRAMEWORK

3.1. Film operates within a complex environment which includes a considerable amount of legislation, and certain business practices which tightly constrain exhibition on both the small and the large screen. These arrangements have grown up over many years, and those relating particularly to cinema exhibition originate from a time when circumstances were very different from those obtaining in the 1980s. Screen quota, which started in 1927; the National Film Finance Corporation formed in 1949; and the Eady levy, statutory since 1957, were all responses to disastrous circumstances for indigenous film production. They were, moreover, introduced at times when protectionist instincts were stronger than today. More recent experience makes clear that these props are no longer needed, indeed they are outmoded in modern conditions.

Legislation

3.2. Films legislation has in general concerned itself with the traditional sectors of film production and distribution for exhibition in the cinema. Over the years a system of controls and regulations has emerged, providing for extensive licensing of cinemas, distributors and films. This is quite separate from censorship or local authority licensing of cinema premises. A quota system was introduced in 1927 with the aim of ensuring that a set proportion of British films was shown at cinemas. This was suspended in January 1983.

3.3. Since 1957 there has been a statutory levy, replacing a previous voluntary levy, raised on the price of cinema admissions and used to support domestic film production, the Eady levy. (See Annex C on page and Annex G on page). The proceeds of the levy are paid to the British Film Fund Agency, a statutory body, which administers the Fund. The Agency originally disbursed the whole of the fund to producers of British films on the basis of their box office success. This was radically changed, however, with the reconstruction of the National Film Finance Corporation in 1981.

3.4. The National Film Finance Corporation (NFFC) was set up in 1949 to encourage a higher level of film production with the aid of Government funds. Government funding ceased in 1980, and since the National Film Finance Corporation Act 1981 and the Film Levy Finance Act 1981, the Film Fund has provided as a first charge on the Fund an annual subvention of £1.5 million to the NFFC.

3.5. Films legislation lays down detailed requirements for the registering or licensing of all films intended for theatrical release, all cinemas, or screens in the case of multi-screen theatres, and film renters, or distributors; this is for the purpose of enabling other measures, such as the levy and the quota, to be operated effectively. In addition, the legislation has required since 1938 an advisory body, called the Cinematograph Films Council, made up of independent members and representatives of film makers, renters, exhibitors and employees, to advise Government on the film industry, and on the workings of films legislation in particular.

Reword – this was a decision of the courts. RJ.

3.6. There is an additional legislative measure in the field of taxation. In 1979, provision was made for the costs of the master negative of a film to be regarded as "plant", and therefore eligible for first year capital allowances on a par with manufacturing industry in general. The Finance Act 1982 restricted these allowances to films (and television productions) that would normally qualify as British films under the film Eady levy system.

3.7. A complete list of existing legislation is shown at Annex A.

The Business Environment

3.8. - The market for film product is highly structured. It is dominated by the distributors, who are at the heart of the film industry. As the wholesalers, they obtain the right to show a film either straight from the producer, or from another distributor. The distributors who have the cinema rights in turn license cinemas to show the film in exchange for a film rental and decide the method of release, cinema bookings, making and despatching of prints, and overall promotional activity nationally and regionally. The cinemas look after local advertising.

3.9. The three major United States distribution groupings take about 70 per cent of the United Kingdom film rentals. There is a system of 'alignments' between distributors and the two major cinema circuits, Rank and EMI, which means in practice that a distributor offers first refusal of its films to one or other circuit. However, some independent cinemas have an allocation of product and can have first run rights to either Rank or EMI product either wholly or in part.

3.10. The order in which cinemas show films is partly decided by a system of 'bars'. These decide which of two or more cinemas close together shows a film first. There is also an arrangement whereby the majority of films will be available to cinemas for three years before appearing on television, though in practice a film which has exhausted its cinema life before this time can be shown on television earlier.

3.11. Apart from being the key to exhibition, on television and video as well as in the cinema, distributors are of major importance in the financing process for United Kingdom films. They either give financial guarantees to producers, or enter into distribution contracts which can then be used as security for raising the money elsewhere. Thus in the United Kingdom a distributor's attitude can determine the success of a film.

3.12. The television market in the United Kingdom is also compartmentalised. Much film buying for the independent television companies is carried out centrally and this, taken with the BBC, means that the demand side of the market is essentially a duopoly. For a number of years there have been complaints from the film production industry that buying by television is collusive, except perhaps for a few major cinema successes in great demand for television showing, and there is little doubt that compared with cinema exhibition the per capita returns to producers from television showings have historically been low. On the other hand, television interests have claimed that there is no collusion in buying; that film rights are mostly purchased in 'packages'; that a proportion of the material sold in packages is unpopular or not suitable for family viewing; and that in any event prices paid for feature films for showing on television have risen significantly in recent years.

4 REPRESENTATIONS

4.1. A list of those consulted or who offered their views during the course of the review is at Annex B. There was a broadly held view that the cinema side of the industry should be helped, although in respect of the future of the Eady levy views were not unanimous and the various opinions are set out in more detail below. There was also a general consensus that the production industry is performing successfully again, and that we should seek to exploit and build on this success at home and abroad. Many saw the introduction of cable and DBS services as creating new important opportunities for British film and television production. Producers welcome this development because new potential customers are brought into the market and they hope that the British industry will be enabled to take a substantial market share. Undoubtedly those organisations bringing in new cable and DBS systems will themselves experience heavy demands on their resources and could not be expected initially to commission film material as well. There was a fear that if the financing climate did not meet the opportunities offered by the new developments the door would simply be opened to overseas films.

4.2. There was also much concern that the Government should understand the implications for the success of cable and DBS of the limited annual supply of new top quality English language cinema films. At anything between 100 and 150 a year depending on quality criteria, the supply looks inadequate for the number of specialist films channels hoping to offer feature films within a few months of cinema release. Moreover, only a few of those are British-made; even fewer are British-financed. Equally it was emphasised by many that for the first ten years or so, cable in particular would not be able to afford to commission much, if any, new drama material. Much emphasis was given to the need to see new United Kingdom opportunities as merely a part of an expanding worldwide market. The opportunity to sell into those newly receptive markets therefore meant that new United Kingdom areas of demand would provide welcome additional revenue and did not need to be seen as major contributors to costs.

The Eady Levy

4.3. The greatest number, and indeed strength, of representations concerned the Eady levy. The cinema exhibitors regarded it as neither logical nor equitable that they should be required to pay a proportion of their revenues to this fund; a fund, moreover, which could be used to help finance material destined for competing media such as television, cable or video. Representations were also made as to the extremely serious position of the cinema business, whose attempts to come to grips with the declining market are frustrated by this continual drain of funds that could be put into refurbishment and improvement of facilities at existing cinemas.

4.4 Producers and directors had, not unexpectedly, a different view of the levy. In its early days the Eady levy had deployed significant funds to help producers in their attempts to finance the next film from payments related to the box office success of the current one. But the payments currently made to, or for the benefit of, production are now only one seventh in real terms of their original value. These payments, though welcome, were not the significant factor they once had been. Most argued strongly for an extension of the Eady principle to other exhibition media: television, video, and eventually cable and DBS. Opinion was divided on a number of points: whether cinemas should continue to contribute, albeit at a reduced level; how much of the fund should go in automatic box office related payouts; and the place of the National Film Finance Corporation. But a majority were in favour of some form of a redistributive mechanism from the major exhibition media. This was also the view expressed by the Select Committee on

Science, Education and the Arts in their report[a] on funding of the Arts, and by the film trades unions. A number of producers, however, felt that there would be no advantage to them in any such system. As an adjunct, some of those consulted considered that there should also be a levy made on blank video tape; the proceeds from such a levy to be recycled into production support.

The National Film Finance Corporation

4.5. This featured prominently in many submissions. With the occasional dissenting voice, most of those consulted were impressed with the way it had carried on its business. Many recognised, however, that at current levels of funding its functions were severely limited. All spoke highly of its catalytic effect in the area of films reflecting British life and manners. In particular there is no doubt it has uniquely helped the emergence of new talents in the British film industry. Its activities, particularly in the 1970s, were regarded as of key importance in these areas. It was put to us that many British film makers who have gone on to gain international acclaim could not have achieved that

---

(a) Eighth Report from the Education, Science and Arts Committee, Session 1981-82 entitled Public and Private Funding of the Arts.

position had it not been for the NFFC. The recent 'shorts' programme and the script development work carried out by the National Film Development Fund were also mentioned by many as valuable activities.

National Film and Television School

4.6. Of the other bodies supported by the Eady levy the National Film and Television School received universal praise for its excellence, and its responsiveness to the needs of the industry, without diminishing the contribution made by other institutions. This was recognised by the British Academy of Film and Television Arts' award this year to the School's director, Mr Colin Young. The point was repeatedly made that the School saw itself, and was seen, as firmly oriented towards the commercial film industry. However, a majority of its students have found work in television.

British Film Institute

4.7. The archival and education functions of the British Film Institute (BFI) - including the valuable showcase provided by the London Film Festival - received universal praise, but opinion was not however unanimous on the value of the Production Board. Some felt that any production activity was wholly inappropriate for a body which was not subject to the objective criteria and financial discipline imposed by the market. The BFI's own view is that a limited interest in film projects which help to develop emergent talent, new ideas and new techniques, is a legitimate part of its overall concern with film culture, and that commercial considerations should not be the prime criterion in determining this work, although they are obviously a further factor to be taken into consideration. We did not pursue this difference of approach in the context of our review, which was directed entirely towards the commercial film industry.

Children's Film Foundation

4.8. The Children's Film and Television Foundation, one of the earliest recipients of Eady levy moneys, is now felt to have its future away from the cinema, where the children's matinee movement is declining rapidly. The Foundation's films, firmly rooted in British traditions, were upheld as providing a valuable British presence in programming for children. Their more recent films in particular were regarded as setting new standards of excellence. Arrangements with Rank and the BBC are welcomed as providing a wider audience for their product on video and television as well as securing funds for future production. The Foundation will not be seeking Eady funds in future.

Advisory Bodies

4.9. There was almost complete unanimity on the need for some sort of overall advisory body on screen media. Whilst the Cinematograph Films Council and the Interim Action Committee on the Film Industry were felt to have limitations, both had done and continued to do good work, and it should be possible to continue the best elements of both. There was a minority view amongst those making representations that neither body now contributed anything positive, and both should be abolished.

5 ASSESSMENT

5.1. We have assessed the current framework for the industry set out in Section 3 above in the light of the representations made to us, and summarised in the preceding section. Whilst matters concerning current business practices are of considerable importance to the industry's future they are not primarily for Government to resolve. Even in the case of cinema and the relations between exhibitors and distributors, where there are anti-competitive practices, we have not sought to make decisions in the context of this review. The whole area of alignment between distributors and exhibitors, and 'barring' in cinema exhibition has recently been considered by the Monopolies and Mergers Commission[a] and these matters are being treated separately except in one particular case referred to in paragraph 5.11 below. In this review therefore we have concentrated on reaching decisions primarily in respect of the current legislative framework, and its suitability for the film industry of the 1980s. The central feature of this is the Eady levy.

---

[a] Monopolies and Mergers Commission: A report on the Supply of Films for Exhibition in cinemas. (Cmnd. 8858).

The Eady Levy

5.2. This is collected by HM Customs and Excise at a rate of one twelfth of the amount by which cinema box office takings, net of VAT, exceed a threshold level of £1,400 a week. There are some variations and exemptions, for example to take account of cinemas with low average takings and for children's and charitable performances.

5.3. The principal reason for the introduction of Eady levy was to return some money from film exhibition to producers as production support. Payments to producers are made in relationship to box-office success. At its introduction cinema admissions were averaging over a billion each year and the money raised, whilst not seriously affecting the financial position of cinemas, channelled significant payments to film producers.

5.4. Following reconstitution of the NFFC, however, the Fund has had as a first charge a payment of £1.5 million (or 20 per cent whichever is greater) to the NFFC. After this, the levy receipts are used for two purposes. First, discretionary payments to the Children's Film Foundation, the National Film and Television School and the BFI Production Board, are allowed. The remainder of the Fund is paid out to producers of British films in line with the original intention of the establishment of the Fund.

5.5. The present value of the Fund is about £4.5 million a year. Payments to the National Film and Television School and BFI currently take £635,000 on top of the statutory requirement for the NFFC, leaving barely more than half of the proceeds for distribution to individual producers. Moreover, the original intent of the provision is further complicated by the fact that a large proportion of levy receipts (about half to two thirds overall) are assigned by producers in advance to the distributors, mostly United States owned, in order to secure the distribution guarantees without which their films would have little or no chance of being financed.

5.6. We considered three possible ways of dealing with the present situation:

(i) retain the levy on cinemas only, but at a lower rate

(ii) keep the levy concept but use other sources; either with or without a contribution from the cinema

(iii) abolish the levy outright, without replacement.

5.7. Retaining the levy at a lower rate would achieve nothing other than a temporary respite for the cinemas. It would not deal with the basic issue of whether the Eady concept was appropriate to current and future circumstances and would certainly not yield sufficient resources to provide for the stimulation of new production. It would be satisfactory to no-one involved with it. On the other hand, abolition without replacement whilst setting the commercial exhibition sector free, would mean the end of support for relatively inexpensive films, using nascent talent, which are currently supported by the NFFC. Such a course would also require alternative sources of funding for the £½ million a year Eady contribution to the National Film and Television School, and £125,000 for the BFI Production Board.

5.8 The second opinion, that of keeping the levy concept but changing its source, would be a suitable approach if one wished to recycle reasonably substantial sums into British production. In justification for this approach it could be argued that in the light of the competition from overseas film industries, and in particular the domination from overseas of both production and distribution of film for cinema some form of redistributive mechanism on the Eady principle is required. Furthermore, in support of this principle it might be argued that, since buying of film for broadcast television in the United Kingdom is in effect a duopoly it would be appropriate to introduce some countervailing measure to correct any market distortion resulting from that situation. A continuation of this argument would propose that since most people now watch films on their television screens rather than in the cinema, then broadcast television and video (and ultimately cable and DBS) should accept the responsibility for levy from the cinemas.

5.9. We have considered these arguments seriously, but do not believe that statutory recycling mechanisms are an efficient way of encouraging an economic activity that should essentially be oriented towards the market - a market, moreover, that is now expanding through new outlets and producing excellent results. That the Eady levy is not fulfilling the purpose for which it was originally intended is not only attributable to the Eady fund shrinkage due to the decline in cinema attendances. As has been noted earlier, much of the Eady payout does not go to producers, and thus help with financing the next film, but goes straight to distributors. Moreover the argument that the original Eady system was efficient by virtue of the fact that it rewarded success cannot be used to promote arrangements for siphoning-off returns from commercially successful productions in order that films can be made which would otherwise not attract market finance. Nor do we believe that the Government should intervene by introducing a levy on television film purchases since this would lead to a claim for a supplement on the BBC receiving licence, and in the case of ITV companies, they already pay a subscription to Channel 4 which is financing film making at a level of £6 million a year. We believe that Channel Four has shown the way for increasing the mutual support of television and film, and that this relationship should be further developed by the BBC and the ITV companies.

5.10. Home taping and piracy apart, producers can suffer significant loss from the explosive growth of the retail video sector; but none of this in our opinion justifies a Government-imposed Eady-style redistributive mechanism applied to pre-recorded tapes, particularly as effective action has been taken over the piracy of such tapes in recent months. Arguments have been put forward by copyright owners that they do suffer a loss from home taping and that this could be recouped through a levy on blank video tape. Such a levy would be distributed to the copyright owners and not redistributed through an Eady-type mechanism. The Government has received many representations following the Green Paper on the Reform of the Law relating to Copyright, Designs and

Performance Protection[a] in 1981 and we intend to issue a further consultative document on the specific matter of a levy on blank video and audio tapes which will not only cover the principle but also examine in detail the implications of such a scheme.

5.11. We are, however, convinced that the existing Eady levy is an unreasonable burden on the cinema exhibition industry, and have decided that it should be removed completely. The cinemas will as a consequence of the removal of levy be relieved of a considerable burden and assurances have been given by the major circuits that they will not simply absorb the benefits within their organisation but seek to deploy the savings to the benefit of the cinema-going public. In this connection it should be added that the Government does not want to see the distributors simply adjusting for lost Eady levy by augmenting their rental charges to the cinemas. The recent report of the Monopolies and Mergers Commission expressed views on the dominant market positions of the three United States-owned major distributors, and in considering how the recommendations can best be implemented the distributors' intentions in this area will be taken into account by the Secretary of State for Trade and Industry.

(a) Cmnd. 8302.

Need to explain better the Government's tax strategy. Again - redraft only.

5.12. This decision to abolish Eady has not been taken in isolation. It is a part of a new outlook in which the Government intends to shift its approach to the film industry away from the statutory intervention of the last thirty years, towards the creation of the right business environment to encourage new entry, and to reward success. Accordingly the Government has taken as the foundation for this policy the proposals in this year's Budget. These will consolidate the provisions relating to capital allowances with those applying to industry generally. As an alternative, film producers will be able to write off revenue expenditure over the forecast revenue-earning life of the film, but in future they will have the additional option, if that is more favourable, of the cost recovery method of writing off. The Government has also decided to widen the sources of finance available to the industry by bringing film making within the scope of the Business Expansion Scheme. It believes that the considerable benefits of these fiscal changes will prompt a shift towards a more stable industrial structure for film which will provide the necessary framework and incentive for development of the industry on the basis of its current success. We intend thereby to provide the means for the industry to secure not merely the existing levels of production but to become less transient in terms of corporate structure, together with a steadily increasing level of production. There have been strong indications that the normal investment mechanisms have been showing positive changes in favour of the industry and the package of measures now proposed is designed to consolidate this change that has taken place and to encourage its development.

A Removal of Unnecessary Legislation

5.13. The decision to remove the Eady levy opens up the way for a major abolition of statute and regulation in this area, and it is the Government's intention to sweep away all existing films legislation within the responsibility of the Department of Trade and Industry. This means in particular that we shall be removing the legislative basis for the cinema quota, which we believe no longer serves any useful purpose. The system placed a considerable administrative burden on the cinema industry, apart from being an unwarranted intrusion into its business decisions. It is entirely consistent with our policy that quota - at present merely suspended - should be permanently removed. Furthermore, the removal of the Eady levy will mean that the British Film Fund Agency, which administers the Eady fund, will no longer be necessary. We would, however, like to place on record our appreciation of the Agency's professional approach over the years, and the efficient and cost effective way in which it has carried out its duties.

Advisory Bodies

5.14. There is no doubt that the film industry feels there is a significant advantage in an advisory body, but would like it to have a wider remit than the Cinematograph Films Council and broader representation than the Interim Action Committee. We propose to seek the abolition of the Cinematograph Films Council. There is, however, a clear need for a broadly based consultative body for this industry and we see the nucleus of this as being the Interim Action Committee. We would hope that the immediate task of this body, under the Chairmanship of Lord Wilson of Rievaulx, should be to establish what representation is needed for a proper balance, whilst retaining compactness, professionalism and efficiency. This means that when the underlying provisions for the Cinematograph Films Council are repealed, a new body, non-statutory for greater flexibility, can immediately take over with a clearly focused work programme already decided.

6 THE NATIONAL FILM FINANCE CORPORATION

6.1. The decision to abolish the Eady levy, and not to replace or expand it, clearly has significant implications for the NFFC which has since 1981 relied almost exclusively on the Eady fund for its financing. This is provided for by statute: the Film Levy Finance Act 1981 requires that the NFFC be paid annually £1.5 million or 20 per cent of the Eady receipts, whichever is the greater. In the course of our review we have examined carefully the functions fulfilled by the NFFC, and the manner in which these functions have been carried out.

6.2. We have been impressed by the competence and dedication of the NFFC's staff in carrying out all the NFFC's operations. In respect of its main activity, the financing of films, we feel that the NFFC's record has been good, taking into account the scant resources at its disposal and that the NFFC has by its very nature been operating in the most risky area of a very risky business - the financing of feature films with relatively low budgets, often with relatively unknown producers, directors and actors.

6.3. We were much impressed by those who spoke highly of the NFFC in respect of its work in helping new and unknown film-makers to start their careers, and in funding the development of film projects. We believe that the fostering of new talent is a vital prerequisite for a healthy film industry, and the next section deals with the arrangements that we propose.

7 THE FOSTERING OF TALENT, AND FILM PROJECT DEVELOPMENT

7.1. Our proposals will enhance the willingness of the private sector to come forward with finance for British films. The policy will not however achieve its full impact if there are neither projects available to turn into films nor talented new film makers available to make them.

Encouraging New Film Makers

7.2. The risks involved in even a modest feature film production are high, and it is therefore not surprising that prospective financial backers are reluctant to take further risks by commissioning unknown film makers to produce or direct their projects. Yet without opportunities for the talented young film maker to find a foothold in the competitive world of commercial film making, the industry's future in the United Kingdom will be limited. We therefore consider it right that the work of the NFFC in this field should be continued. For only if there is a sufficient supply of new film makers bringing in their ideas and talent will the commercial opportunities provided by our policies be fully exploited.

7.3. In keeping with the main thrust of our policy for film we believe that this important work should be firmly based in the private sector and directed towards the development of talent for the commercial market. The Government has made outline arrangements with certain organisations in the film, television, and video sectors that they should provide annual contributions of £1.1 million for a period of three years to a new company whose primary purpose will be to part-finance low budget feature films involving largely British talent. The Government will also contribute by placing at the disposal of the new company the portfolio of rights from past and present projects of the NFFC, which has an income-generating capacity of not less than £200,000 a year and which, if intensively managed, many consider could yield considerably more for the next few years. There is therefore already at least £1.3 million a year, and possibly as much as £1.5 million a year available to the successor company to the NFFC. The Government hopes that other companies in the industry and in the television industry, which is so dependent on good film production, will invest in the new company.

[additional wording
in discussion with
the Treasury]

7.4. This will be administered as a Companies Act company and will be managed by a Board with an independent Chairman. It will be run on commercial lines although it is recognised that the rates of return required may be somewhat below those normally sought and therefore a correspondingly higher level of risk may be taken with some of the projects supported. In addition, the individual participating companies will benefit in the longer term from the development of talent and the emergency of young filmmakers and from the modest but significant contribution that the company's operations will make towards the supply of new film product for both the small and large screen. Participating companies will, however, be free to coinvest with the new body in individual productions, and as coinvestors they would of course be in a position to derive their appropriate share of the immediate financial benefits of commercially successful productions.

7.5. These arrangements demonstrate the willingness of the private sector to invest in its own long-term future without the need for any form of Government intervention by means of a fund-raising mechanism or the continuation of a public body to administer the funds. We believe that the new company will preserve the positive functions of the NFFC, whilst at the same time being enhanced by the dynamic of private enterprise.

Development of Film Projects

7.6. We received many representations to the effect that the work of the National Film Development Fund (currently administered by the NFFC) should be allowed to continue. The purpose of this fund has been to provide finance for the very earliest stages of the creation of a film: the preparation of the screenplay; assembly of the nucleus of a production team, and the legal financial and administrative work necessary to prepare a properly costed business plan for prospective financiers to consider. It was felt that with more readily available finance, a shortage of projects for filming was more likely to prove an inhibiting factor on the development of the industry in Britain than a shortage of production money. We have therefore decided that the work of the National Film Development Fund should continue, and up to £500,000 a year of Department of Trade and Industry funds will be set aside for a period of five years for this purpose. We intend to continue with the basic patterns of the National Film Development Fund, which uses a panel of consultants to assess projects. We would seek, however, to move on from their current style of operation towards one which places more emphasis on funding an embryo production team placing more responsibility on them to come up with the right project, rather than adopting a relatively inflexible case by case approach. It would be inappropriate for this to be operated by the Department, and we would envisage having the entire scheme operated by some other organisation acting as our agents. The company to be formed to operate the new fund for assisting British film talent would seem the most appropriate place for this work to be carried out. Receipts from any royalty this company might take in disposing of its right in any project to a production company, would form an additional contribution to the production fund.

8 THE EFFECT OF EADY ABOLITION ON OTHER BODIES

8.1. Apart from the NFFC, three other bodies are entitled to receive money from the proceeds of the Eady levy. The arrangements we intend to adopt for these organisations are as follows.

The National Film and Television School

8.2. The School currently receives some £½ million a year from Eady funds. We believe that it is essential for this money to be replaced and have negotiated arrangements which provide a satisfactory solution. The cinemas, the independent television companies, and the BBC, all recognise the benefit that they ultimately derive from the School and they have jointly undertaken to provide £600,000 a year, rather more funds than are currently provided from the Eady levy, for a period of five years from the cessation of that fund. For the BBC and the independent television companies, this is in addition to their existing level of contributions. This effectively secures the funding of the School until the end of this decade. Whilst it seemed to us unreasonable to seek firm commitment for any longer period, the Government hopes that participants in this scheme will consider in due course how they might continue to assist the School.

[additional wording
in discussion with
the Treasury]

The Children's Film Foundation

8.3. As mentioned in paragraph 4.8, the Foundation no longer seeks funds from the Eady levy, and has diversified into television. We do not feel that there is any need to make further provision after the abolition of Eady, and the Foundation is content with this.

The British Film Institute Production Board

8.4. The Eady levy currently supplies £125,000 a year towards the finances of the BFI. The receipt of this money is not a prescriptive right, and it represents some 10 per cent of the Production Board's current budget. We do not believe however that this funding should cease entirely at the end of the current year. There are no other obvious sources from which money can be found for these purposes, and the Government therefore, in consultation with the

Cinematograph Films Council, proposes to make final subventions from the Eady levy which will go some way towards the sums that the BFI would otherwise expect.

9 OTHER MATTERS

Co-production

9.1. We propose to retain the structure of co-production treaties. In recognition of the broader approach of our policies, to small as well as large screen, we will seek to modify the treaties to include television and new media film programming, and to include 16mm and broadcast-standard video as well as 35mm film. We will be prepared to negotiate new treaties provided we are satisfied that there are sufficient work areas of mutual interest.

Film Year

9.2. The industry has recently announced that the period from April 1985 to April 1986 will be designated the Year of the British Film. The Government wholeheartedly endorses this concept and has promised to contribute £250,000 alongside the industry's own contributions. This will be not just a celebration of Britain's film heritage but more a foretaste of the expanding role of film in national life and the British film industry's contribution to this. It will comprise national and regional events and will concentrate in particular on the future role of film in society, the part film can play in education, and the expanding use of film in industry. Its main aim is to encourage more people to go to the cinema. In addition there will be a vigorous campaign to promote British film overseas, and the Government hopes that one of the enduring benefits from the year will be a better-focused export effort. There will also be a special issue of postage stamps. The British film industry has a high reputation throughout the world and it is important, both in national terms and in terms of the future health of the industry, that this opportunity is taken to strengthen and consolidate the export potential of the industry.

Records

9.3. The Department of Trade and Industry has a unique record of films registered under the films legislation for exhibition purposes going back to 1 January 1928. This register is, by statute, available for public inspection. When the present requirement to register films ends, the maintenance of the register in its present form will no longer be possible. The Government will ensure that the entire register will be kept intact and available for public inspection at the Public Records Office.

Effects of These Policies on Public Expenditure and Public Service Manpower

9.4.

[Additional wording in discussion with the Treasury]

The project development scheme will involve £500,000 of expenditure annually by the Department of Trade and Industry.

9.5. The removal of legislation requiring among other things the registration of exhibitors and distributors will permit a small saving of staff (1 post) within the Department of Trade and Industry. The project development scheme will need more Departmental oversight than its predecessor scheme, operated by the NFFC, but this can be contained within existing Departmental provisions due to the cessation of work involved in oversight and monitoring of the NFFC.

10 TIMING

10.1. Removal of the unwanted statutes and regulations will of course require primary legislation, which we shall seek at the earliest possible opportunity.

11 CONCLUSION

11.1. A film industry can be a matter of great national pride. And through its ability to project the national culture and way of life to a wide audience overseas it can thus enhance a country's international standing. We believe that Britain has already a film industry of which it can be justly proud, and that there is potential for more growth, and for yet greater achievements. But these achievements cannot be attained with all the paraphernalia of Government intervention and an intrusive regulatory framework dating from the era of silent films. The policies set out in this paper are designed to set free the creative talents and business skills of those involved in the providing of entertainment by way of feature films and to ensure that new talent is encouraged to come forward. They are policies of freedom and challenge. We are sure that the challenge will be successfully taken up.

LEGISLATION IN FORCE

Films legislation is at present contained in the following list of primary and secondary legislation. The list does not include the cinematograph safety legislation administered by the Home Office, or the British Film Institute Act 1949, administered by the Treasury and the Office of Arts and Libraries.

Primary Legislation

All or parts of the following Acts are in force and applicable to film.

The Films Act 1960
The Films Act 1964
The Films Act 1966
The Films Act 1970
The European Communities Act 1972
The Films Act 1979
The Films Act 1980
The Films Levy Finance Act 1981
The National Film Finance Corporation Act 1981.

Secondary Legislation

The National Film Finance Corporation Regulations 1949 (1949/680)

The British Film Fund Agency (Appointed Day) Order 1957 (1957/1055)

The British Film Fund Agency Regulations 1957 (1957/1056)

The Films (Tanganyika) Order 1961 (1961/1187)

The Films (Exhibitors) Regulations 1961 (1961/1824)

The Films (Registration of Newsreels) Regulations 1961 (1961/1825)

The Films (Renters' Licences) Regulations 1961 (1961/1827)

The Films Act 1960 (Malaysia) Order in Council 1964 (1964/695)

The Films Registration of Newsreels (Amendment) Regulations 1964 (1964/1281)

The Films Co-production Agreement (France) Order 1965 (1965/1856)

The Films Co-production Agreement (Italy) Order 1967 (1967/1679)

The Cinematograph Films (Collection of Levy) Regulations 1968 (1968/1077)

The Films (Exhibitors) (Amendment) Regulations 1970 (1970/985)

The Films Co-production Agreement (Federal Republic of Germany) Order 1975 (1975/623)

The Films Co-production Agreement (Government of Canada) Order (1975/1838)

The Cinematograph Films (Collection of Levy) (Amendment No 4) Regulations 1975 (1975/1885)

The Films (Exemption from Quota) Regulations 1977 (1977/1306) [currently suspended]

The Films (Registration of Newsreels) (Amendment) Regulations 1977 (1977/1666)

The Cinematograph Films (Limit of Levy) Order 1979 (1979/395)

The Cinematograph Films (Collection of Levy) (Amendment No 7) Regulations 1979 (1979/1751)

The Cinematograph Films (Collection of Levy) (Amendment No 8) Regulations 1980 (1980/1178)

The Films (Exhibitors) (Amendment No 2) Regulations 1980 (1980/1819)

The Films (Quota) Order 1981 (1981/1155) [currently suspended]

The Films (Exhibitors) (Amendment) Regulations 1982 (1982/372)

The Films (Renters' Licences) (Amendment) Regulations 1982 (1982/374)

The Films Act 1980 (Commencement) Order 1982 (1982/1020)

The Films (Registration) Regulations 1982 (1982/1021)

The Films (Distribution of Levy) Regulations 1982 (1982/1022)

The Films (Suspension of Quota Requirement) Order 1982 (1982/1894)

The Films Co-production Agreement (Government of the Kingdom of Norway) Order 1983 (1983/610)

ANNEX B

LIST OF THOSE CONSULTED, OR WHO HAVE MADE REPRESENTATIONS IN THE COURSE OF THE REVIEW

Mr Lindsay Anderson

Association for Film and Television in Celtic Countries

Association of Independent Cinemas

Association of Independent Producers

Association of Video Dealers Ltd

Sir Richard Attenborough

Mr David Berriman, Guiness Mahon & Co Ltd

Lord Brabourne

Mr Richard Branson, The Virgin Group

Mr Timothy Brinton MP

British Broadcasting Corporation

British Council

British Educational Equipment Association

British Film Institute

British Film & Television Producers' Association

British Radio & Electronic Equipment Manufacturers' Association

British Videogram Association

Cable Television Association of Great Britain

Caledonian Associated Cinemas plc

Central Independent Television plc

Channel Four Television

Children's Film and Television Foundation Ltd

Mr John Chittock OBE

Cinematograph Exhibitors' Association of Great Britain and Ireland

Cinematograph Films Council

Cochrane of Oxford Ltd

Mr C J Coulson-Thomas

Mr Peter Craig-Redmond, Jaguar Books

Mr David Deutsch, Bentorm Ltd

Directors' Guild of Great Britain

Mr J Dooley, Polonius Films

Drake Educational Associates

Mr J D Eberts

Mr L R B Elton, University of Surrey

Federation of Film Unions

Mr Peter Fetterman, Peter Fetterman Productions

Film, Television and Video Advisory Committee of the British Council

Mr Bruce Fireman, Charterhouse Japhet plc

Mr David Fisher, Editor of Screen Digest

Mr Bryan Forbes

Mr Carl Foreman

Mr M Foreman

Mr Kevin Francis, Tyburn Productions Ltd

Mr Yuri Galitzine, Galitzine and Partners Ltd

Goldcrest Film and Television Ltd

Miss Felicity Green, journalist and board member of the NFFC

Ms Romaine Hart, independent cinema exhibitor, distributor and board member of the NFFC

Mr James Hartley, PMTV Ltd

Mr James Hill

Mr Hugh Hudson

Mr Mark Hudson

Independent Film Distributors' Association

Independent Film Makers' Association

Independent Programme Producers' Association

Independent Television Companies Association

Interim Action Committee on the Film Industry

Miss Glenda Jackson

Mr Hugh Janes

Mr Barry Jenkinson, Cannon Classic Cinemas Ltd

Mr Peter Lambert

Mr William Lee, Marine Navigation Ltd

London Weekend Television

Mr Alan Marshall

Mr R M S Martin, University of Surrey

Mr Michael Medwin

Methodist Church Division of Social Responsibility

Mr Arnold Miller, Global Films Ltd

Mr G Mintern, The Henley Picture Palace

Motion Picture Export Association of America

National Consumer Council

National Film Finance Corporation

National Film & Television School

Mr Barry Norman, broadcaster and board member of the NFFC

Mr Alan Parker

Mr George Perry, Sunday Times

Mr Simon Perry

Mr Otto Plashkes

Mr David Puttnam CBE

Dr Nicholas Ragg, University of Surrey

Rank Organisation

Mr Ilya Salkind, Santa Claus Productions Ltd

Scottish Film Council

Mr Mark Shivas

Mr Pierre Spengler, Santa Claus Productions Ltd

Society of Film Distributors

South London European Film Society

Mr J S-Stansby, independent film exhibitor

The Star Group of Companies Ltd

Mr A W P Stenham

Mr D Sullivan, Roldvale Ltd

Tape Manufacturers Group

Television South plc

Thorn/EMI

Mr Brian Tracey

Video Trades Association

Mr Charles Wallace

Mr Jeremy Wallington, Limehouse

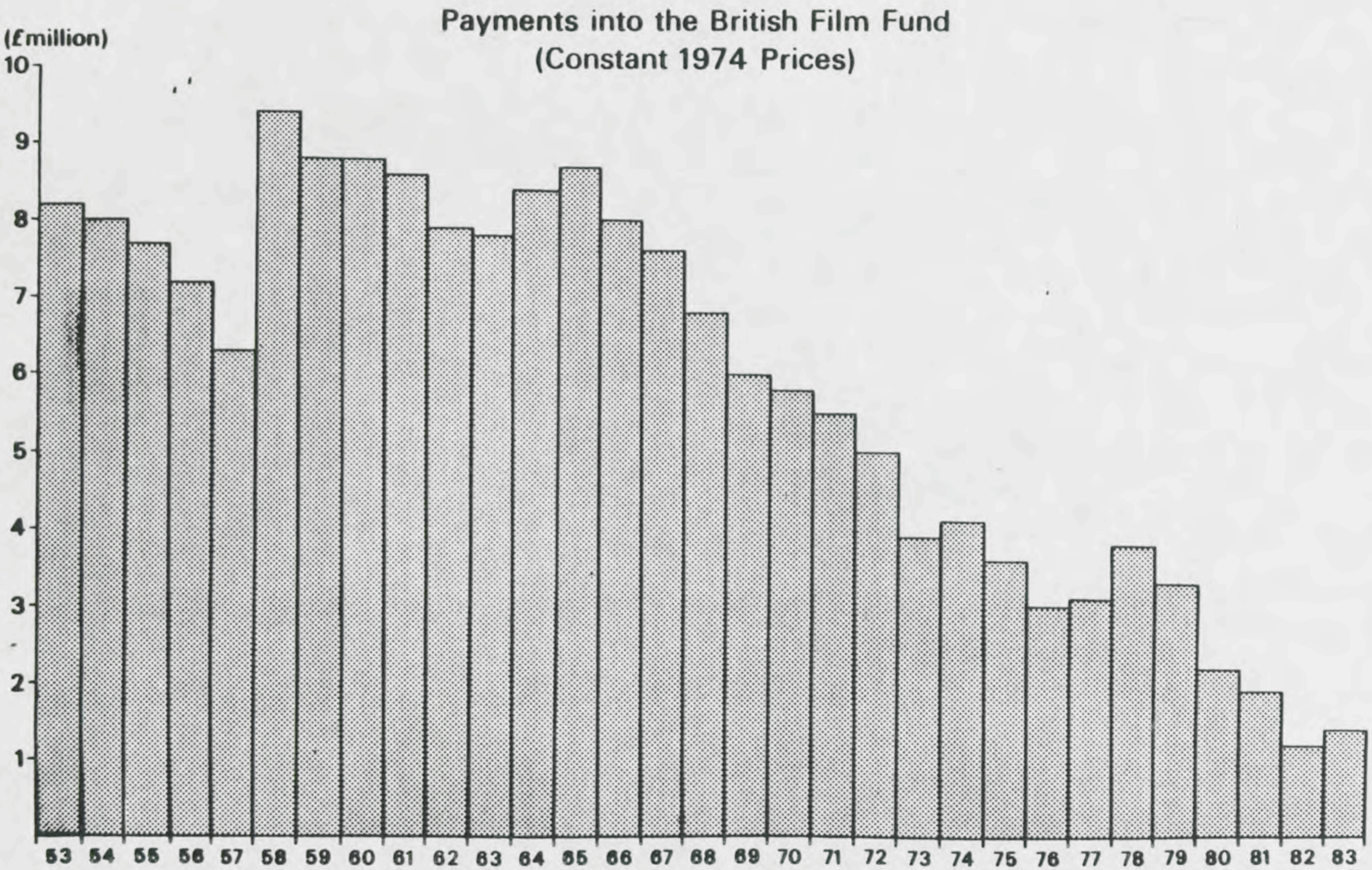
Mr David Wickes, David Wickes Productions Ltd

Mr Michael Winner, Scimitar Films Ltd

Mr Donovan Winter, Donwin Productions Ltd

Yorkshire Arts Association

Yorkshire Television Ltd

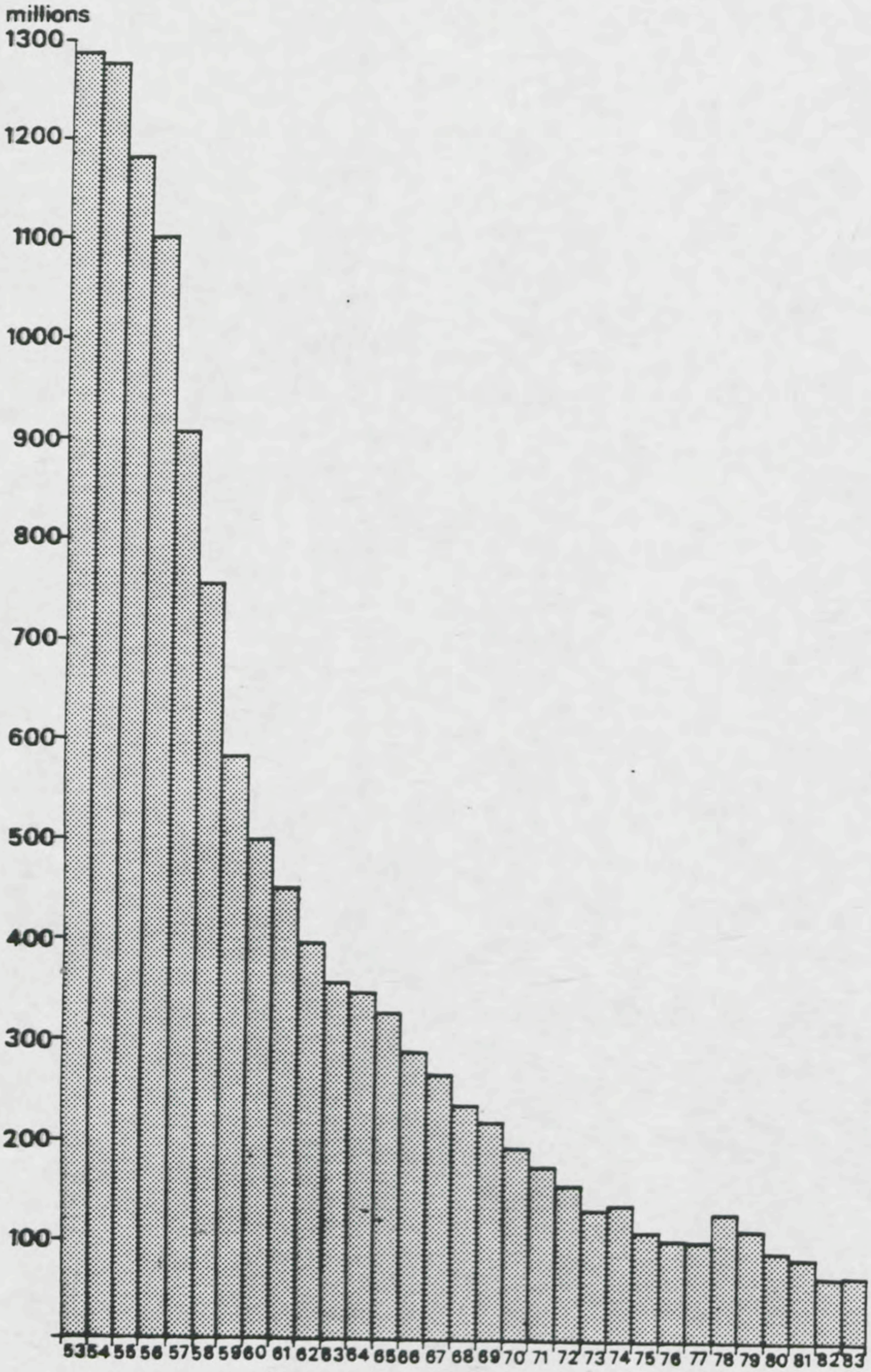


Payments into the British Film Fund
(Constant 1974 Prices)
(£million)
10
9
8
7
6
5
4
3
2
1
53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83

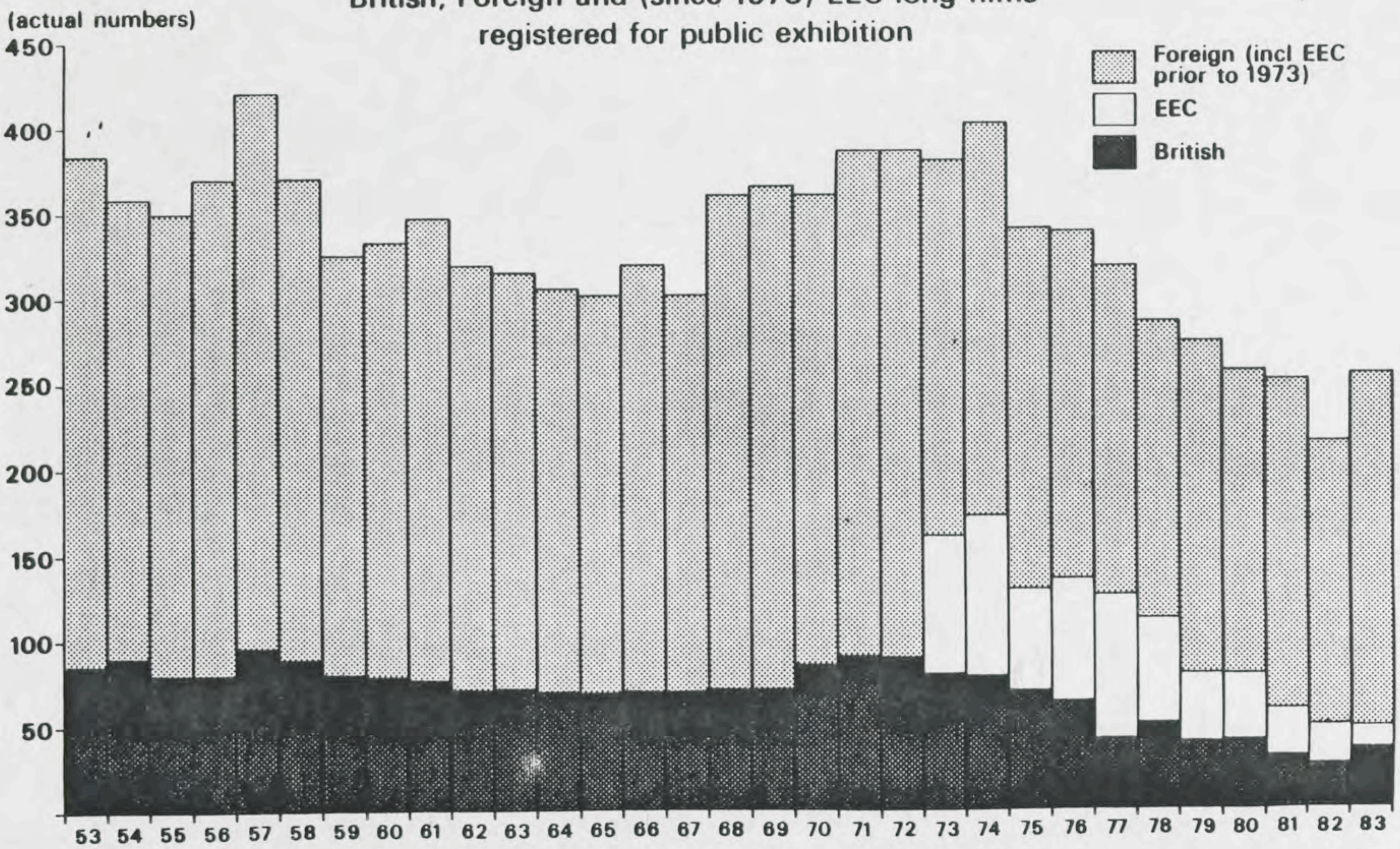
ANNEX C

Annex D

Total admissions to cinemas each year



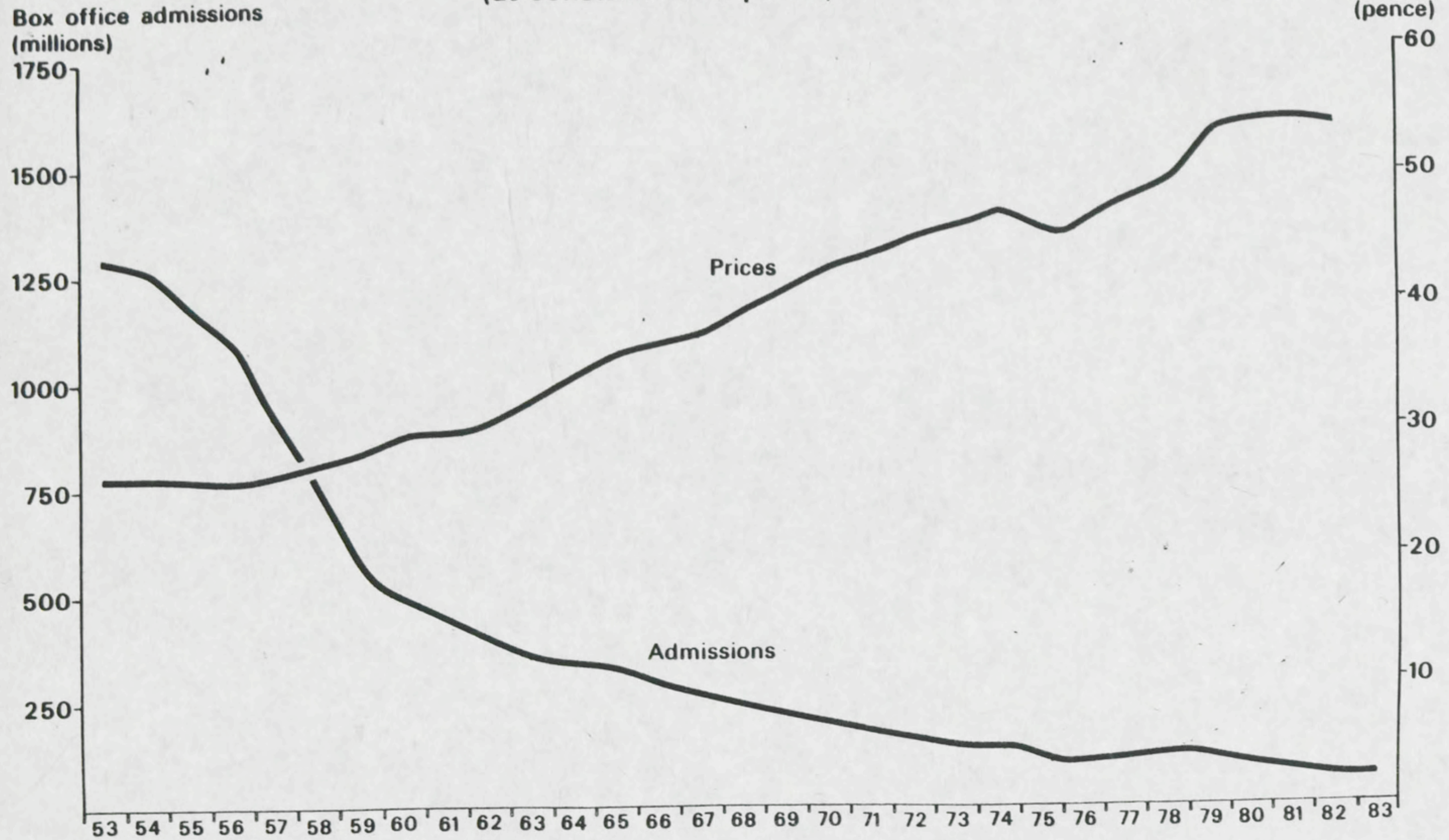
British, Foreign and (since 1973) EEC long films registered for public exhibition



ANNEX E

ANNEX F

Trends in Admissions and Average Admission Prices (at constant 1974 prices)



ANNEX G

Eady levy: Historical Operation

Levy year	Net levy yield (£ million)	Grants to NFFC(a) (£'000)	Grants to CFF(b) (£'000)	Grants to NFTS(c) (£'000)	Grants to BFI(d) (£'000)	Payments to British Films (£ million)
1950/51	1.2	-	59.9	-	-	1.1
51/52	3.0	-	100	-	-	2.9
52/53	2.7	-	120	-	-	2.6
53/54	2.8	-	125	-	-	2.6
54/55	2.6	-	125	-	-	2.4
55/56	2.6	-	125	-	-	2.4
56/57	3.1	-	125	-	5.5	2.9
57/58	3.7	-	125	-	-	2.5
58/59	3.8	-	125	-	-	2.7
59/60	3.9	-	125	-	-	3.7
60/61	4.0	-	125	-	-	3.9
61/62	3.9	-	137.5	-	-	3.7
62/63	3.8	-	137.5	-	-	3.6
63/64	4.2	-	137.5	-	-	4.0
64/65	4.7	-	137.5	-	-	4.5
65/66	4.6	-	192.5	-	-	4.4
66/67	4.5	-	192.5	-	-	4.3
67/68	4.4	-	240	-	-	4.1
68/69	4.0	-	205	-	-	3.8
69/70	4.2	-	211	-	-	4.0
70/71	4.6	-	235	100	10	4.2
71/72	4.3	-	235	95	10	4.0
72/73	4.0	-	310	100	20	3.6
73/74	4.3	-	351.5	100	25	3.9
74/75	5.0	-	351.5	100	25	4.6
75/76	4.7	200	454.3	120	30	4.0
76/77	5.5	200	499.7	132	33	4.7
77/78	6.6	200	499.7	150	33	5.8
78/79	7.5	200	574.6	180	36.3	6.6
79/80	6.0	259.6	330.0	215	100	5.3
80/81	6.6	1,500	330.0	250	100	4.6
81/82	4.2	1,500	-	560	125	2.1
82/83	4.8	1,500	-	500	125	2.7

ONO

NBPM AT 10/7

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215)
GTN 215) 5147
(Switchboard) 215 7877

From the Minister of State
for Industry and Information Technology

RT HON KENNETH BAKER MP

~~AT~~ to NFG

Charles Marshall Esq
Lord Privy Seal's Office
House of Commons
LONDON
SW1A OAA

10 July 1984

Dear Charles

STATEMENT ON FILMS POLICY

I spoke to you on the telephone last week about the need for a short statement on the Government's policy on films. The Department intends to issue a White Paper on 18 July, and you have kindly pencilled in a slot for us to make a statement on films that day. I would be very grateful if you could now allocate this as a firm fixture. Drafts of the White Paper should be circulating to colleagues today. I am copying this to Tim Flesher and Murdo Maclean.

Yours sincerely

Steve Mummery

pp N M McMILLAN
PRIVATE SECRETARY

M53/M53ABB

el Master CONFIDENTIAL

SUBJECT

FLEE SAHABV

10 DOWNING STREET

From the Private Secretary

6 July, 1984

Taxation of the Film Industry

The Prime Minister held a meeting today to discuss the taxation of the film industry. Present were your Secretary of State, the Chancellor of the Exchequer, the Financial Secretary, and the Minister of State for Information Technology.

The Prime Minister said the logic of taxation policy and industrial policy both argued against providing special treatment for the film industry. Even the profile of writing off expenditure suggested by your Secretary of State was very expensive - around £130 million over 5 years. Nevertheless, the film industry had special characteristics which made it difficult to apply the standard treatment to it. She also appreciated the value of dispensing with the Eady levy and its associated quangos.

The Chancellor said he was very anxious to maintain the integrity of the tax system. He, with the help of your Secretary of State, had resisted numerous pleas for special help. He, too, recognised the desirability of abolishing the Eady levy and replacing it with voluntary contributions. The sums involved were not large, particularly in relation to the tax costs at issue, and he suggested that extra assistance to the film industry could be provided by payment of grants to the National Film Finance Corporation and the National Film and TV School. He had in mind around £2 million per year. This would maintain the integrity of the tax system and satisfy the demands of the film industry at much less cost.

Your Secretary of State suggested an alternative way of achieving the same objective. At present, ITV companies could offset films made for TV or shown first on TV against the ITV levy. In future, ITV companies could be allowed to

/offset

CONFIDENTIAL

brc.

offset, against the levy, up to a specified limit, money provided to finance films shown initially through cinemas.

Summing up the discussion, the Prime Minister said that the Treasury's proposals on tax should be put into effect, including extension of the BES to films. Mr. Moore and Mr. Baker, in consultation with Home Office Ministers, should examine the proposal to allow expenditure on films to be offset against the ITV levy. They should establish whether such a scheme required primary legislation and how it could be limited, both as to amount and to time. If the proposal proved feasible, a limit of around £2 million for 5 years could be offered. The proposal to pay grants directly to the NFFC and the NFTV School should also be examined should the levy proposal prove unworkable.

I am copying this letter to David Peretz H.M. Treasury), Andrew Hudson (Financial Secretary's Office), Neil McMillan (Office of the Minister of State for Information Technology) and Hugh Taylor (Home Office).

ANDREW TURNBULL

M. C. McCarthy, Esq.,
Department of Trade and Industry

CONFIDENTIAL

1

PRIME MINISTER

Taxation of the Film Industry

A decision is needed tonight in order for clauses to be tabled for the report stage of the Finance Bill. The new note attached clarifies the cost of Mr. Tebbit's final proposal which was set out at Flag A. It also confirms that the Treasury do not want to go beyond cost recovery, i.e., allowing expenditure to be set against revenue as rapidly as income is received. They are also prepared to extend the BES to films and to allow film makers the option of normal capital allowances as well as the Section 72 treatment of cost recovery.

The choice is left to you. It is between a tax proposal costing £130 million over 5 years plus a damaging precedent, against the collapse of the film industry and the need to retain the Eady Levy and its quangos.

Do you:

(i) Support the Treasury position, or

(ii) Wish to implement Mr. Tebbit's compromise formula?

My vote, and that of the Policy Unit (Flag E) is to support the Treasury position. I understand that the amount of money which the Eady Levy provides to the National Film Finance Corporation is about £1-2 million a year. The cost in terms of tax concessions seems to be disproportionate in order to secure voluntary contributions to replace this flow of income into the film industry.

AT

5 July, 1984.

CONFIDENTIAL

CC NO.

CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215)
GTN 215) 5422
(Switchboard) 215 7877

Secretary of State for Trade and Industry

5 July 1984

Andrew Turnbull Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Dear Andrew,

TAXATION OF THE FILM INDUSTRY

I am replying to your letter of 4 July which asked two further questions.

2 On the first, the Prime Minister has asked about the cost of adopting the Secretary of State's suggestion that Section 72 might be modified so as to allow a pattern of write-off of 25-50-25 per cent. The Inland Revenue, who provided the previous detailed estimates, take the view that the practical effect of the proposal will be much the same as that of the industry's own proposed write-off pattern of 50-25-25 per cent. This is because the gap between the first two trigger points (namely delivery of the completed film and first release) is often short and will usually fall within the same accounting period.

3 On that basis, the cost could be as in paragraph 8 of the agreed note ie:

Flag F

1984/85	1985/86	1986/87	1987/88	1988/89	1989/90
neg	20	50	40	10	10

These figures assume that the industry remains at broadly its present size, about which the industry has expressed considerable doubts.

4 The second question was whether the Treasury could agree to some fixed write-off profile or whether they believed any move beyond cost recovery would be excessively damaging.

5 The Treasury believes that the problem with any fixed write-off formula that would be attractive to the film industry is that it would provide the opportunity for creating substantial "up-front"

JH2ASG

tax losses which could be set off against other profits. Such losses subsidise the investment and are therefore inconsistent with the business tax reforms in this year's Budget. Cost recovery is the limit to which write-off of expenditure can be accelerated, without offering tax subsidies. The Treasury take the view that to go beyond this would damage the credibility of the Budget strategy and make it difficult to resist pressure for similar treatment for other industries.

6 I am copying this to the recipients of yours.

Yours ever,

Andrew Lansley

ANDREW D LANSLEY
Private Secretary

- 4 JUL 1984

CONFIDENTIAL

file

bc Bob Young

BM

10 DOWNING STREET

From the Private Secretary

4 July 1984

Dear Andrew.

Taxation of the Film Industry

The Prime Minister has seen the Chancellor's letter of 2 July to your Secretary of State and his minute to her of 3 July. She finds it difficult to give a view on the issues raised until she knows first, the cost of the 25-50-25% proposal and secondly, whether the Treasury are prepared to agree to some fixed write-off profile or whether they believe that any move from the principle of cost recovery would be excessively damaging.

The Prime Minister would like this information, preferably in the form of a single note prepared jointly by the Treasury and yourselves, to reach her by close today so that she can come to a conclusion overnight.

I am copying this letter to Margaret O'Mara (HM Treasury), Peter Ricketts (Foreign and Commonwealth Office), Hugh Taylor (Home Office) and Mary Brown (Lord Gowrie's Office).

Yours sincerely

Andrew Turnbull

(Andrew Turnbull)

Andrew Lansley, Esq.,
Department of Trade and Industry

CONFIDENTIAL

C

C

PRIME MINISTER

The Film Industry

I have no wish to get involved in the technical arguments raging between the Treasury and DTI.

However, I thought I should draw to your attention the view held by Kenneth Baker - and which I do believe is more than just special pleading - that if the film industry gets no concession, they will not be slow to blame any loss of business (however caused) on to the Government and on to you. And they can be a vociferous lobby and it will be easy for the press to tow the line offered by successful and glamorous film producers.

SS

STEPHEN SHERBOURNE
3.7.84

PRIME MINISTER

The way this is being handled is ridiculous. You are being asked to undertake flip-flop arbitration, choosing between the Chancellor's position, i.e. costs being recovered as and when income arising from the film is received; or Mr. Tebbit's position which is now that costs should be recovered according to a fixed profile, 25 per cent, 50 per cent, 25 per cent.

It is difficult for you to arbitrate as you do not know the costs of Mr. Tebbit's new option or whether the Treasury would be prepared to accept some even smaller departure from its principle.

You may wish to decide now that the Treasury position is correct.

Alternatively, I could ask Treasury and DTI to discuss their positions during tomorrow and put back to you tomorrow evening a costing of 25/50/25, and a statement of the fiscal positions of the two sides. You can then rule overnight.

(i) Do you wish to rule now? or

(ii) Do you want further clarification of the positions of the two sides?

AT

Attached are:

(a) minute from Mr Tebbit

(b) letters from Chancellor

(c) note on Mr Baker's views

(d) minute from Home Secretary

(e) Policy Unit note.

(f) Paper by officials.

ANDREW TURNBULL

3 July, 1984

A

JF6834

CONFIDENTIAL

PRIME MINISTER

THE FILM INDUSTRY : TAXATION

I am sorry that the Chancellor and I have not been able to reach agreement on the Tax treatment of the film industry. This is simply because the Chancellor is rightly concerned for the integrity of his Budget, whilst I am concerned to contrive our escape from the cobwebs of quangos and levy system which enmesh Government in the film industry. I believe what I need to accomplish that, need not damage the Budget. The Chancellor is not willing to take the risk. You will have received the jointly agreed official paper setting out the background and issues, and you will have seen a copy of the Chancellor's letter of 2 July to me attached, recording his own position. May I briefly set out my own views?

2 My purpose is to sweep away the whole legislative and regulatory framework within which the film industry operates, together with the complicated financial mechanisms of the Eady Levy and related quangos. As you know, it is our intention to replace these mechanisms with voluntary contributions from the industry itself. The price of these radical changes is the institution of a sympathetic tax

regime. Even so even the proposals that have been made by the industry itself would leave it worse off than before the Budget. Both the industry and I accept that their original proposals would have run counter to the Budget philosophy and this is why they have changed them; I believe their latest proposals are not inconsistent with the Budget.

3 In fact, I am not clear why the Chancellor refers to the special formula in Section 72 of the 1982 Finance Act as a concession: it already applies to non-Eady films (i.e films not meeting the current criteria to be treated as "British") and was to be imposed generally on the film industry in 1987 anyway; the Finance Bill simply advances the date. As you know the film industry have asked for this provision to be modified so as to allow earlier write-off of expenditure (50 per cent on delivery of the completed film, a further 25 per cent on first release, and the final 25 per cent tweleve months later). The attraction of this for the industry is foremost that it gives some certainty about the position which will enable them to attract investment in a risky industry and, of course, that it gives some help "up front", i.e an allowance that can be used against tax prior to the inflow of income from the film.

4 I am not of course wedded to the precise suggestion made by the industry, but I need something to satisfy the industry

sufficiently to safeguard the promised voluntary contributions.

5 I have suggested, as an alternative, a pattern of write-off of 25-50-25 per cent. I have not been able to consult the industry but I do not believe that this will offer substantial up front allowances when compared with the cost recovery basis now suggested by the Chancellor. Nevertheless it will represent certainty and this is important to the industry.

6 I welcome the Chancellor's proposed extension of the Business Expansion Scheme to British films but, as the Chancellor recognizes, this will benefit the very small independent producers not the medium to large budget films where the bulk of the industry is employed. I am also grateful for the Chancellor's offer of "cost recovery", which would mean that film companies would not pay corporation tax until they had recovered the full cost of the film. By suggesting a modified formula I am trying to meet the Chancellor on this.

7 I fully support the Budget strategy. That is why I have not asked for concessions for any other industry. But the exceptional circumstances of the film industry with its attendant levy system, statutory regulation and quangos,

CONFIDENTIAL

justifies a special effort to facilitate its transition to commercial independence. I cannot believe that even the industry's proposed formula of 50, 25, 25 would provide the large up front tax losses which would lead to the consequences the Chancellor describes. These were the consequences of 100 per cent first year allowances and a faulty legislation which made then available to all films - even those that were not made in this country! Certainly my compromise formula of 25, 50, 25 would not lead to these abuses. We surely do not want to have to look seriously at the unpalatable alternative of retaining the Eady Levy and its quangos, and even extending the levy principle to video tapes and use of film on television.

8 I am copying this minute to Nigel Lawson, Geoffrey Howe, Leon Brittan and Grey Gowie.

Arthur Lansley

pp N T

(Approved by the Secretary of State and signed in his absence)

3 July 1984

Department of Trade and Industry

3.20 CONFIDENTIAL

Prime Minister (2)

I expect Mr Tebbit to find this insufficient and to call on you to arbitrate.

AT 2/7

Treasury Chambers, Parliament Street, SWIP 3AG
01-233 3000

2 July 1984

The Rt. Hon. Norman Tebbit MP
Secretary of State for Trade and Industry

Dear Secretary of State

TAXATION OF THE FILM INDUSTRY

When we discussed this issue on Wednesday, I promised to give further consideration to the proposal that the industry should be permitted to write off part of the expenditure on a film before receipts started to come in. You suggested that the proportion might be rather smaller than that for which the industry were asking.

I have looked at this proposal very carefully but I am afraid that I cannot agree to such a concession, even in its more restricted form. As I explained to you, its object is to allow investors (whether financial institutions or individuals) to create up-front tax losses, even where a film proves to be highly profitable. These tax losses can then be "cashed in" by setting them against the investors' other income for tax purposes. The gain to the investors represents a tax subsidy, and in practice it means that the Exchequer funds part of the cost of film production generally.

I do not believe we should allow this to happen, for the following reasons.

First, the cost. The industry's proposal, even on the less ambitious basis, would involve giving film companies a further £20m in 1986/87, more still in 1987/88 and 1988/89, but declining thereafter. This would represent a very considerable amount of support - over £100m in four years - on top of what I have already said I am prepared to do.

Second, our Budget strategy. As you know, we have been very successful in maintaining broad approval for our business tax reforms, even from those who are likely, initially at least, to be adversely affected. To continue to provide an overt tax subsidy to one industry will be widely seen as a weakening of our resolve, and it will make it that much more difficult for us to resist pressure for special exemptions from other industries, many of which have a far better case.

Third, abuse. Tax incentives for the film industry have a bad history of being exploited for tax avoidance purposes. That was why Geoffrey Howe had to tackle the leasing of films in 1982. Any continuing facility to create tax losses will lay us open to attempts to gear up such losses through devices which have been widely publicised (and were referred to by Jeff Rooker in a recent Finance Bill debate). Very large additional amounts of revenue could be at stake here - tax already in dispute between the Revenue and film investors for previous years is approaching £200m. It is not certain that we can effectively counter these schemes under existing legislation. To re-introduce opportunities for this sort of abuse would look highly perverse.

Fourth, the "export" of subsidies. The 1982 action was, as you know, concerned only with totally foreign films. The film industry want their present proposals to apply to Eady films generally, including large productions effectively owned and financed abroad, particularly in the USA. Any tax subsidies for these productions will therefore be fed back to the American investors - mostly major Hollywood studios. And the profits from the films will normally be remitted abroad, so that we cannot tax those either. I know that the industry argue that the tax subsidy bring work here. But even if tax were crucial, I believe that subsidies of this order to foreign studios are too high a price to pay for additional jobs, especially bearing in mind what else could be done with the revenue involved.

Fifth, the independent television contractors do not want the sort of changes being proposed by the feature film representatives, because they would adversely affect their pattern of production and receipts. If we were to make the concession being pressed on us, we would thus face the likelihood of a new - and just as vocal - outcry from the television sector.

Having said all this, I fully recognise the difficulty you face in achieving your object of abolishing the Eady levy and the supporting institutional apparatus. That is why I am offering three concessions to the industry.

First, I have said that the industry will have the option to choose to take either the normal capital allowances at the going rate or the special formula for writing off expenditure on revenue account which is contained in section 72 of the 1982 Finance Act. I estimate the value of the option will rise to over £30m in 1988-89, in mitigating the effect of the capital allowance changes in the Budget. This already puts the film industry in a more favourable position than all other industries.

Second, I intend to make changes to the Business Expansion Scheme to allow it to embrace film production. This will be of special help to the smaller, independent British producers where there is genuine risk involved. We are already discussing the details with the industry on a without prejudice basis.

Third, as I mentioned to you at our meeting, I am ready to give the industry the opportunity to set off its expenditure against income in accordance with a technique known as "cost recovery", so that expenditure is set off as rapidly as income is received. This will be an improvement on the Section 72 formula as it stands, and goes as far as I can without breaching the crucial requirement that expenditure should not be written off in a way which anticipates tax losses.

With this package of measures I have gone as far as I reasonably can in proposing changes which help the industry, while remaining consistent with our underlying strategy and the proper protection of the Exchequer. With Report Stage of the Finance Bill next week, we urgently need to finalise this matter, and I do hope that on reflection you will feel able to go along with my proposals.

I am copying this letter to the Prime Minister, Geoffrey Howe, Leon Brittan and Grey Gowrie.

David Peretz

pp NIGEL LAWSON
(approved by the Chancellor, and signed in his absence)

010

CC NO

JF6798

PRIME MINISTER

THE FILM INDUSTRY : TAXATION

You are aware that the Budget has created a very serious problem for the film industry and for my attempts to sweep away the whole Government regulatory framework within which the industry operates.

2 Officials have been trying to find a way forward and I had a meeting with the Chancellor earlier this week to see whether we could make progress.

3 I still hope that we will be able to reach a satisfactory agreement which will allow the White Paper to go ahead. But time is now very tight: amendments to the Finance Bill at Report stage need to be drafted by next Friday, and we must agree the White Paper so that it can be published before the House rises.

4 If it is not possible to reach agreement by close of play on Monday, I am afraid I will have to bring the issue to you. I have therefore asked the Chancellor to forward to you the jointly agreed official paper which sets out the background and the issues.

5 I am copying this minute to Nigel Lawson, Geoffrey Howe, Leon Brittan and Grey Gowrie.

NT

N T

2. July 1984

Department of Trade & Industry

(2)

PRIME MINISTER

FILM INDUSTRY

Despite discussions during the week, the Treasury and DTI have been unable to reach agreement on the taxation of the film industry. Mr Tebbit has, therefore, asked that the attached paper be sent to you for consideration. You are not being asked to give a view now but Mr Tebbit feels that if agreement is not reached with the Treasury during the course of Monday he will have to put the issue to you as amendments to the Finance Bill need to be settled by Friday. His case is that unless the Treasury concede a better tax treatment he cannot launch his White Paper removing the present regulatory framework. I attach a Policy Unit note which urges you to stay close to the Treasury position.

AT

29 June 1984

MT

CONFIDENTIAL

F

F

Treasury Chambers, Parliament Street, SWIP 3AG
01-233 3000

Andrew Turnbull Esq
Private Secretary
10 Downing Street
London SW1

29 June 1984

Dear Andrew

FILM INDUSTRY TAXATION

I enclose, as requested, a note produced jointly by Treasury, Inland Revenue and DTI officials which sets out the main issues on the taxation of the film industry. The note has been agreed by the Chancellor and the Secretary of State for Trade and Industry and replaces the Chancellor's minute of 12 June and its attachment, and the Secretary of State's minute of 18 June.

As you will see, the note was produced at the end of last week. Since then, the Chancellor and the Secretary of State have met to discuss the problem and some further concessions to the industry have been proposed but as yet, Ministers have not been able to reach agreement on a solution.

I am sending a copy of this letter and enclosure to Callum McCarthy (DTI).

Yours sincerely,

Margaret O'Mara

MISS O'MARA
Private Secretary

CONFIDENTIAL

FILM INDUSTRY TAXATION

Note by Officials

The policy issue is whether or not the film industry should be given, in addition to access to the Business Expansion Scheme, tax treatment better than Section 72 of the 1982 Finance Act. This Section treats the cost of making films as revenue expenditure which can be written off in line with the expected flow of income. The attached note deals with the policy issue at length. The arguments are summarised in paragraphs 2-4 below.

2. The industry have proposed a change to Section 72 which would make it more advantageous. On the one hand, the Secretaryof State believes that either the industry's proposal or something equivalent is politically necessary for launching his White Paper; that it is justified by the particular characteristics of the industry; and that by operating on Section 72 the strategy and philosophy of the Budget would not be undermined and abuse and repercussions would be avoided.

3. On the other hand, the Inland Revenue advice, supported by information from the City, is that any special regime for films will be widely used for the purpose of tax sheltering. It would not be possible to limit any widening out of the Section 72 relief without blocking off the tax benefit which has encouraged the American and other foreign finance which the industry wishes to attract.

4. With this advice in mind, therefore, the Chancellor of the Exchequer believes that the incentive which any widening of Section 72 provided through the tax system would not be compatible with the principles of the Budget tax changes. Operating on revenue expenditure via Section 72, rather than on capital allowances, does not affect the principle: nor would it disguise the special treatment which the film industry would be receiving. So it would substantially increase the difficulties of resisting other claims, which Ministers are already having to face, for special tax treatment following the loss of 100% first year allowances.

22 June 1984

FILM INDUSTRY TAXATION

The central issue is whether there is a case for introducing tax rules for the film industry which are more favourable than those currently on offer.

2. Before the Budget the Department of Trade and Industry was in the course of preparing a White Paper on the film industry which would have announced the abolition of the statutory framework in which the industry operates. The proposals included the abolition of the Eady Levy. Ministers had already agreed to the inclusion of a Films Bill in the next session for this purpose.

3. The policy was based on two main assumptions:

   i. films would continue to qualify for 100% first year allowances (FYAs); and

   ii. the substitution for Eady Levy funding of voluntary private sector funding from within the film industry for limited defined purposes. This agreement was negotiated by Mr Baker who believes that it depends on the industry operating within a sympathetic tax regime.

4. Tax regime: before 1979 expenditure on films was treated as a revenue expense. The normal procedure was for the tax inspector to agree a probable pattern of income for the film and apportion write-off accordingly. In 1979, a legal interpretation required expenditure on film making to be treated as capital investment, so qualifying for machinery and plant capital allowances. That meant that films attracted the 100% first year investment incentive. This change was exploited, partly by people looking for a tax shelter and partly by American film companies using leasing through London in order to pick up our tax subsidy. The 1982 Finance Act (Section 72) brought in rules which applied the pre-1979 principles. (These principles are on similar lines to accounting practice in the United States, where there is a formal accounting standard for the treatment of films). But British-made films were given a transitional period; eventually, capital allowances for these films were to be withdrawn in 1987.

5. However, the reform of corporate taxation in the 1984 Budget included the phased withdrawal of 100% FYAs from the whole of industry, including film making.

Film Industry's Case

6. The industry claims that loss of FYAs will have serious effects. They had hoped that by 1987 the Government would agree to extend the capital allowances indefinitely, or at least their continuation until 1987 to which they believe the Government were committed by a PQ in January 1983. The industry's immediate reaction to the Budget was to press for continuation of the 100% allowances, but it now recognises that this would not be compatible with the objectives of corporate tax reform. The industry proposes instead that expenditure be treated as a revenue expense, but with the Section 72 rules modified to allow earlier write-off of this expenditure. The proposals were to write-off 50% of expenditure on delivery of the completed film, a further 25% on first release, and the final 25% twelve months later.

7. The film industry's case for this treatment is:

i. writing-off expenditure against related income is inappropriate for the UK film industry. In contrast to the US film industry which is able to maintain production companies that make and distribute films on a continuing basis, in the UK films are most commonly made by companies set up specifically for each individual film;

ii. most industrial companies receive income on a continuing basis with a large proportion of output sold in the year of manufacture. Thus expenditure can be written-off when incurred. The film industry, however, produces a long term product through one-shot companies and is therefore disadvantaged by the tax regime. Other industries providing "long term" products (eg building construction) match income with expenditure through stage payments, but this is not generally possible with films where the product cannot be judged until it is completed.

iii. the film industry is particularly affected by the Budget because since 1979 virtually all its costs were treated as capital and therefore qualified for FYAs. The industry claims that this places them in a unique position among production industries: for most companies only a very small proportion of their costs are on capital expenditure;

iv. expenditure on items such as script-writing, development of films scores and general preparations for a film are in the nature of current expenditure which does not create "work in progress" of any capital value;

v. the US dominates the industry with 50% of the market compared to the UK's 4%. International competition is tough, partly because other countries - USA, Canada, France, Germany, Italy, Australia and New Zealand - provide supportive tax regimes or subsidies, or both, for their domestic film industries. This makes film-making in the UK a relatively high-risk business, and is a further reason why films continue to be made on a one-off basis;

vi. the UK film industry has been something of a success story over the last few years. There have been a number of highly successful British films, and we have also achieved a world-wide reputation for special effect films, which are generally financed from US sources. Expenditure by US film companies on goods and services in the UK last year was about £140 million. A film can cost about £30 million; but film making is highly mobile.

Costs

8. The costing figures[1] for the concession start by identifying the additional relief which will be available to the film industry as a result of the Chancellor's undertaking to extend Section 72 treatment to the industry at Report as compared with the new Budget capital allowances. They then identify the further relief that would be available if Section 72 were altered on the lines proposed by the industry. This is the relevant figure to compare with the industry's cost estimate. The final figures, which are the aggregate of the two earlier ones, give the difference between what the industry is asking for and the Budget capital allowances. These were the ones quoted by the Financial Secretary in the debate.

	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90
Cost of Section 72 over the Budget capital allowances	neg	-20*	-30*	15	55	50
Additional cost of industry's proposals (ie Section 72 improved as compared with Section 72 as is)	neg	20	50	40	10	10
Total cost of Tim Smith amendments given by FST	nil	neg	20	55	65	60

* In these years, the industry will in fact take the capital allowances (which they will be able to do under the Chancellor's option) because the allowances will still be better than Section 72; so the figures for 1985/86 and 1986/87 will be nil in practice.

The industry have quoted rather different figures.

1 These figures do not include any additional relief which may be available through changes in the Business Expansion Scheme.

9. The difference between the Treasury Ministers' and the industry's figures arise from different assumptions about the size of the industry for this purpose. The Treasury believes that the relevant figure should be £300 million. The industry has used a figure of £35 million.

10. The difference relates to whether:

   a. foreign investment should be included;
   b. TV film production should be included;
   c. short films should be included.

11. The industry's figures do not include foreign investment of £140 million because they claim that such investment will not be able to pick up the tax relief. TreasuryMinisters argue that it is unrealistic to expect foreign (principally American) investors not to take advantage of new concessions in the same way as they have in the past.

12. The industry have also excluded short films and TV productions amounting to £125 million because they believe they will not benefit from the proposal. However, they are within the new tax regime and so should be included in the figures; even though they will benefit less than feature films, this is taken into account in the detailed costings.

The Views of Trade and Industry Ministers

13. Trade and Industry Ministers accept the film industry's arguments that without modification of the regime on offer the industry will contract: the DTI estimate that UK film production might fall between one-third and one-half. Trade and Industry Ministers argue that Section 72 is already a special provision for the film industry, but it requires modification to introduce a write-off procedure more consistent with UK film industry practices, although not necessarily the one proposed by the industry. The reasons are as follows:

i. they agree that the tax system should aim to be neutral in its effect on economic decisions, but argue that the strict application of Section 72 would be a departure from neutrality because of the nature of film making in the UK;

ii. as they see it there would be no conflict with the Budget strategy, particularly as it is likely that the industrywould accept modification of Section 72 which would exclude the use of leasing, which was the means by which tax losses were absorbed by businesses unconnected with the film industry;

iii. some arrangement along these lines would enable the Government to publish a White Paper on the lines originally intended;

iv. if the case is not accepted there would be a need to reconsider proposals to abolish the Eady Levy and associated quangos so as to provide alternative forms of financial help to the industry, such as levies on television and video.

14. Trade and Industry Ministers are also concerned about the interdependence of films, cable and DBS. It is important that the UK film industry should continue to thrive so that it can meet the increasing demand for its products to feed cable and DBS. The alternative would be to lose these media to US film products.

Treasury Ministers' view

15. Treasury Ministers point out that the effect of the proposals would be to give film making much of the advantage of 100% FYAs. It would imply a significant breach of the general tax principle that expenditure should not be written off until it can be matched against the income arising from that expenditure.

16. Treasury Ministers do not accept that a faster write-off of expenditure would be neutral. It would allow companies to create tax losses which could be cashed in. And only if investors or production companies could do this would the changes be of any use to the industry.

17. A modified Section 72 would thus conflict with the Budget, which was to move to an even-handed corporate tax system that would not discriminate in favour of or against any particular type of asset or sector of industry. Investment in films, or in any other activity, should be primarily attracted by genuine pre-tax returns, rather than by the distorting effect of tax subsidies. Deliberately to introduce a new regime for films would be seen as perverse and a weakening of Ministerial resolve to carry through the overall strategy.

18. Many other industries (shipping, cable, agriculture, computers) are pressing strongly to be exempted partly or wholly from the Budget changes. A concession to the film industry would be very difficult to contain.

19. The concession would be expensive (paragraph 8), and worse if it spread. There are no obvious reasons why the film industry should be regarded as special. If this money "buys jobs" in the British film industry, it will also result indirectly in lost jobs and production in other industries. And in the majority of cases, the benefit of the subsidy goes to foreign investors, particularly Americans, who also retain the profits. This is too high a price to pay.

20. Treasury Ministers do not accept the film industry's argument that normal accountancy and tax principles discriminate against the industry. Many other industries produce long term products. Matching of expenditure with the related receipts is the required practice throughout industry, and the rules ensure that in

these cases neither losses nor profits are anticipated for tax purposes. The fact that British films are often produced by a one-off company, rather than by companies with rolling programmes, is irrelevant.

21. It is a fallacy to think the clause could be successfully amended to leave out leasing. Either the early write-off needs to be available for non-film companies, such as the banks, or there would be little purpose in making the change because American or institutional finance would have no ready channel for entry.

22. However, Treasury Ministers are prepared to do what they can to help the industry in ways consistent with the Budget strategy. Essentially these are:

i. British films will continue to be entitled to capital allowances until 1987 as promised in a PQ of January 1983, though the allowances will now be at the new depreciation rate for machinery and plant generally, which is all the industry could have reasonably assumed. This will now be made permanent. In practice most film makers will prefer to be taxed under Section 72 and they will be allowed to choose this treatment instead of allowances if they so wish. The Finance Bill will be amended to provide for this option;

ii. the possibility of bringing films within the Business Expansion Scheme (BES) is being explored, and this will also be provided for in the Finance Bill. This is a measure which will be particularly helpful to the smaller high risk independent UK production company. (It will not however apply to the larger companies for whom the write-off provisions are the prime consideration.)

In Sum

23. The central question is whether Section 72 of the 1982 Finance Act should be modified in the interests of the film industry.

- If Ministers judge there is no case for modification it will be necessaryto review the proposed White Paper, and possibly to consider alternative methods of raising funds for the film industry.

- If Ministers decide that there is a case for modification the major question is how the concession could be ring-fenced to contain the revenue consequences and damage to the aims and strategy of the Budget, and what level of support should be provided.

24. This paper has been prepared by the Treasury and agreed with the Inland Revenue and the Department of Trade and Industry.

HM Treasury

22 June 1984

CONFIDENTIAL

FROM: C W CORLETT

INLAND REVENUE
POLICY DIVISION
SOMERSET HOUSE

26 June 1984

Pages missing

1. MR ~~BEIGHTON~~ not seen
2. CHANCELLOR

FILMS : MEETING WITH MR TEBBIT

6.30 pm Today (27th).

1. This is the brief for tomorrow's meeting with Mr Tebbit. It reflects points which came up at your meeting yesterday, including those recorded in Miss O'Mara's note.

Background note

2. The attached background note covers:

i. A description of the recent changes in film taxation, including the nature of the pre-1982 abuse (paragraphs 5-8) Sir G Howe's Budget Statement about the reasons for taking action and the need for transitional relief for Eady films (paragraph 11) and Mr Ridley's statement about the extension of transitional relief (paragraph 12);

ii. What the industry is asking for (paragraphs 15 and 16);

iii. The repercussions of accepting the industry's proposals (paragraphs 17 and 18);

---

cc Chief Secretary
Financial Secretary
Minister of State
Economic Secretary
Sir Peter Middleton
Mr Bailey
Mr Monck
Mr Monger
Mr R I G Allen
Ms Conn
Mr Lord
Mr Green
Mr Beighton
Mr Lawrance
Mr Pearson
Mr Prescott
Mr Corlett
Mr Tyrer
Mr Elmer
Mr Pascoe
PS/IR

6. If he is concerned with attracting <u>American productions and finance</u> as well, then you can point out that if the tax system has a role to play here it has to provide the American financiers with a subsidy. This subsidy is arranged by the American company selling the film to a UK company (a bank, a financial institution, a commercial company) with profits to shelter, and then renting it back. The British company picks up the tax relief (accelerated capital allowances or accelerated revenue write-off), uses them as tax losses to shelter other profits, and then passes all or most of the benefit back to the American company via reduced lease rentals or reduced distribution charges. To the American company this is equivalent to an interest rate subsidy. How far does Mr Tebbit wish to go in providing interest rate subsidies to American film production/distribution companies to encourage employment in the UK; especially when the profits of the film - as well as the tax subsidy - finish up in the USA?

<u>Minimising Mr Tebbit's demands</u>

7. Your first objective therefore will be to persuade Mr Tebbit to moderate his demands. You can mention BES. You can explain the value of what you have already given by offering the Section 72 option (line C in the table at the end of the attached note). You can indicate the consequences of providing films with a subsidy which no other industry will get (paragraph 17 of the note).

8. In rejecting the Tim Smith approach of a new formula within Section 72, you can refer to the fact that Section 72 applies also to television films. The Independent Television contractor companies do <u>not</u> want the Tim Smith formula because it works to their disadvantage it puts them in a straight jacket. They prefer Section 72 as it is. This point is made in the Home Secretary's minute of 25 June to the Prime Minister. So the feature film industry's proposal would create uproar in the television industry.

13. You will not want to exaggerate the value of this concession. It is not possible to put a cost figure on it, but it would be a small proportion of what the industry is asking for. Nor is it clear whether the Government would even get much thanks. But it would be evidence of good-will, and could be offered on a take it or leave it basis.

Next steps

14. If Mr Tebbit were to accept that the existing Section 72 option, a BES extension and cost recovery treatment met his requirements, you will presumably want a further discussion to take place with the industry before Report. It is important to ensure that a meeting is arranged as soon as possible with either a Treasury Minister or a Revenue official in the lead; you will not want the outcome to reach the industry via the DTI.

15. If no agreement is reached with Mr Tebbit, and the matter has to go to the Prime Minister, you will want to decide whether the existing (unsatisfactory in your view) note will suffice, or whether it should be re-cast, in which case it could reflect also the outcome of the present meeting.

C W CORLETT

FST

The Chancellor has asked for the cost of conceding 100% FYAs up to 1987. MO'M thinks his mind is moving that way, because of the terms of the Ridley statement. I said I thought that was ~~[illegible]~~ wrong, because the industry were not pressing their case on this basis - surprisingly and foolishly, they were trying to argue on principle.

AHH

TAXATION OF THE FILM INDUSTRY

Taxation arrangements up to 1982

1. Until 1979, expenditure on the production or purchase of a film was regarded as revenue expenditure, and written off on normal accountancy and tax principles against the related income from the film. This meant that expenditure was not normally written off when it was incurred, but some time later, following the release of the film or the sale of distribution rights. It is true that there were one or two cases when Inspectors had allowed film expenditure to be written off as it was incurred; these cases are known to the film industry representatives, but it has been made clear to them that the ticking through of those arrangements was incorrect and, where discovered, has subsequently been put right.

2. The fact that the matching of expenditure with income was the normal practice at that time is demonstrated by the pressure which the film industry put on us for an improvement in their tax treatment. This led to a re-examination of the statutory nature of a "film", and to legal advice that expenditure on a film was in fact capital expenditure and that a film was "plant" qualifying for capital allowances.

3. On receipt of this advice, we were obliged to alter our practice. Having cleared the matter with the then Chancellor (Sir Geoffrey Howe), there was an Inland Revenue announcement in August 1979 that expenditure on films would thereafter qualify for capital allowances. This was not a political decision - though the film industry has subsequently sought to interpret it as such.

4. The industry welcomed the new capital allowance regime, because a film being "plant" qualifies for 100% first year allowances. This allowed them immediate write-off of their expenditure.

Withdrawal of capital allowances and transitional relief for British films

9. Substantial amounts of UK Exchequer subsidy were therefore at risk. Americans arrived in London to hawk round films, almost unable to believe what the UK tax system was offering them. Accordingly, the Chancellor (Sir Geoffrey Howe) took urgent action in 1982 to withdraw capital allowances from films, and to insert in their place a system for writing off the cost of film production as revenue expenditure over the film's earning life, broadly on the lines in force before 1979. The reason the write-off rules were formalised in Section 72 was to ensure that there could be no dispute that films would not be able to obtain a subsidy.

10. The then Chancellor decided, however, in the face of very powerful pressure from the domestic industry, to provide a two year transitional period, until 1984, during which films made in Britain could continue to qualify for first year allowances. These included films made by American production and distribution networks, and financed entirely in the United States, but which were substantially filmed in UK studios - blockbusters like the Superman series. It was recognised that the benefit of the Exchequer subsidy would flow to the USA in these circumstances, but it was felt that the employment etc benefits justified including these films in the transitional arrangements, alongside the British products.

11. In his Budget statement in 1982, Sir Geoffrey Howe said:

> "Investment in films qualifies for 100% first year allowances. As with other capital allowance provisions, these investment incentives are available without regard to whether a film is made in this country or overseas. There is evidence that schemes for investment of this kind - primarily in foreign-produced films - are currently being marketed in this country. The potential loss to the Revenue is very great.
>
> I propose, therefore, to withdraw the 100% first year allowance for films and to introduce in its place a provision

14. The Financial Secretary has explained why this is so. In the recent Finance Bill debate he said:

> "The statement [ie Mr Ridley's] related to the existing [ie 1983] structure of capital allowances. There were 100% capital allowances at the time, so the extension of the transitional arrangements to 1987 subsumed within it the initial 100% allowances. The statement related to an extension beyond the time that was established by my rt hon Friend [Sir Geoffrey Howe]. Pressure was applied, as happens so often in politics, to extend the transitional period. The national allowances system had within it the initial 100% allowances at the time, and that was seen as part and parcel of the extension."

<u>What the industry if asking for</u>

15. The industry do not want the capital allowances once the first year allowances are substantially reduced and then abolished. They are content to move to Section 72 treatment (which is better than 25% writing down allowances). But they want Section 72 "improved" to re-introduce a significant acceleration element.

16. Instead of the matching of expenditure with receipts (ie a broadly neutral system) they want a formula under which write-off would be advanced, so that:

50% cost was written off on completion of production;
25% on release;
25% in the year following completion of production.

<u>Repercussions of a further Finance Bill concession</u>

17. A significant concession to Eady films on the lines that the film industry wants, as reflected in the Tim Smith amendments, would have the following effects -

i. It would continue the Exchequer subsidy for American studios producing Eady film in the UK like Superman

Write off of expenditure under Section 72

19. Section 72 of the Finance Act 1982 is unusual in that it provides a specific basis for writing off expenditure on films as a revenue expense. In other industries, the write-off is determined by accountancy and tax principles. Nevertheless, the basis provided for in Section 72 is entirely consistent with the general accountancy approach of matching income to the costs of earning it. Commercial accounts are not drawn up on a simple receipts and payments basis. If production expenses are incurred in one year and the receipts come in during a later year, it would be wrong to regard the trader as having made wholly a loss in year 1 and wholly a profit in year 2. The receipts and expenses have to be brought together, and this is normally achieved by carrying forward uncompleted work as work in progress, and debiting it when the sale takes place.

20. Although there is no one standard accounting method of dealing with film expenditure in this country, the scheme laid down by Section 72 is a method which has been accepted and used in the film industry for over 50 years. But quite apart from any accountancy principles and practices, there is an overriding tax rule established by case law which says that neither profits nor losses must be anticipated. Simply to write off film production costs as they were incurred would be to anticipate a loss - and therefore create a cashable "tax loss" - which may never arise and would contravene this fundamental principle.

21. In his minute of 18 June to the Prime Minister, Mr Tebbitt claimed (paragraph 4) that Section 72 was based on US accounting practices which were inappropriate to the UK industry. There is no foundation in this. The point we have previously made to the DTI is simply that an accountancy standard <u>does</u> exist in the USA, and the fact that it is consistent with Section 72 lends additional support to our argument that the section as it stands correctly reflects the reality of film production and exploitation. The fact that the Americans may or may not have a different tax depreciation system from our own, and may or may not provide investment

24. Cost recovery would adversely affect films which made a loss. So if it is to be offered, it will need to be in the form of an option. It would almost certainly require legislation.

Costings

25. The attached table gives the estimated costs of the various measures and proposals.

26. The impact of the Budget on the industry is shown in line B.

27. The benefit to the industry of the concession under which they can opt for Section 72 treatment, instead of capital allowances for ever, is given in line C.

28. The additional benefit to the industry from the Tim Smith amendment, improving Section 72, is given in line E.

Jobs in the industry

29. Mr Tebbitt mentioned the Financial Secretary's statement that there had been no increase in employment in the industry over the last few years. The DTI say that the Unions claim that there are now another 4000 to 5000 of their members at work, compared to two or three years ago.

30. No-one seems to know how many are employed in the industry, but if Mr Tebbitt should raise the point, you can make the debating point that the figures quoted by the Financial Secretary - 25,000 jobs in all aspects of film production, including feature films, advertising films, shorts etc - came from the official Department of Employment figures, and were agreed with DTI officials beforehand. You can concede that the quirky nature of the industry - with its tradition of self-employment - may mean that some jobs go unrecorded; and that the Union may indeed be right that this element has increased recently. But, even if that is so, the numbers involved do not appear seriously to undermine the message of the official statistics - which is of a fairly flat trend line.

D

PRIME MINISTER

with AT

FILM INDUSTRY

The Secretary of State for Trade and Industry has sent me a copy of his minute to you of 18 June, and I have seen a copy of the Chancellor's minute of 12 June and the DTI/Treasury minute attached to it.

I do not wish to express a view on the tax treatment of the film industry but I should just mention the film industry's importance as a source of product for cable and satellite broadcasting. Films are the single most important kind of programming that viewers will be prepared to pay to see, in addition to their "basic" television services; and there is a serious shortage of films suitable for showing on television. The British film industry has begun to provide more suitable material but it still has a long way to go and it would be unfortunate if it now lost out to foreign competition.

I would only make two other points, First, if there is to be any modification to section 72 (of the Finance Act 1982), it needs to be a tax regime which fits the circumstances of the television companies as well as the film producers. The broadcasters are reasonably content with section 72: if there are to be changes they may need to be consulted.

Second, the resurrection of the idea of a levy on films shown on TV seems to me a backward step. It threatens to perpetuate all the anomalies and bureaucracy of the Eady system but based on a different source of funds. What we ought to be aiming for is a greater reliance on the market. The price paid by television for feature films is likely to be bid up significantly in the future as Channel Four, cable and satellite join the BBC and ITV in competing for a limited supply of suitable films. The cost of film purchases by the BBC and ITV has risen by 300% over the last five years. If this price effect continues, it may prove to be far more significant in the long run than any levy on films shown on TV.

I am copying this minute to Geoffrey Howe, Nigel Lawson, Norman Tebbit and Grey Gowrie.

L.B.

25 June 1984

Econ Pol,
June '79 Film finances

MINISTER FOR THE ARTS

PRIME MINISTER

FILM INDUSTRY TAXATION

I must register my concern to find some means of helping the UK film production industry, in the light of Nigel Lawson's report to you of 12 June.

I believe the industry has received a body blow with the budget changes to capital allowances, and that a concession on the lines sought by Norman Tebbit would be of enormous value. Film making in this country will remain a high risk operation, and the industry, unlike that of the US, does not have continuous production studios which can take advantage of the standard arrangements for offsetting costs against the income from that expenditure.

I am concerned for three reasons. One is that the reputation of British film, film makers and actors is riding very high in the world at present; very few people would understand the arguments and if (as I think likely) there were to be sustained damage to our film industry the Government would be blamed. Two is that the rapid development of cable and satellite broadcasting must open large opportunities for British software. Three is the effect on the quite considerable amount of skilled and unskilled employment here in film support systems, special effects and the like. I believe therefore that the concession sought by Norman would be a profitable and cost effective form of industrial support.

Copies of this minute go to Nigel Lawson, Geoffrey Howe, Norman Tebbit and Leon Brittan.

G.

LORD GOWRIE
21 June 1984

ECON POL: Film Finance
June '79

E

BF with Treasury response

CONFIDENTIAL

MR TURNBULL
cc Mr Redwood

TAXING THE FILM INDUSTRY

1. The pre-1979 system of allocating film-making expense against revenue worked. The move that year to a system of capital allowances - for an industry which clearly does not build up capital assets - was silly. The Government was right in 1982 to revert to pre-1979 principles, but unwise to allow a long drawn-out transition through to 1987. The film industry is now crying foul at the loss of a perk it should never have enjoyed.

2. It is now lobbying instead for a fixed and generous regime of write-offs which have nearly the same effect. We see no need to establish any kind of fixed regime. Patterns of expense and income differ from film to film and from company to company. It should be left to individual tax inspectors and companies to agree what the allocation of expense against revenue should be - as it was before 1979, and as is provided by Section 72 of the 1982 Finance Act. (I attach the relevant page).

3. We reject two wider DTI arguments for special treatment for the film industry:

(i) "Strategic importance", viz that cable and DBS will not succeed in Britain without a British film industry. We argue the other way round - that the demands of cable and DBS will offer a boost to the film industry.

/ (ii) Tying

CONFIDENTIAL

(ii) Tying abolition of the Eady Levy and attendant paraphernalia to retention of 100 per cent First Year Capital Allowances. Mr Tebbit would like to to see voluntary private funding replace Eady. We support that. But are funding decisions likely to be conditional on the recipient's tax position? Surely it will depend more on that of the subscriber.

4. In summary:

- We support the application of Section 72 of the 1982 Finance Act to the UK film industry.

- We reject modification of Section 72 to provide a fixed regime of write-offs.

- We support, reluctantly, the retention of Capital Allowances through to 1987, on the understanding that these should be at the rates announced in the 1984 Budget.

- We support, abolition of the Eady Levy.

- We reject making abolition conditional upon the retention of 100 per cent allowances or upon further taxes on TV and video.

R.Y.

ROBERT YOUNG

21 June 1984

(b) any reference to a tape is a reference to an original master film tape or original master audio tape; and PART III

(c) any reference to a disc is a reference to an original master film disc or original master audio disc;

and any reference to the acquisition of a film, tape or disc includes a reference to the acquisition of any description of rights in a film, tape or disc.

(3) Subject to the following provisions of this section, in computing the profits or gains accruing to any person from a trade or business which consists of or includes the exploitation of a film, tape or disc, expenditure which—

(a) is incurred on or after 10th March 1982 on the production or acquisition of a film, tape or disc, and

(b) is expenditure of a revenue nature (whether by virtue of subsection (1) above or otherwise),

shall be allocated to relevant periods in accordance with subsection (4) below; and in this subsection and subsection (4) below "relevant period" means a period for which the accounts of the trade or business concerned are made up or, if those accounts are not made up for any period, a period the profits or gains of which are taken into account in assessing the income of the trade or business for any chargeable period.

(4) The amount of expenditure falling within subsection (3) above which falls to be allocated to any relevant period shall be such as is just and reasonable, having regard to—

(a) the amount of that expenditure which remains unallocated at the beginning of that period;

(b) the proportion which the estimated value of the film, tape or disc which is realised in that period (whether by way of income or otherwise) bears to the aggregate of the value so realised and the estimated remaining value of the film, tape or disc at the end of that period; and

(c) the need to bring the whole of the expenditure falling within subsection (3) above into account over the time during which the value of the film, tape or disc is expected to be realised.

10 DOWNING STREET

A. T.

I checked Mr. Tebbit's reference to Section 72 of the 1981 Finance Act.

That deals with medical insurance. A Freudian connection with film industry taxation?

R.J.

10 DOWNING STREET

Andrew

~~Dom~~

Home Office may also want to comment. If so, they will do so before the weekend.

DMB
19/6

CCNO

CONFIDENTIAL

PRIME MINISTER

FILM INDUSTRY

I am sorry to bother you with another piece of paper on film industry taxation, but I feel I have to comment on the covering minute Nigel Lawson sent you on 12 June with the joint paper which my officials, with my agreement ment, had agreed with Treasury officials.

2 I cannot comment on the reassurance that may have been felt by our supporters after the Finance Bill Committee debate, but reading the debate they certainly argued the film industry's case in the reasoned way I have tried to do. Tim Smith's comments in withdrawing the amendments seemed to indicate that he was simply content to wait to see the promised amendments at Report.

3 I can say however, that the industry was certainly not content. Indeed, they feel provoked by some of the arguments used. In particular they challenge the very high cost ascribed to the amendment. John Moore quoted

JH1AKP

figures as high as the £60 million cost mentioned in the Joint Report. Since total film production last year amounted to only about £210 million, of which £70 million was on UK films and £140 million on foreign (mainly US films), the industry believe the Treasury cost estimates are grossly exaggerated - if they are not they show a remarkably high incidence of tax on the industry. Similarly, John Moore suggested that there had been no increase in employment in the industry over the last few years. He conceded that the figures are remarkably difficult to identify from official statistics, but the ACTT tell us that of their 7,000 technician members only 1500 had jobs two or three years ago, while between 5,500 and 6,000 are employed today.

4 However the crux of the matter is whether we can make a concession without undermining the Budget strategy on capital allowances. I am afraid I am not impressed by the representations of the Equipment Leasing Association who appear to be under the mistaken impression that the industry is continuing to seek special capital allowance privileges. In fact as the joint note explains, the industry now accept the loss of capital allowances. They believe and I also continue to believe that by operating on Section 72 of the

1981 Finance Act, we can avoid this problem. In debate, John Moore conceded as much when he said that under Section 72 we are not dealing with capital allowances but with the method of write off of current expenditure. He also conceded that this was generally "determined by accountancy and tax principles", and that Section 72 was unusual since "it provides a specific basis for writing off expenditure on films as a revenue expense". The nub of the case is that the Treasury claims that Section 72 as it stands is an appropriate basis to apply to the UK film industry, while the industry argue, and I support, that Section 72 is based on US accounting practices which are inappropriate to the UK industry.

5 I believe we could mmodify Section 72, either as the industry has suggested, or in some other way, without prejudice to the Budget strategy while at the same time allowing us to publish the White Paper on lines which colleagues accepted as sensible when we gave priority to the necessary legislation.

JH1AKP

6 I am copying this minute to Nigel Lawson, Geoffrey Howe, Leon Brittan and Grey Gowrie.

NT

N T

18 June 1984

Department of Trade and Industry

JH1AKP

CCND ✓

Await DTI

Treasury Chambers, Parliament Street, SWIP 3AG
01-233 3000

PRIME MINISTER

FILM INDUSTRY TAXATION

You asked for a joint DTI/Treasury note on the taxation of the film industry (David Barclay's letter of 29 May) which I now attach.

2. Last Thursday night, after the note had been completed, John Moore had to reply to a debate on the tax treatment of films in the Finance Bill Standing Committee. While he was careful not to prejudge your decision, he spoke broadly on the lines set out in the paragraphs reporting the views of Treasury Ministers. He reports that the debate generally went well and that Conservative backbenchers seemed satisfied with the explanations he had given and with his assurances about the action to be taken in the immediate future. He does not therefore expect any parliamentary difficulty on this issue at later stages of the Bill.

3. There is one point in the note which I think especially deserves to be drawn to your attention. You will see from paragraph 13 that the Treasury believe a concession to the film industry would be very difficult to contain. The publicity which last Thursday's debate received in the press has already stimulated comments. The Equipment Leasing Association in particular have stressed to Revenue officials that far more important industries (such as those in high technology) have accepted the change in the capital allowance regime, although adversely affected by it. They have therefore threatened that if any special treatment is provided for films, they will withdraw the support they have previously given to the Budget strategy and have suggested that a wide cross section of industry would react in the same way.

4. This view fits in closely with my own assessment. The Equipment Leasing Association represents a large proportion of the financial institutions. In view of the extent to which leasing is being curbed by our proposals, their support for the Budget strategy has not only been valuable in itself but may be taken as a good

indication of City opinion generally. I should be most concerned if that support were jeopardised.

5. I am copying this minute to Norman Tebbit.

NL.

(N.L.)

12 June 1984

FILM INDUSTRY TAXATION

The central issue is whether there is a case for introducing tax rules for the film industry which are more favourable than those currently on offer.

2. Before the Budget the Department of Trade and Industry was in the course of preparing a White Paper on the film industry which would have announced the abolition of the statutory framework in which the industry operates. The proposals included the abolition of the Eady Levy. Ministers had already agreed to the inclusion of a Films Bill in the next session for this purpose.

3. The policy was based on two main assumptions:

(i) Films would continue to qualify for 100 per cent first year capital allowances (FYA's); and

(ii) The substitution for Eady Levy funding of voluntary private sector funding from within the film industry for limited defined purposes. This agreement was negotiated by Mr Baker who believes that it depends on the industry operating within a sympathetic tax regime.

4. Tax regime: Before 1979 expenditure on films was treated as a revenue expense. The normal procedure was for the tax inspector to agree a probable pattern of income for the film and apportion write-off accordingly. In 1979, a legal interpretation required expenditure on film making to be treated as capital investment, so qualifying for machinery and plant capital allowances. That meant that films attracted the 100 per cent first year investment incentive. This change was exploited, partly by people looking for a tax shelter and partly by American film companies using leasing through London in order to pick up our tax subsidy. The 1982 Finance Act (Section 72) brought in rules which applied the pre-1979 principles.

(These principles are on similar lines to accounting practice in the United States, where there is a formal accounting standard for the treatment of films). But British-made films were given a transitional period; eventually, capital allowances for these films were to be withdrawn in 1987.

5. However, the reform of corporate taxation in the 1984 Budget included the phased withdrawal of 100 per cent FYAs from the whole of industry, including film making.

FILM INDUSTRY'S CASE

6. The industry claims that loss of FYAs will have serious effects. They had hoped that by 1987 the Government would agree to extend the capital allowances indefinitely, or at least their continuation until 1987 to which they believe the Government were committed by a PQ in January 1983. The industry's immediate reaction to the Budget was to press for continuation of the 100 per cent allowances but it now recognises that this would not be compatible with the objectives of corporate tax reform. The industry proposes instead that expenditure be treated as a revenue expense, but with the Section 72 rules modified to allow earlier write-off of this expenditure. The proposals are to write-off 50 per cent of expenditure on delivery of the completed film, a further 25 per cent on first release, and the final 25 per cent twelve months later.

7. The film industry's case for this treatment is:

(i) Writing-off expenditure against related income is inappropriate for the UK film industry. In contrast to the US film industry which is able to maintain production companies that make and distribute films on a continuing basis, in the UK films are most commonly made by companies set up specifically for each individual film.

(ii) Most industrial companies receive income on a continuing basis with a large proportion of output sold in the year of manufacture. Thus expenditure can be written-off when incurred. The film industry, however, produces a long term product through one-shot companies and is therefore disadvantaged by the tax regime. Other industries providing "long term" products (eg building construction) match income with expenditure through staged payments, but this is not generally possible with films where the product cannot be judged until it is completed.

(iii) The film industry is particularly affected by the Budget because since 1979 virtually all its costs were treated as capital and therefore qualified for FYAs. The industry claims that this places them in a unique position among production industries: for most companies only a very small proportion of their costs are on capital expenditure.

(iv) Expenditure on items such as script-writing, development of film scores and general preparations for a film are in the nature of current expenditure which does not create "work in progress" of any capital value.

(v) The US dominates the industry with 50 per cent of the market compared to the UK's 4 per cent. International competition is tough, partly because other countries - USA, Canada, France, Germany, Italy, Australia and New Zealand - provide supportive tax regimes or subsidies, or both, for their domestic film industries. This makes film-making in the UK a relatively high-risk business, and is a further reason why films continue to be made on a one-off basis.

(vi) The UK film industry has been something of a success story over the last few years. There have been a number of highly successful British films, and we have also achieved a world-wide reputation for special effect films, which are generally financed from US sources. Expenditure by US film companies on goods and services in the UK last year was about £140m. A film can cost about £30m; but film making is highly mobile.

THE VIEWS OF INDUSTRY MINISTERS

8. Industry Ministers accept the film industry's arguments that without modification of the regime on offer the industry will contract: the DTI estimate that UK film production might fall by between one-third and one-half. Industry Ministers argue that Section 72 is already a special provision for the film industry, but it requires

modification to introduce a write-off procedure more consistent with UK film industry practices, although not necessarily the one proposed by the industry. The reasons are as follows:

(i) They agree that the tax system should aim to be neutral in its effect on economic decisions, but argue that the strict application of Section 72 would be a departure from neutrality because of the nature of film making in the UK.

(ii) As they see it there would be no conflict with the Budget strategy, particularly as it is likely that the industry would accept modifications of Section 72 which would exclude the use of leasing, which was the means by which tax losses were absorbed by businesses unconnected with the film industry.

(iii) Some arrangement along these lines would enable the Government to publish a White Paper on the lines originally intended.

(iv) If the case is not accepted there would be a need to reconsider proposals to abolish the Eady Levy and associated quangos so as to provide alternative forms of financial help to the industry, such as levies on television and video.

9. Industry Ministers are also concerned about the inter-dependence of films, cable and DBS. It is important that the UK film industry should continue to thrive so that it can meet the increasing demand for its products to feed cable and DBS. The alternative would be to lose these media to US film products.

TREASURY MINISTERS' VIEW

10. The effect of the proposals would be to give film making much of the advantage of 100 per cent FYAs. It would imply a significant breach of the general tax principle that expenditure should not be written off until it can be matched against the income arising from that expenditure. The revenue costs would be as follows:

£ million

1986*-87	1987-88	1988-89	1989-90
35	65	50	50

*FYAs finally withdrawn 31.3.86

11. Treasury Ministers do not accept that a faster write-off of expenditure would be neutral. It would allow companies to create tax losses which could be cashed in. And only if investors or production companies could do this would the changes be of any use to the industry.

12. A modified Section 72 would thus conflict with the Budget, which was to move to an even-handed corporate tax system that would not discriminate in favour of or against any particular type of asset or sector of industry. Investment in films, or in any other activity, should be primarily attracted by genuine pre-tax returns, rather than by the distorting effect of tax subsidies. Deliberately to introduce a new regime for films would be seen as perverse and a weakening of Ministerial resolve to carry through the overall strategy.

13. Many other industries (shipping, cable, agriculture, computers) are pressing strongly to be exempted partly or wholly from the Budget changes. A concession to the film industry would be very difficult to contain.

14. The concession would be expensive (paragraph 10), and worse if it spread. There are no obvious reasons why the film industry should be regarded as special. If this money "buys jobs" in the British film industry, it will also result indirectly in lost jobs and production in other industries. And in the majority of cases, the benefit of the subsidy goes to foreign investors, particularly Americans, who also retain the profits. This is too high a price to pay.

15. Treasury Ministers do not accept the film industry's argument that normal accountancy and tax principles discriminate against the industry. Many other industries produce long term products. Matching of expenditure with the related receipts is the required practice throughout industry, and the rules ensure that in these cases neither losses nor profits are anticipated for tax purposes. The fact that British films are often produced by a one-off company, rather than by companies with rolling programmes, is irrelevant.

16. It is a fallacy to think the clause could be successfully amended to leave out leasing. Either the early write-off needs to be available for non-film companies, such as the banks, or there would be little purpose in making the change because American or institutional finance would have no ready channel for entry.

17. However, Treasury Ministers are prepared to do what they can to help the industry in ways consistent with the Budget strategy. Essentially these are:

(i) British films will continue to be entitled to capital allowances until 1987 as promised in PQ of January 1983, though the allowances will now be at the new depreciation rate for machinery and plant generally, which is all the industry could have reasonably assumed. This will now be made permanent. In practice most film makers will prefer to be taxed under Section 72 and they will be allowed to choose this treatment instead of allowances if they so wish. The Finance Bill will be amended to provide for this option.

(ii) The possibility of bringing films within the Business Expansion Scheme (BES) is being explored, and this will also be provided for in the Finance Bill. This is a measure which will be particularly helpful to the smaller high risk independent UK production company. (It will not however apply to the larger companies for whom the write-off provisions are the prime consideration).

IN SUM

18. The central question is whether Section 72 of the 1982 Finance Act should be modified in the interests of the film industry.

- If Ministers judge there is no case for modification it will be necessary to review the proposed White Paper, and possibly to consider alternative methods of raising funds for the film industry.

- If Ministers decide that there is a case for modification the major question is how the concession could be ring-fenced to contain the revenue consequences and damage to the aims and strategy of the Budget, and what level of support should be provided.

19. This paper has been prepared by the Treasury and agreed with the Inland Revenue and the Department of Trade and Industry.

H.M. TREASURY
JUNE 1984

Econ Pol

June 79. Film Finance

CC/PO

Await DTI note

5/6

FCS/84/161

CHANCELLOR OF THE EXCHEQUER

The Film Industry

1. I have seen a copy of Norman Tebbit's letter to you of 23 May. The situation he describes is a serious one. I have also seen that the Prime Minister has asked for a note setting out the issues for decision.

2. As I was responsible as Chancellor for introducing the 100% tax allowance in the first place, I naturally have a particular interest in this problem. I would like to see our film industry capable of taking the fullest advantage of overseas opportunities now and in the future. Good quality British film for cinema and video audiences, properly marketed overseas, can play an important part in demonstrating British culture and achievements and thus powerfully complement our official information effort. New technology makes this an increasingly important factor. Wider opportunities exist. But, as Janet Young was disturbed to see on her visit to Latin America earlier in the year, the British film industry is not geared to exploit them although the commercial return could be substantial.

3. I would therefore give strong support to proposals aimed at developing in the British film industry the confidence and capability to take full advantage of openings in the world market. In terms of acknowledged talent and expertise the industry is uniquely placed to do so.

4. I am copying this minute to the Prime Minister, also to Norman Tebbit, Leon Brittan and Grey Gowrie.

(GEOFFREY HOWE)

Econ Pol. June '79

Future Industry Policy

File

cc JR

088

10 DOWNING STREET

From the Private Secretary

29 May 1984

FILM INDUSTRY

The Prime Minister has seen copies of your Secretary of State's letter of 23 May to the Chancellor about the film industry, and of the Chancellor's reply dated 24 May.

BF

The Prime Minister would be grateful if a note could be prepared jointly by your Department and the Treasury setting out more clearly the background to the current correspondence, the considerations which the Government has to take into account, and the issues for decision.

I am sending copies of this letter to David Peretz (H.M. Treasury), Peter Ricketts (Foreign and Commonwealth Office), Nigel Pantling (Home Office) and Mary Brown (Lord Gowrie's Office).

David Barclay

Callum McCarthy, Esq.,
Department of Trade and Industry.

CX/O

Treasury Chambers, Parliament Street, SWIP 3AG
01-233 3000

The Rt Hon Norman Tebbit MP
Secretary of State for
Trade and Industry
Department of Trade and Industry
1-19 Victoria Street
London SW1H OET

24 May 1984

Dear Secretary of State,

FILM INDUSTRY

Thank you for your letter of 23 May about the impact of the Budget changes on the film industry.

Of course I understand your difficulties with your review. But whatever tax treatment we apply to films must be consistent with the corporate tax policy we introduced in the Budget. Even-handed treatment across the board is fundamental to the success of that policy. I do not see how we could justify picking out the film industry alone, from the whole of British industry, and bend the Budget strategy for it. You will be as aware as I am of the considerable adjustments that a number of important industries are having to face up to:shipping is the most obvious example. To go now and deliberately introduce a new distortion would be both perverse and asking for trouble. It would also be seen as a very odd sense of priority to select this industry, when, under the system we are dismantling, the profit from successful films - and hence the tax subsidy - has largely flowed across the Atlantic for the benefit of major American production and distribution companies.

I think it is fair to say that when you and I discussed the corporate tax changes before the Budget, we recognised that there would inevitably be some companies and industries which would be disadvantaged, at least in the short term. That was a consequence which was at the heart of our reforms. We also both recognised that the film industry would be in that position and that it would be the source of some of the most vocal opposition to the changes; that was why I agreed with your proposal that we should remove the terminal date for allowances.

Nothing has changed since then. As you know, the reforms have been widely welcomed as setting us on a new and more productive course, even by many who are unlikely to be among the immediate beneficiaries. Largely because of this, we have been successful in resisting pressures which would damagingly nibble away at the edges of the strategy. The arguments put forward by the film industry contain nothing that we did not expect, nor anything that is in essence different from the claims of other industries similarly placed.

It follows that I believe it would be a great mistake to make any concession for films that would run counter to our main proposals. You suggest that the Inland Revenue might be able to accommodate something. This is not a matter that the Revenue can or should determine, but for us to settle as a matter of policy and of law.

This leads me to other ways of helping the industry, which would be consistent with the Budget strategy.

First, as we agreed, I have announced that British films - ie those your Department certifies under the Eady arrangements - will be entitled to capital allowances beyond 1987, which had been their termination date for films. But this will be allowances at the normal current rate for machinery and plant generally, and I recognise that once the first year allowances have been eliminated most people in the industry will prefer to be taxed according to the special formula set out in Section 72 of the 1982 Finance Act, because this will tend to be more favourable than the 25% annual writing down allowances. So, second, I have already said that I am prepared to introduce a provision into the Finance Bill which will allow investors in films to choose Section 72 treatment instead of the allowances. The Section 72 formula is designed to produce a tax neutral system for writing off expenditure, and so it is entirely consistent with our strategy. This is a firm commitment, and we are discussing its details with the industry. I shall bring forward an amendment at Report to cover the point.

Third, I am considering a new measure for films. John Moore is urgently considering what changes would be needed to enable investment in film production companies to benefit from the Business Expansion Scheme (BES). Though our discussions with the industry are still at an exploratory stage, we are reasonably confident that an acceptable way of doing this can be found, and one which is consistent with the underlying aims of the Scheme. My intention is to introduce the necessary amendment to the BES legislation at Report Stage of this year's Finance Bill.

I regard this as an important concession (especially as we are resisting pressures to open up the Scheme in a number of other areas). It is one which should be particularly helpful to the smaller, high risk independent UK production companies, which the industry representatives themselves say they are especially keen to encourage.

I am sorry not to be able to offer you help with a special concession for writing off film costs generally. But the BES change would be worthwhile and demonstrate our concern for the industry without undermining our overall strategy.

I am sending copies of this letter to the Prime Minister, Geoffrey Howe, Leon Brittan and Grey Gowrie.

Yours sincerely,

Richard Simpson

NIGEL LAWSON

(approved by the Chancellor & signed on his behalf)

CC NO.

Prime Minister (2)

To note this debate. The Chancellor has offered some concessions which do not undermine the principles of the CT reform

Perhaps I can have a clearer note about what this really means.

I have had the whole cttee over the weekend for the industry

PRIME MINISTER

FILM INDUSTRY

We now know that DTI think the Chancellor's offer is inadequate in the face of the pressures from the film industry. AT 24/5.

My review of the film industry, which was virtually complete when we agreed to include legislation in the next session, has now met with what seems an insuperable obstacle. I have written to the Chancellor of the Exchequer as attached to see whether we can find some way through the problems.

NT

N T

23 May 1984

Department of Trade and Industry

JH1AED

CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5422
GTN 215) ....
(Switchboard) 215 7877

Secretary of State for Trade and Industry

23 May 1984

The Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
H M Treasury
Parliament Street
LONDON SW1

D Nigel,

FILM INDUSTRY

I am very sorry to say that our review of the film industry has run into difficulties, which threaten to bring it to nothing. It is no one's fault, but it had been constructed on the basis of an expectation that the 100% tax allowance would continue. Alongside this Kenneth Baker had raised private sector money which would have allowed us to dismantle the statutory regulatory regime under which the film industry now operates, and allow the Government to escape from its involvement in film industry quangos interventions and the Eady Levy system. When I was a Parliamentary Under Secretary here I tried to extricate us from this regime but failed at the time, so you can understand my wish to accomplish the escape at last!

2 There were good reasons for restructuring corporate taxation and I understand why you are reluctant to make special arrangements for the film industry. However, in trying to safeguard the tax flow there is a real danger that we shall get no tax at all from the film industry which I am satisfied will be very seriously affected as matters now stand.

3 Consequently unless we can come up with some creative ideas we would be forced to consider reversing our policy and to go back to the quangos, not only continuing the Eady Levy but also widening it to video tapes and to TV. The only alternative is to see the virtual collapse of the film industry in Britain.

4 I need your help. It does not seem a satisfactory response to apply a tax regime which is appropriate to the US film industry (but without tax credits) to our quite different industry. We still think it should be possible for the Inland Revenue to accommodate something. It would have a cost but I believe if we take a realistic view of the alternative, the cost would be very

JH1AEC

little, though I understand that the Inland Revenue see great difficulty. If the Treasury's present approach is maintained we would have to go back to the Eady Levy and Quango system which I believe we would all find unpalatable.

5 I understand this may come up on the Finance Bill as early as Thursday of this week. There are amendments down in the name of William Clark and others, and I know that William is incensed by what he considers a breach of our undertaking to retain 100% allowance until 1987 for the film industry. I think it too much to ask that we settle this before the Debate but I hope John Moore will not take too negative a view nor shut the door on all options while we consider matters further.

6 I am copying this letter to Leon Brittan and Grey Gowrie, who have a direct interest, and to Geoffrey Howe since the industry is a valuable contributor to our international reputation. I am also informing the Prime Minister of my concern about the serious situation we face on our film industry review.

Yours
Norman

NORMAN TEBBIT

JH1AEC

Pr Reson
You ought to be alerted to this topic

PETER YATES - INTERVIEW ON JOB LOSS EFFECT OF BUDGET ON FILM INDUSTRY

Transcript from: BBC Radio 4, World this Weekend, 8 April 1984

PRESENTER: It's Oscar time again. The great and the good of the film world are gathering in Hollywood for the handing out of the magic gilt doorstoppers, which over the last couple of years have been weighing down the baggage of British film makers like David Putnam and Sir Richard Attenborough and others associated with Chariots of Fire and Ghandi. But this time, despite further hopes for British Oscars, dire warnings are being sounded about the future, or the possible lack of future, of the British film industry. There are already clouds of uncertainty over the future of the National Film Finance Corporation and of the ED levy, which gives a percentage of box office takings back to producers. And those clouds darkened dramatically when, in his Budget speech, the Chancellor, Nigel Lawson, announced that he was to scrap what have been a major incentive for people who invest in film making, the capital allowances which permit investors to write off film losses against tax. Kenneth Baker, the Minister for Information Technology, who is preparing a White Paper on the film industry, seems to have been as taken aback as the film makers themselves, and they could hardly believe it. The Superman people, wo've spent £75 million in Britain over the past 7 years, are now reported to be on the verge of pulling out. Others could follow. This morning in Hollywood, Peter Yates, the producer director of one of Britain's most hopeful Oscar hopefuls, the Dresser, told Stephen Puttiman that he was deeply concerned for the future of British film making:

YATES: It's extremely disturbing because it's really the third blow that we've had in a very, very short period. The other two points that I'm referring to are obviously are the virtual eliminating of ED at the end of this year and the phasing out of the NFFC, and these are all methods of encouraging British films and therefore ways of finding employment for British technicians. British technicians have been very lucky in the last few years really with the number of of American financed films coming in, all encouraged to come here by Government subsidies like the tax money. And also there's been a feeling, I think, out of England that the British film industry has suddenly begun to live again, with films like Chariots of Fire and Gandi and - I humbly say - the Dresser this year. You know, they look to England for films of quality. And I think that the rule for people benefiting from the tax was that the films should be British, that it should employ 80% British technicians, British actors. It was a wonderful way of encouraging people to work in England, encouraging people to give English people work. So to start taking it away and cutting away at it is going to be very very damaging and is bound to effect the employment of everybody in the British film industry

INTERVIEWER : Could these films, these prominent films, such as your own film The Dresser or Gandi, Chariots of Fire, would these films have still been made in Britain if these incentives had not been available?.

YATES: As far as the Dresser's concerned; the money was raised entirely from British sources, both from World Film Services and from Goldcrest. And John Haman of World Film SErvices has specialised in being able to guide people through and show them how they can take advanatage of the tax benefits that were there before. And so I doubt whether he would have had the money in the first place to help finance. But definitely it wouldn't have been nearly so easy to interest Columbia when the film was finally sold to them if they knew they didn't have the benefit . One of the ways that I as able to encourage people to make a film like Crow, which, after all, was a film which spent almost $27 million in England, was because they knew that they could benefit enormously from the tax position. England has really I think always underated the prestige that is possible through the showing of films in other countries. They can be wonderful ambassadors. They can also encourage exports. I found that when we were selling The Dresser in America, for instance, we were gettng an awful lot of help from the Foreign Office, from our Embassies and from our Consulates in America, wh... was marvellous. For instance, we had a premiere of The Dresser in which Huston. Now they tied that in with an English week. And that English week was promoting and introducing Britsh businessmen to American businessmen. It all helps, it all helps give a feeling of a country that has something to offer. They begin to build again that feeling that anything British is of good quality and worthwhile.

CONFIDENTIAL PCC (80) 6

Econ Pol.

✓ MJS

FILMS BILL

It is hoped that Members will find the attached notes useful for the debate at Second Reading on Friday, 25th April 1980.

Contents

Conservative Research Department,
32 Smith Square, London SW1

RN/JV
24.4.80

1. Purpose of the Bill

The purpose of the Bill is essentially two-fold:-

i) To prolong to 1985 the existence of the National Film Finance Corporation with additional powers, and to put it on a new and more sound financial footing, by writing off its accumulated debts of £12.9 million which it has no prospect of repaying, by diverting to it at least £1.5 million a year from the Eady levy, and by permitting it to borrow increased sums on the market without Treasury guarantee, thus discontinuing the 30 year drain on public expenditure whilst providing improved assistance for British films;

ii) To extend to the end of 1985 the quota system and the Eady levy, which would otherwise expire this year, for the benefit of the British film industry, and to allow for the suspension of the quota in certain circumstances, to redefine the quota entitlements as required by the Treaty of Rome, and to make certain technical changes.

2. The National Film Finance Corporation

The NFFC, which took over the assets and liabilities of the National Film Finance Company Limited, was established by the Cinematograph Film Production (Special Loans) Act 1949 for the purpose of making loans for the production and distribution of films. It was itself funded by loans from the Board of Trade, with the maximum aggregate amount of principal outstanding at any one time fixed at £5 million, and was intended to operate thereafter on a self-financing basis. If the Treasury were satisfied that there was no sufficient reason for the NFFC to continue in being, it was empowered to dissolve it. The provisions were expressed to run for 5 years.

It was not - and never has been - required to confine its assistance to British films, although in practice it has always done so. But it is important to note that the Bill was designed to provide only a temporary boost to the British film industry, and not a continuing means of subsidy, at a time of acute dollar shortage and balance of payments constraints which would have been aggravated by an excessive import of American films. As the President of the Board of Trade, Mr. Harold Wilson, said on Second Reading:

> "The money that is being provided is limited to £5 million, and the duration of the scheme is limited in time. All loans must be repayable within five years, and after five years from the passing of this Bill new lending must cease. These limits were, of course, set quite deliberately. The industry must so manage its affairs that in five years' time it can raise money on its own credit in the normal way, just as any other industry needing large-scale finance must do. The Government have no intention of subsidising the film industry. I have said that on a number of occasions, and I hope that fact has been well marked in the industry itself" (Hansard, 2nd December 1948, Col. 2188).

The repayment limit was increased to £6 million by the CFP (Sp. L) Act 1950, the NFFC was permitted to borrow on the private market up to a limit of £2 million by the CFP (Sp. L) Act 1952, and the provisions were extended for 3 years by the CFP (Sp. L) Act 1954. However, s.1(i)(b) of the 1948 Act had imposed a condition on the NFFC that its loans could be made only to those who "while having reasonable expectations of being able to arrange for the production or distribution of cinematograph films on a commercially successful basis, are not for the time being in a position otherwise to obtain

..../

adequate financial facilities for the purpose on reasonable terms from an appropriate source". This made the NFFC inherently unprofitable from the beginning. As the President of the Board of Trade, Sir David Eccles, explained on the Second Reading of the Cinematograph Films Bill 1957:

> "When the Labour Government set up the National Film Finance Corporation there was no levy. The risk was, therefore, great that a film would fail to earn enough to cover the cost of production. Under those conditions it was not surprising that the Corporation was to lend only to producers who could not get their money elsewhere and that in doing so the Corporation made losses" (Hansard, 27th February, Col. 1237).

The prime objective of the 1957 Act was thus to assist film producers and employees by making the levy (which had existed since 1950 on a purely voluntary basis) statutory, in consequence of which it was supposed that the NFFC would receive more adequate returns on its loans to producers. The condition in s.1(i)(b) of the 1948 Act was repealed, and s.11 obliged the NFFC to pay its way in respect of loans received after the passing of the Act. As Sir David reiterated, "It is necessary to make this clear - that the Governemnt do not intend to subsidise the production of films through the Corporation" (Col. 1238). It was further envisaged that British producers, enriched with receipts from the levy, might render the NFFC obsolete, and s.12 accordingly provided for the possibility of a British company buying it up. The relevant provisions in previous Acts were renewed for 10 years, and the Films Act 1966 extended them for a further 3 years.

The Labour Government's Films Act 1970 increased the NFFC's repayments limit to £11 million, provided for it to participate in joint ventures with private capital, permitted it to make loans to producers and distributors for the additional purpose of acquiring script copyrights, and wrote off its liability to repay interest on loans made between 1954 and 1964 falling due after the passing of the Act. The joint venture arrangements led to the establishment of a Consortium, a partly owned subsidiary with a total fund of £1.75 million, of which £750,000 was contributed by private sector partners. Another subsidiary, the National Film Development Fund, was set up by the Cinematograph Films Act 1975, with limited funding from the levy for the purpose of financing pre-production work, mainly script-writing.

The NFFC has now reached its ceiling of £11 million principal owing to the Government, and owes a further £1.9 million in interest. There is no practical possibility of this money being repaid. In order to decide whether the NFFC should continue in existence, and if so with what source of finance, one has first to consider the overall position of the British film industry and other existing means of support.

..../

3. The Quota

The most ancient means of support for the British film industry is the quota system, which was established by the Cinematograph Films Act 1928 and subsequently consolidated in the Films Act 1960, to run for 7 years. The 1966 Act extended the provisions for 3 years, and the 1970 Act prolonged them to the end of 1980. They obliged exhibitors to ensure that at least 30 per cent of the films they showed were British. A film was defined as British if (i) its makerwas a British subject or company, and if the latter, that the majority of directors were British; and (ii) it was made in a British studio or on location in Britain; and (iii) a specified proportion of labour costs were payments to British subjects. "British" was taken to include the Republic of Ireland and the Commonwealth, and s.8 of the European Communities Act 1972 added Community films to the beneficiaries.

The quota has been understandably popular with British film producers and particularly with the trade unions, but resented by the distributors and exhibitors, as much for the excessive bureaucracy involved in complying with the requirements as for the smaller audiences resulting. It does seem to run counter to what one would normally expect of a market, as was noted by the Second Report of the Interim Action Committee on the Film Industry:

> "To the extent that the quota obliges cinema exhibitors to replace foreign films with British films which bring in less money, the exhibitors are bearing a financial penalty for supporting domestic production. Ironically the Eady fund thereby receives less money than it otherwise would, and thus the benefit of the quota to the producer is to some extent diminished."

The addition of Community films to eligbility and the use of cheap sex films to achieve the quota prompted the Cinematographic Films Council to set up a sub-committee to review the system. In its latest annual report (30th October 1979, HC218), it made the following recommendation:

> "The sub-committee considers that the quota system does not fulfil its original purpose of stimulating British film production and can require the screening of films that exhibitors consider undesirable. It therefore recommends the introduction as soon as parliamentary business allows, of legislation which would suspend quota requirements, with power to review such suspension and to reintroduce some such requirements if it were found necessary. It additionally recommends that this suspension should not preclude consideration of the levy or of other means to encourage the production of British films."

While renewing the existing quota obligations to the end of 1985 in Clause 5 of the Bill, the Government are giving effect to this advice with careful qualifications in Clause 7, and it should be seen as an experiment the results of which would be valuable in themselves, not as a final decision taken without regard to its practical consequences. In addition, two technical amendments are being made. The first arises from the recent growth in multi-cinema complexes. It is an obvious absurdity that films have to be moved from one screen to another within the same building in order to satisfy the quota requirements for each individual cinema, and Clause 6 therefore enables the requirements to be satisfied by the building as a whole. The second change relates to the restriction of quota benefits to films with British labour costs, which is in breach of Article 48 of the Treaty of Rome. Clause 8 therefore enables the labour costs of a film registered as British to include payments to citizens of other member states. The regulations will subsequently be amended to confine eligibility to British films which are actually made or processed in Britain, so there is little danger of EEC films gaining at British expense.

..../

4. <u>The Eady Levy</u>

The Eady Levy, named after a civil servant called Sir Wilfred Eady, is a levy on exhibitors' takings which is distributed to British film producers and various bodies. It was set up on a voluntary basis by <u>Mr. Wilson</u> in 1950 and put on a statutory basis for 10 years by the 1957 Act, which set up the British Film Fund Agency to distribute the proceeds after making a small grant to the Children's Film Foundation Ltd. It yielded £3.25 million in the following year. This was extended for 3 years by the 1966 Act and for a further 10 years by the 1970 Act, i.e. until October 1980, which attests to the urgency of the Bill. The latter also enabled the BFFA to make grants to the British Film Institute and the National Film School, and the 1975 Act enabled it to make grants to the NFDF, as mentioned above.

The annual yields from the levy remained steady at about £5 million for a number of years in the early mid-1970s as higher seat prices offset a fall in cinema attendances. The BFFA's latest annual report (24th July 1979, HC189) showed that the levy yielded £6.6 million in the year to September 1978, of which £248,000 was given to the CFFL, £80,000 to the NFFC on behalf of the NFDF, £33,000 to the BFI and £26,000 to the NFS. It subsequently rose to about £7 million, despite changes in the regulations in 1978 which were estimated to cut the yield by £2 million.

The regulations under the Acts which govern the collection and distribution have recently been amended (<u>Lords Hansard</u>, 13th December 1979, Cols. 1396-1404). In order to provide relief for hard-pressed exhibitors, the exemption threshold of weekly takings was raised from £1,100 to £1,400, the marginal rate of levy was reduced from 25 to 20 per cent and the normal rate was changed from one-ninth of the ticket price less 1½ pence to one-twelfth of the price, in both cases net of VAT In order to prevent immensely successful long films, and short films which had the good fortune to be featured with them, from taking a disproportionate share of the levy, maximum ceilings of £500,000 and £50,000 were introduced for each. And the 2½ times multiplier for low-cost long films, which was originally designed to benefit films made specially for second features but now gives notorious assistance to cheap sex films, has been abolished. As <u>Lord Trefgarne</u> said: "It has understandably been suggested that such films should receive no levy, but the levy system is not an appropriate for censorship" (Cols. 1404-2). Censorship already exists: it originated under the Cinematograph Films Act 1909, and is now exercised by the GLC and district councils elsewhere as licensing authorities, whose normal practice is to go along with the recommendations of the British Board of Film Censors.

The new regulations were welcomed by the Opposition and are estimated to cut the yield by £1½-2 million in a full year. Nevertheless, the levy is expected to yield an annual £6-7 million and to boost the average gross receipts of qualifying films by about half. Nor (unlike the quota) does it extend to Community films. It is thus an extremely important and reasonably popular source of finance to the British film industry.

5. <u>Financial Reconstruction</u>

<u>Sir Leo Pliatzky</u>'s Review of Policy on Film Finance, published in June 1979, revealed that since the war the number of screens had dropped by two-thirds and the number of admissions by over 90 per cent, owing mainly to the rise of television. Flea-pits in the provinces have disappeared almost entirely, and only parts of the West End can guarantee full capacity. Nonetheless, there were 127 million cinema admissions in 1978 (with box office takings of £120 million), which is 3 to 4 times the number of theatre admissions and 5 times the number of football league admissions. Employment is impossible to estimate, apart from about 12,000 people employed in exhibition, partly because the industry is internationally very mobile and partly because of the interchange between films and television. It is

....../

dependent far more on American investment, which amounts to some two-thirds of British film production, than on Government support. For example, American investment dropped from £173 million between 1965-71 to £66 million between 1972-77, which resulted in drastic cuts in the permanent staff at the studios. No Government could ever contemplate making up that level of difference.

The question of whether the state should have any business at all in the financing of British films has been much discussed, and most people conclude that it should, not for reasons of job "creation" but because certainly the quality and probably the existence of genuinely British films, reflecting a British way of life and satisfying British tastes, would be endangered if commercial success depended solely on the giant American distribution circuit, which generates 60 per cent of world gross receipts as against 4 per cent for the UK. Support from the NFFC and the Eady levy can make all the difference between whether a film is or is not made, and the very prospect of support is a catalyst for development. The NFFC has advanced over £31 million and contributed to the financing of more than 750 feature films and 170 short films, at a net cost to the taxpayer of £70,000 a year, which may be considered an impressive record. But public expenditure constraints rule out a continuing Government subsidy, and there is no question in any case of the NFFC now supporting 50 films a year as it did in the 1950s.

Sir Leo's review pointed clearly to the eventual solution, which was announced by the Secretary of State for Trade, Mr. John Nott, on 26th July 1979 (Hansard, Cols. 395-6) and incorporated into the Bill. The NFFC's debts will be written off, and a £1 million loan was announced on March 4th to enable it to function until the proposals are enacted. It will receive a final grant from the Government of £1 million, and an annual grant of £1.5 million or 20 per cent of the Eady fund, whichever is the greater. Its commercial borrowing limit will be raised from £2 to £5 million, and there will be no Treasury guarantee aside from the possibility of dissolution. Various Government controls over its activities will be removed, and it will be empowered to make loans or otherwise give financial assistance for pre-production purposes. The arrangements will come up for renewal at the end of 1985.

This package gives the NFFC two things it has always lacked - an assured annual income, and one which will not have to be repaid. The NFFC, in its latest annual report (3rd March 1980, HC456) reckoned that it will be enabled to support 4 or 5 films a year, which is an improvement on the average of 3½ over the past 5 years. Although its commercial borrowing powers were used only once in the 1950s, its new structure will be conducive to regular short-term borrowing. The most important decision the Government had to make was to determine the proportion of the Eady fund to be distributed on a fixed basis under the regulations as against a discretionary basis by the NFFC, and the vast majority of the film industry has strongly welcomed the continuation of the fixed basis of allocation of the greater part of the fund. The Government's decision also follows the recommendation of the Prime Minister's Working Party in January 1976 that " it would be wholly in keeping with the principles on which the Eady levy was based for one-fifth of its total annual yield not exceeding £1 million to form part of any new resources".

6. Other Matters

The first major review of films policy was initiated by Mr. Wilson's appointment of the Prime Minister's Working Party, chaired by Mr. John Terry, in August 1975. Its report 'The Future of the British Film Industry' (January 1976, Cmnd. 6372) contained 39 recommendations including the proposal that a British Film Authority should assume responsibility for film functions at present exercised by the Departments of Trade and Education. It would absorb the Cinematographic Films Council (established by the Cinematographic Films Act 1938 as an advisory body with representatives of all the different

..../

nterests, which has proved detrimental to a united approach), and lso the NFFC. This was supported by the first report of the Interim ction Committee on The Film Industry, 'Proposals for the setting up f a British Film Authority' (January 1978, Cmnd. 7071), which had een appointed by Mr. Edmund Dell in April 1977 with Sir Harold Wilson s its chairman. The British Film Producers' Association also avours the proposal on the grounds that it would be a strong voice or the industry in overseas promotion, e.g. at the Cannes film estival. The Government have not yet come to a conclusion, but it ould require major legislation for which there is no time in the resent Bill.

The IAC'ssecond report was entitled 'The Financing of the ritish Film Industry' (June 1979, Cmnd. 7579), and its third report as entitled 'Statistics, Technological Developments and Cable elevision' (March 1980, Cmnd. 7855). There are 2 more reports to ome. The fourth, expected in the summer, will cover trade practices nd the barring and allocation of product, and will doubtless also e concerned with the consequences of four distributors (EMI, Rank, lassic and Star) owning half the screens in the country, mainly he best ones. Producers frequently assign their pre-production rights nd profits to distributors, and there continues to be controversy espite the Monopolies Commission's 'Report on the Supply of Films or Exhibition in Cinemas' (1966, HC206) and the extension of estrictive practices legislation to services in 1976. The Commission aid that the only solution to the imbalance would be the drastic ne of breaking up the circuits; instead, an independent Trade isputes Committee was established as a means of appeal. While only tenth of all films make a profit, thus causing distributors to rely n recouping their losses from blockbusters, the Government are not omplacent about the present position. The IAC's fifth report will over relations between the film industry and television, such as hether part of the levy on the excess profits of the Independent elevision Companies should be diverted to film production, whether xpenditure by ITV companies on the production of films for initial howing in cinemas should be deductable for the purpose of the levy, nd what principles should govern the televising of films produced for he cinema.

onservative Research Dept.,
2 Smith Square, London SW1

RN/JV
24.4.80

DEPARTMENT OF TRADE 1 VICTORIA STREET LONDON SW1H 0ET Telephone 01-215 7877

NJS

Econ Pol

✓ MS

From the Secretary of State

The Rt Hon Norman St John-Stevas MP
Chancellor of the Duchy of Lancaster
Cabinet Office
Whitehall
SW1

13 March 1980

Dear Norman,

? rets on string 010 in Private Office

Thank you for your letter of 4 March seeking my views on the likely Parliamentary reaction to the Films Bill. I did not reply earlier as I knew that Norman Tebbit would be dealing with the points you raised at the Legislation Committee meeting on 11 March. In view of the decision at that meeting to defer giving the Bill a place this session until after Cabinet discussion of the programme, I think it might be helpful to explain in some detail why the Bill is needed in this session.

I listed in my letter of 22 February the three imperatives that compel us to put the Bill forward at this time. They are:

a) to renew the power to impose the levy, which expires in September and which is required for future financing of the National Film Finance Corporation (NFFC), in place of the public money which has hitherto supported it;

b) to give effect to the announced financial reconstruction of the NFFC, which is almost out of funds;

c) our undertaking to the Commission to include in the Bill our solution to their Article 169 proceedings.

While all these points are both vital and interdependent it is the film levy, (collected at the box office and thus trade money not Government finance), which is at the heart of the matter. Not only is it to finance

From the Secretary of State

the Corporation in the future, but its distribution provides the strongest incentive we have for foreign financed films to be made in our studios. The producers and the unions would be up in arms if the levy were to lapse. Even if the hiatus were to last only a few months, makers of films contracted to be released in that period could justifiably complain that they had been deprived, by what would appear to be Government ineptitude, of the levy earnings they had budgeted to receive. To restart the machinery of collection would also present practical problems.

I believe that the vital nature of these measures means that there should be no untoward obstruction in either House. Those - and there are not a few - who have the interests of the film industry at heart, will not I think wish to delay what constitutes an essential transfusion for the NFFC and the extension of two powers (the other in the film quota which expires this year) that assist the whole industry.

I do not think any opposition can be long sustained on the case for a British Film Authority (BFA). This is a quite separate and major subject, which is not precluded by this short Bill. I had a formal meeting with Harold Wilson and some of his colleagues a fortnight ago and he accepts that under the present financial circumstances I have taken no decision on a BFA and that the first priority is to sustain the NFFC. Their reaction would however be quite different if we now failed to carry out the reconstruction of the NFFC that I announced in the House last July.

You ask if the Bill could be reduced in scope to give it a clearer financial focus. It already does no more than provide finance for the NFFC and extend the two expiring powers - on one of which the NFFC will depend. The Bill is as lean as it can be, although we have had to add the new very short clause honouring the Treaty obligation on freedom of movement of labour. We undertook to include this if it was accepted

From the Secretary of State

by the Commission, which Davignon has now confirmed. It represents a very generous compromise on the Commission's part. We obtained it after putting considerable pressure on the Commission to the effect that they would be holding up vital UK films legislation if a decision was delayed. If we did not include the short clause giving effect to the compromise arrangement we would be in breach of the understanding with the Commission, not to mention the Treaty, and would run the risk of Article 169 proceedings being re-opened. The detailed provisions arising from the agreement with the Commission have been put aside to be dealt with later by Statutory Instrument so as to keep the Bill as short as possible.

Another problem that would arise from the delay to this Bill is that no other member State has yet reached agreement with the Commission on its film aids. If other States appear to be obdurate the Commission is likely to take a tougher line on film aids, but if our legislation has already gone through with their blessing, desirable but possibly contentious aspects of our system will be safe.

It was suggested at "L" Committee that the exclusion of the EC clause would enable the Bill to be certified as a money Bill, which would speed up its progress through the Lords. I understand that even without the EC clause the Bill could not be so certified as it would still include provisions for the Eady levy. This money is not exchequer money. It represents a system of redistributing film industry money within the industry. As the levy provisions are the main reason for legislating during this session, clearly there is no possibility of excluding them from the Bill.

I appreciate the problem the legislative programme now presents, but I believe that this short Bill, delayed by our successful negotiations with the Commission, cannot be allowed to fail to achieve Assent this session without incommensurate damage to our credibility.

From the Secretary of State

My policy statement last July in the House explained the basis for the present Films Bill, and certainly the industry interpreted it as such. You agreed in your letter of 28 September to Norman Tebbit to the introduction of a Bill which would secure Royal Assent by September 1980. In response to an oral PQ in November I confirmed that we were hoping to present a Bill this session. I have little doubt that failure to enact a Bill during the present session will so disappoint the reasonable expectations of legislation within the film industry, Parliament and in the Commission that we will suffer much time-consuming and often bitter criticism.

I am copying this letter to our Cabinet colleagues, to the Chief Whips in both Houses and to Robert Ferrers. I am also sending a copy to First Parliamentary Counsel and to Sir Robert Armstrong.

Yours ever

John.

JOHN NOTT

Econ Pol

NBPM
PA
MS

Y SWYDDFA GYMREIG
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switsfwrdd)
01-233 6106 (Llinell Union)
Oddi wrth Ysgrifennydd Gwladol Cymru

WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 01-233 3000 (Switchboard)
01-233 6106 (Direct Line)
From The Secretary of State for Wales

The Rt Hon Nicholas Edwards MP

27 July 1979

Dear John

POLICY ON FILM FINANCE

Thank you for copying to me your letter of 19 July to Geoffrey Howe.

I have no comment to make on your proposal to reanimate the National Film Finance Corporation. I agree to the action you propose to take and the text of your draft Written Answer.

I am copying this to the recipients of your letter.

Yours ever

Nick

Rt Hon John Nott MP
Secretary of State
Department of Trade
1 Victoria Street
LONDON
SW1H OET

DEPARTMENT OF TRADE 1 VICTORIA STREET LONDON SW1H 0ET Telephone 01-215 7877

From the Secretary of State

Martin Hall Esq
Private Secretary to the
Chancellor of the Exchequer
Treasury Chambers
Parliament Street
London, SW1

R 26/7

26th July 1979

Dear Martin

POLICY ON FILM FINANCE

My Secretary of State was very grateful for the Chancellor's letter of 25 July and his comments on the draft Statement on Film Finance. I now attach a copy of the final written answer which my Secretary of State has decided on in the light of the comments he received.

I am copying this letter to Tim Lankester (No 10), John Chilcot (Home Office), John Stevens (Chancellor of the Duchy of Lancaster's office) Jim Buckley (Lord President's office), Private Secretaries to EA Committee and Martin Vile (Cabinet Office).

Yours sincerely

Hugh Bartlett

H W BARTLETT
Private Secretary

Mr Durant: To ask the Secretary of State for Trade if he has yet reached any decisions on further finance for the film industry.

As the House has been informed, I have had a special review carried out of the arrangements for financial support for commercial film production in Britain. I am now placing in the Library copies of the report on this subject which was made to me last month.

The Second Report of the Interim Action Committee on the Film Industry (Cmnd 7597) has already been presented to Parliament, and I have had the benefit of personal discussion with the Chairman of the Committee, the Rt Honourable Member for Huyton, and other members of the Committee. In this discussion it was stressed that the most immediate issue is the future of the National Film Finance Corporation, though the Committee continue to support the creation of a British Film Authority in the longer term.

The Government accept in principle that there is a continuing role for a body to help to mobilise finance for the production of British films of an indigenous character. We are not satisfied, however, that this should involve the provision of government funds on a continuing basis. I therefore propose that a financial reconstruction should be effected enabling the NFFC to carry on with a clean sheet, and that the purposes for which funds can be allocated to the NFFC out of the Exhibitors Levy, usually known as the Eady Levy, should be extended so as to make a limited amount available in this way for film production. On this basis I propose that consultations should take place to raise further funds for the reconstituted NFFC from non-government sources. I am also prepared to consider a modest but final Government investment in the NFFC to launch this operation. I hope to set out these proposals in more detail later in the year.

26 JUL 1979

Econ Pol

Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

25 July, 1979

NBRM
R 25/7

Dear John

POLICY ON FILM FINANCE

Thank you for your letter of 19th July.

I entirely agree that there is a continuing need for a NFFC-type body to help mobilise funds for the British Film Industry, but that it should no longer be funded by the Government or backed by Government guarantees. I am glad to see that your proposals for reconstituting the Corporation so that it can raise funds from the private sector can be accommodated within the existing public expenditure provision, and agree that the financial reconstruction you propose is a necessary price for extricating the Government from its commitments in this area. Equally, I agree that we should reject the proposal for a British Film Authority. This would certainly entail increased Government involvement and probably additional public expenditure, which would clearly run counter to our policy objectives. I therefore see no good reason for deferring an announcement on these lines.

As regards the terms of your announcement, I am generally content with the line you have adopted. I would however prefer a slight change of emphasis in the penultimate paragraph to make it clearer that your future consultations will be directed towards finding alternative sources of finance in the private sector rather than the question of a possible financial reconstruction. The redrafted paragraph might read as follows:-

> "..... We are not satisfied, however, that this should involve the provision of Government funds on a continuing basis. I therefore propose to

/to carry

The Rt. Hon. John Nott, M.P.

to carry out more detailed consultations on how to reconstitute the NFFC so that in future it can raise funds from non-Government sources. To this end I would be prepared to agree to a financial reconstruction for the Corporation and I would also propose to extend the purposes for which funds can be allocated to the NFFC out of the Exhibitors Levy, usually known as the Eady Levy. I hope to set out these proposals in more detail later in the year."

I am copying this letter to the Prime Minister, the Home Secretary, the Lord President of the Council, the Chancellor of the Duchy of Lancaster, member of E(EA) Committee and Sir John Hunt.

(GEOFFREY HOWE)

25 JUL 1979

MFJ

CONFIDENTIAL

10 DOWNING STREET

cc CS, HMT
DN
DOT
WO
SO
DOE
DM
DOI
CO
LPO
CDLO
HO
HMT

From the Private Secretary

24 July 1979

Policy on Film Finance

The Prime Minister has considered your Secretary of State's letter of 19 July to the Chancellor of the Exchequer on the above subject, and subject to the Chancellor's views, agrees with Mr. Nott's proposals - and that he should make a statement in the form of a Written Answer before the House rises on the lines of the draft attached to his letter.

I am sending copies of this letter to Tony Battishill (HM Treasury), John Chilcot (Home Office), John Stevens (Chancellor of the Duchy of Lancaster's office), Jim Buckley (Lord President's Office), Private Secretaries to members of EA Committee and Martin Vile (Cabinet Office).

T.P. LANKESTER

H.W. Bartlett, Esq.,
Department of Trade.

CONFIDENTIAL

1

DEPARTMENT OF TRADE 1 VICTORIA STREET LONDON SW1H 0ET Telephone 01-215 7877

OID

Prime Minister

Are you content with these modest proposals for continuing the NFFC? Treasury at official level are content. Shall I say "Yes", subject to the Chancellor's views?

Yes - after our statement out.

24/7

CONFIDENTIAL

From the Secretary of State

The Rt Hon Sir Geoffrey Howe QC MP
The Chancellor of the Exchequer
HM Treasury
Parliament Street
London, SW1

19 July 1979

Dear Geoffrey

POLICY ON FILM FINANCE

We now need to take and ideally announce by written answer a decision about the future of the National Film Finance Corporation (NFFC) which is in a state of suspended activity. We will also need to decide, though not necessarily with the same urgency, about other aspects of policy towards the commercial film industry, including the proposal for a new British Film Authority (BFA) which has been put forward by the Interim Action Committee on the Film Industry under Sir Harold Wilson's chairmanship.

The interest in this subject, and the potential political difficulty if we mishandle it, is disproportionate to the amounts of money involved. I have therefore had a special review of the issues carried out at top official level with the help of the Treasury, Inland Revenue, the Home Office and the official advisers of the Chancellor of the Duchy of Lancaster. The resulting report has been circulated to the Departments concerned at official level and I enclose a further copy. It does not make firm recommendations, but my proposals below are based on discussion of the report which I have had with my advisers and take account of representations which I have personally received from Sir Harold Wilson and others.

19 JUL 1979

From the Secretary of State

CONFIDENTIAL

I have come to the conclusion that there is a case on merits for a NFFC-type body to help mobilise finance for indigenous British feature films and that it would be a political mistake to do away with the NFFC and put nothing in its place. The NFFC has been part of the landscape since post-war days. On the other hand, in view of our general policies on public expenditure, I should be reluctant to propose even a small amount of continuing government finance for this purpose, or even government guarantees which should present less difficulty, if a workable alternative can be found not involving further public funds.

Annexed to this letter is an outline plan for a financial reconstruction of the NFFC which has been worked out, at my request, in discussion with the Chairman of the NFFC, Mr Geoffrey Williams, and Lord Seebohm who is the Chairman of Finance for Industry (FFI), embracing FCI and the ICFC. The only fresh government money involved in future years is £1 million in 1980-81, which produces a saving of £½ million on the amount previously allowed for the NFFC in that year. Otherwise the money would come from a small allocation from the levy on exhibitors (the Eady levy) and from the FCI. The plan could be based either on retaining the NFFC in its present form or reconstituting it as a company, which I should favour, though there would be no prospect of a public issue of shares in the company until it had established a track record.

The plan has not yet been put to the Boards of FCI or the NFFC, but it provides a basis for working out a firm and more detailed scheme if we can now approve it in principle and make an announcement accordingly. I must stress that the figures are the very minimum on which the parties concerned are willing to proceed, and will be criticised in some quarters as inadequate, but I should be reluctant to propose either a bigger injection of public funds or a larger diversion of funds from the Eady levy.

From the Secretary of State

CONFIDENTIAL

The main Eady scheme appears still to provide an effective incentive for the use of British studios, though not necessarily for the production of films of a British character. On the other hand, the existing Eady scheme may be vulnerable to challenge under EEC law, and that is a further reason for maintaining a NFFC-type body, which is less open to challenge from this point of view. We will at some stage have to inform the Commission more or less formally of our intentions.

As regards the proposal for a BFA, there might be some possible attraction in subsuming both the work of the NFFC and other functions relating to films in a single new body. However, that would require bigger funds and a more substantial piece of legislation than the contingent Bill for which allowance has been made in our programme. I feel, therefore, that this proposal must be rejected, though I am less sure whether to announce that decision at the present stage.

Against this background I enclose the text of a statement which I should like to make ~~next~~ this week and for which I should be grateful to have clearance. Since it is a rather low key statement, foreshadowing more detailed proposals to come, I feel that it could be made by means of a written answer. One incidental advantage of an early statement is that we could link with it the change of practice which Inland Revenue are prepared to introduce as regards the period over which expenditure by a film production company can be written off against its tax liability. I am grateful to Inland Revenue for holding back a separate announcement of this concession so far.

I am sending copies of this to the Prime Minister, the Home Secretary, the Lord President, the Chancellor of the Duchy of Lancaster, members of EA Committee, and Sir John Hunt..

Yours ever
John

JOHN NOTT

Draft Statement on Film Finance

As the House has been informed, I have had a special review carried out of the arrangements for financial support for commercial film production in Britain. I am now placing in the Library copies of the report on this subject which was made to me last month.

The Second Report of the Interim Action Committee on the Film Industry (Cmnd 7597) has already been presented to Parliament, and I have had the benefit of personal discussion with the Chairman of the Committee, the Rt Honourable Member for Huyton, and other members of the Committee. In this discussion it was stressed that the most immediate issue is the future of the National Film Finance Corporation, though the Committee continue to support the creation of a British Film Authority in the longer term.

The Government accept in principle that there is a continuing role for a body to help to mobilise finance for the production of British films of an indigenous character. We are not satisfied, however, that this should involve the provision of government funds on a continuing basis. I therefore propose to carry out more detailed consultations with a view to a financial reconstruction enabling the NFFC to carry on with a clean sheet. I also propose to extend the purposes for which funds can be allocated to the NFFC out of the Exhibitors Levy, usually known as the Eady levy, so as to make a limited amount available in this way for film production. On this basis I expect a reconstituted NFFC to be capable of raising further funds from non-government sources. I hope to set out these proposals in more detail later in the year.

/I have no plans to set up a British Film Authority./

FINANCIAL RECONSTRUCTION OF THE NATIONAL FILM FINANCE CORPORATION (NFFC)

OUTLINE PLAN

1 The Government to write off all principal and interest owed to it by the NFFC.

2 The Government to make £1 million available to the NFFC in 1980-81.

3 The Government to take powers to allocate part of the proceeds of the Eady levy to the NFFC and to commit itself to an allocation of £1½ million a year for 5 years.

4 This would subsume the existing allocation of £¼ million a year of Eady money for pre-production expenditure, which would be terminated as a separate item.

5 The NFFC to be authorised to borrow not less than £5 million, to be drawn down to meet the requirements of its programme.

6 FCI and the NFFC to negotiate an agreement for a loan of this amount from FCI, to be secured in effect on the prospect of the Eady money plus the £1 million from the Government.

7 NFFC either to remain a statutory corporation or to be replaced by a company with the Department of Trade as initially the sole shareholder.

REVIEW OF POLICY ON FILM FINANCE

Department of Trade

June 1979

Review of Policy on Film Finance

Introduction

People now go to the cinema a great deal less than they did a generation ago. However, it is still an important medium of entertainment and popular culture.

Public taste in films is volatile, and large amounts of capital are at risk in a major feature film. A small number of very successful films make high profits, but there are many more unsuccessful productions. In Western economies it is natural that this kind of investment should rely primarily on private initiative and finance.

The United States market accounts for a high percentage of the total "world gross", that is, total box office receipts. The advantages which the American film industry derives from this and other factors, allied to the talent available to it, and further helped by the fact of a common language, have given American films a dominant position in British cinemas in terms of numbers of films shown and share of box office takings.

This situation is not parallelled in British television, which is now the prime medium for both entertainment and information, and it is arguable that this redresses the balance. The proportion of foreign material on both BBC and IBA channels is limited and, though there are popular television programmes imported from America, British viewers have a strong attachment to programmes made for the BBC and ITV within their own organisations.

Nevertheless, though this makes it less a matter for concern if American films have the lion's share of screen time in our cinemas, there is still a question about the share taken by the British film industry and about the role, if any, of the state in supporting it.

The financial aspects of this issue have been reviewed against the background of the government's general policy of reducing public expenditure and the scope of the public sector. A substantial number of people have been consulted in a representative

Review of Policy on Film Finance

Present Arrangements

1 There are two sources of financial support for commercial film production in Britain, one from the taxpayer and the other from the cinema-goer. These are:-

The National Film Finance Corporation (NFFC)

This was set up by Act of Parliament in 1949 to lend money for film production. Its capital of £11 million is now nearly exhausted.

The Eady Levy

This is a levy on the price of admission to all films, which at present brings in about £7-8 million a year. The proceeds are distributed through the British Film Fund to makers of British films only (after deduction of sums used for making grants for other purposes, including the Children's Film Foundation, and the National Film School). Thus part of the takings from the showing of American films goes to help British films. The legislation regulating this scheme lapses in 1980, unless renewed.

2 There is also a quota system, under which cinemas must exhibit a proportion of British films. These powers also lapse at the end of 1980, unless renewed.

3 In addition, some £5 million a year has been provided from the Department of Education and Science to support non-commercial film activities, mainly to the British Film Institute (including support for the National Film Archive and the National Film Theatre) and also the National Film School. This expenditure, for which the Chancellor of the Duchy of Lancaster now has policy responsibility, is outside the scope of this review, but it falls to be considered as part of the annual

public expenditure exercise as a whole.

New Proposals

4 The Interim Action Committee on the Film Industry, under the chairmanship of Sir Harold Wilson, has recommended the establishment of a British Film Authority, to be financed partly from a continued allocation from the Eady Levy. It would take over both the financing functions of the NFFC and the advisory functions of the existing Cinematograph Films Council and some of the regulatory functions of the Department of Trade. It would also have certain new functions including the provision of a limited amount of assistance to cinemas. The Committee has also recommended tax measures to help film production and the cinema.

5 The previous government was committed to legislation to provide further capital for the NFFC, and Department of Trade Ministers gave a fair wind to the creation of a British Film Authority as a longer term measure. The present government is uncommitted on these matters; its general policy is to reduce public expenditure and the scope of the public sector.

Decisions Required

6 An early decision is needed whether to provide the NFFC with further funds, for which a Bill would have to be introduced as soon as possible, or whether to terminate its existence. Under existing legislation this could be done by Order at any time after 1980.

7 Decisions for or against the BFA proposal, and on the future of the Eady Levy, could in one sense be left until later,

but in practice the future of the NFFC cannot be considered altogether in isolation from those issues. In addition, if there is early legislation, it could conveniently provide for continuation of the quota scheme if that course is approved; new legislation on this point will in any case have to be brought into effect by the end of 1980 if the quota is to continue after that date.

8 It has been necessary also to take a view on the tax proposals from the Interim Action Committee.

Background

9 The present support schemes date from a time when the cinema was the principal medium of mass entertainment. In the post-war period dollar shortage was a special reason for protecting production in this country.

10 Since then television has acquired the dominant role in popular entertainment and culture. The number of cinema screens has been reduced by two thirds since the immediate post-war period. Admissions are less than a tenth of what they were then, though there has recently been a moderate upturn. Employment in producing feature films for the cinema is much reduced, and accounts for a few thousand people on a full-time basis.

11 At the same time, television has an almost insatiable demand for films originally made for showing in the cinema. It also uses a great deal of other film material, and employs facilities and people working either exclusively for television or partly for television and partly on films for the cinema.

12 Film money and people in films are internationally mobile. American companies and American money finance films made wholly or partly in Britain and in other countries outside the United States, while British companies have now started to produce films in the United States. A significant element in

recent American demand for British technical facilities has been in connection with certain outstandingly successful science fiction films.

13 There are some moves towards production of films in this country for cinema distribution here but for early showing on television in the United States, though not on British television screens until later because of a trade bar operated by the Cinematograph Exhibitors Association. There are also some moves towards making feature films to be shown on television here in the first instance, with possibly some cinema distribution in other countries.

14 The prospective fourth television channel will provide an additional outlet for film material from the United Kingdom. In the longer run, possible technical developments such as the widespread use of film cassettes or video discs in the home, and conceivably of pay television, in conjunction with trends in leisure activities, may further change the pattern of the industry.

15 Meanwhile the general pattern still involves the production of feature films for showing in cinema theatres in the first instance, to be televised only after a lapse of several years. In spite of its contraction, the cinema remains an important medium of mass entertainment and culture. Cinema admissions in Britain in 1978, at 127 million (with box office takings of about £120 million), were between three and four times the number of theatre admissions and five times the number of admissions to football league matches.

The Case for Support

16 The second report of the Interim Action Committee poses the question whether the object of government policy for films should be to stimulate an industry for the normal economic reasons (that

is, in order to create employment, encourage productive investment and increase exports) or to aid an art form or to encourage the making of films which reflect British life. It expresses the view that all three objects are valid, and that the barriers between industry and art in relation to the film are largely artificial and subjective.

17 Nevertheless, it is understood that the Committee consider the case for government intervention and support to be based essentially on the need to encourage films which are of a high quality and representative of British life and society. Their report argues not so much that there is a shortage of finance for film production in this country, but that, in order to achieve international distribution which is essential for profitability, the films made here tend to be of a quality which does not do credit to this country.

18 Most of those who have been consulted in the course of this review and who have expressed support for a NFFC-type activity base their case on the desirability of producing indigenous British films for commercial showing. This does not mean films produced for only a minority audience or for showing only in specialised cinemas. It means films made with British talent, which are likely to have a British locale, though some may have overseas settings, and which will be likely to depict aspects of British life and culture. Such films will be influenced in the first place by the taste of British audiences, but they should also be capable of achieving some response in international markets, without which it is very difficult for a film to recoup its cost. To put the point in a negative fashion, the character of a film which is indigenous in this sense is not dictated predominantly by the requirements of the American market.

19 The question must be asked why, if there is a significant demand for indigenous films in this sense, it cannot be met by the functioning of the market. There are people in the film

business who believe that such is in fact the case and that, though films made on a purely commercial basis may not have artistic or cultural qualities, equally they may well do so. It is argued that the commercial industry has produced films of high quality and that, though modern communications have made popular taste and culture much more international and much less localised, the industry's output has included good films of a genuinely British flavour; if a film is both of a high standard and of potential popular appeal, it will attract commercial backing; on the other hand, if it cannot get such backing, this is an indication that it is not a commercial proposition and could be produced only on a subsidised basis.

20 The counter-arguments against this view are that there are frictions in the market and that private finance which might be available for British film production will not in fact be mobilised unless there is some agency such as the NFFC to act as a catalyst, and also that the pull of the American market, representing 60% of "world gross" as compared with a UK market which accounts for only 4%, is so strong that production which is motivated solely by commercial considerations is likely to be geared overwhelmingly to what is judged to be American taste. Though the big commercial interests in the British industry may from time to time back good indigenous films, the independent producer will find it more difficult to get backing for such films without the help of a body such as the NFFC, especially in the early stages of his career.

21 It is also argued that a case of this kind has been thought sufficient to justify schemes of support from public funds for indigenous film production in a substantial number of other countries, including France, Germany, Italy and Sweden, even though the difference in language means that they are less vulnerable to the domination of their screens by films made in the United States or for United States audiences. It is claimed

that a scheme of this kind in Australia has had considerable success recently and has made people in other countries conscious of Australia.

22 The argument has also been advanced that the difficulties of the independent producer in Britain are compounded by the "duopoly" of the EMI and Rank organisations, who between them are thought to own roughly half of all the cinema capacity in this country, though only a third of the cinema screens. EMI and Rank themselves do not accept that there is anything in this point: the management of their cinemas is separated from the distribution activity, and the cinemas are in the market for all films on offer with audience appeal. They comment also that many large cinema buildings have been subdivided into smaller theatres and have become more suitable for showing films with relatively specialised appeal.

The NFFC

23 The NFFC's capital has been provided by advances from the Department of Trade. The relevant legislation limits the principal outstanding to the Department to £11 million at any time. By May 1979 about £550,000 remained to be drawn.

24 This capital has been used as a revolving fund for investing in British films and over the years has enabled the NFFC to make investments to a cumulative total of £31 million. However, provision has had to be made for losses on some of these investments. When, in addition, we bring into account on the one hand profits of £4 million on the more successful films, but on the other hand the Corporation's operating expenses and the interest due to the Department, the total deficiency to be met out of the Corporation's capital as at 31 March 1978 was £8.6 million.

25 The Interim Action Committee, and the Corporation itself, argue that it has had to make equity investments out of loan capital and that, if operating expenses and interest to the Department can be excluded, the deficiency arising from these investments of £3l million has been only about £2 million, or £70,000 a year. As it is, the NFFC is in arrears with its interest payments, and is incurring interest charges on the deferred interest payments. As its capital has dwindled, and films have become more expensive, the number of feature films which the NFFC has helped to finance has declined from 62 in 1950 and 46 in 1960 to an average of 4 a year in the past 5 years - out of an average of 60 British feature films a year, and 300 feature films a year from all countries which were registered here in this period.

26 If the NFFC is to go on, the interest which it already owes the government might be entirely or very largely written off, so as to give it a fresh start. To relieve it of any future obligation to meet interest or cover operating costs would of course be a straightforward subsidy, for which there is no good case so long as the objective is to finance commercially viable films. There would be a case, however, for giving the Corporation, if its funds were to be renewed, the financial objective of making a return on its portfolio of investments as a whole rather than on each investment. It has been represented also that the Corporation needs to be financed in such a way that, like others in the business, it could take risks on films which might turn out to be either loss-makers or highly profitable, the successful projects covering the losses on the inevitable proportion of failures; this could be achieved either by providing it with government capital on more flexible terms than in the past, or by an admixture of funds from the Eady Levy, or by a combination of the two. On this basis the finance from

the Eady Levy would not be regarded as soft money and, if the Corporation both revolved the whole of the funds available to it and was more successful in making a return on its investments than in the past, it would be able to build up its resources over time.

27 It could be expected that, with the new management appointed during the past year, the NFFC would play a more active part in the projects with which it was associated and take the initiative in some projects. However, on the assumption that any replenishment of its capital was of necessity relatively modest, it could hardly expect, at any rate at the outset, to make a significant contribution to the financing of the more expensive kind of film which costs millions of pounds to make as compared with, say, half a million or less for a more modest production.

British Film Authority

28 The Interim Action Committee propose that the functions of the NFFC should be subsumed in a new British Film Authority. This would have an initial injection of Government capital, which would be taken over from the NFFC if that body had been provided with such funds in the meanwhile as an interim measure. Although illustrative figures have been mentioned in the past implying capital on a significantly larger scale than the NFFC has enjoyed, it is understood that the Committee are not wedded to any particular figure or to any particular period of years over which it might be injected. In addition, it is proposed that the BFA should receive on a continuing basis half the money available from the Eady Levy.

29 Under these proposals the BFA would have a considerable measure of discretion in the disposal of these funds to help the

film industry. Although NFFC-type investments would be made in production of commercial films, other assistance could be given on more favourable terms, since the BFA itself would not be obliged to make a return on that part of its finances derived from the Eady Levy. A limited amount would also be allocated for the provision and improvement of cinemas.

30 The Committee do not base the case for a BFA solely on the arguments for more plentiful and flexible assistance. It is also based on an argument to the effect that a new body is needed as a focal point for the various interests in this factionalised industry, to bring more weight to bear on policy matters relating to the industry, and to provide the Government on a permanent basis with authoritative and independent advice on such matters. It is argued that the existing Cinematograph Films Council (CFC) is unsatisfactory in this respect because it is composed of representatives of all the different and conflicting interests in the film world; and that the creation of a BFA would be justified on these grounds even if it had to operate on a much more limited budget than they have envisaged.

The Eady Levy

31 The levy on exhibitors - the Eady Levy, as it is generally called - raises at present about £7-8 million. About £1 million of this is allocated to the Children's Film Foundation, the British Film Institute, the National Film School and to the NFFC to help pre-production work, mainly the preparation of scripts. (This last activity is administered by the NFFC through a company which it has set up called the National Film Development Fund(i).) The rest is distributed to films made in this country (whether with British or foreign capital) under an automatic formula

(i) If the other activities of the NFFC were to lapse, the implications for this pre-production support would have to be considered.

related to box-office takings of each film, so that the more successful films get more help from the levy. The formula includes a weighting in favour of low-budget and short films.

32 The levy is collected by Customs and Excise and paid by them to the British Film Fund Agency, who in turn preside over the mechanics of distributing the money. The Agency, set up by the legislation on the levy, is an inexpensive and serviceable piece of machinery, using a firm of accountants for much of the work.

33 The Interim Action Committee comments that the levy is regarded by producers as an effective incentive, but that the Committee themselves have reservations on this score. A number of individuals consulted in this review have suggested that this money would be more effective in supporting British films if it were made available for allocation selectively by an NFFC-type body. One consideration advanced in favour of this view is that rights in the levy are not infrequently assigned to the distributor rather than the producer as part of the bargain between the two.

34 This view is not, however, supported by most of those with experience or current involvement in decisions on film investment who have been consulted in this review; though one view expressed is that the levy provides a bonus rather than an incentive, the general opinion is that the prospect of levy receipts is a factor in investment appraisals and decisions and in the industry's cash flow, and that in some cases it can be a determining factor in decisions whether or not to make a film in Britain or in British studios, and in other cases in decisions by British-owned companies whether to go ahead at all.

35 A good deal of objection could therefore be expected from commercial production circles if levy funds were diverted from the automatic distribution scheme to a NFFC-type operation,

especially if the amount switched was substantial. A more limited switch might secure a degree of acceptance, in conjunction with matching government finance, but would hardly be acceptable to the industry in the absence of a government contribution. Under such an arrangement there would be an expectation that the commercial side of the industry would be appropriately represented in the direction of the scheme since, though the levy is paid by the cinema-goer, it is regarded in the trade as "industry money", in the sense that, if it were not siphoned off by the levy, the money would probably accrue to the industry.

36 The CFC's views on this question are set out in a letter of 23 June 1979 from its Chairman, Mr Allan Grant; the text of his letter is annexed to this report. Broadly these views are not out of line with the appraisal in paragraphs 34-35 above, except that Mr Grant's letter stresses the view that any allocation of Eady money to the NFFC would radically alter the relations between the commercial film production sector and the corporation.

37 On a different aspect of the Eady scheme, there is a good deal of criticism of the weighting of the distribution of the levy in favour of short films (which can give a windfall bonus to a short sharing the same bill as a hit feature film) and in favour of low-budget films, a term which nowadays is often associated with sex films. The Interim Action Committee propose that the BFA should have power to disallow payment of levy money for films which exploit sex or violence; this would raise a different set of considerations. There appears, however, to be a good prima facie case on a number of grounds for reviewing the details of the formula for distributing the levy, and this is in fact being looked at under the aegis of the CFC; but that need not hold up decisions on the broader issues discussed here.

The Public Expenditure Position

38 The White Paper on the Government's Expenditure Plans 1979-80 to 1982-83 (Cmnd 7439) which was issued by the previous administration in January 1979 subsumed, in the "Other support services" item in Table 2.4, provision of £1.5 million for advances to the NFFC in 1979-80 and also in 1980-81, though these figures do not appear as separate entries. This implied legislation to enable these amounts to be paid. Pending decisions on longer term policy, and in particular on the question of a British Film Authority, the White Paper projections did not make specific provision for further such amounts after 1980-81 and these, if subsequently approved and not offset by savings elsewhere, would have represented a claim on the contingency reserve in the public expenditure totals.

39 The policy of the present government is to make substantial reductions in previous White Paper programmes. A fortiori any proposals for expenditure not allowed for in those programmes have to satisfy exceptionally stringent criteria. Although the amount of government money at issue in connection with the film industry is small as compared with the main expenditure programmes, any sum approved is liable to be at the expense of some other item of expenditure. The Government have so far decided to reduce the provision for the NFFC for 1979-80 to £1 million, pending decisions on the future of the NFFC.

Taxation

40 The second report of the Interim Action Committee has recommended a number of tax concessions for either investment in film production or individuals engaged in the film industry. Inland Revenue have been consulted about these proposals and their comments are annexed.

41 It can be argued that the tax regime which has prevailed in the United Kingdom, in conjunction with the speculative nature of film production, has been a factor in the weakness of the British industry as compared with the American film business, since potential investors from outside the industry have faced a high risk of loss not balanced by an adequate possibility of net profit. However, there is a general difficulty about the concessions which have been requested in that, although they would obviously be helpful to the film industry and people in it, they would also be regarded as helpful by other industries who could be expected to request the extension to themselves of any such concessions. The case has not been made out for discriminatory tax concessions confined to the film industry alone, while more general concessions would of course be that much the more expensive.

42 This comment applies in particular to the request that investments in films by individuals or companies should be deductible for the purpose of their personal or corporate tax liability. There is a provision of this kind in the United States, and it is no doubt an important incentive to investment in films, but the American concession is of general application and is not confined to investment in films, though its application to films appears to operate more favourably for films made in the United States than elsewhere. It is reported that some other countries do allow at least a limited degree of special tax treatment for film production, but it is difficult to see how any new investment incentive in our own tax system could be confined to investment in films.

43 This difficulty does not, however, apply to one aspect of the taxation proposals in the Committee's report, involving the period over which expenditure by a film production company is allowed against its own tax liability. This is a question of the way in

which existing general provisions should be applied in practice in these particular cases, and the comments by Inland Revenue show that they believe that in most cases these representations can be accepted. It is understood that this would be regarded by the industry as of considerable value.

44 The Committee have also recommended that the capital allowances which were made available for expenditure on hotels under the Finance Act 1978 should be extended to cinemas. In general capital allowances for buildings, as distinct from plant and equipment, are given for only industrial buildings and not commercial buildings. The concession for hotels in the 1978 Act was based on the economic importance of tourism in this country from the point of view of employment and as a major contributor to the balance of payments. There is no equally strong economic case with regard to cinemas, and there would be difficulty over a piecemeal extension of the special treatment allowed for hotels to further particular types of non-industrial buildings.

45 The Committee's tax proposals relating to individuals include a recommendation for special treatment of tax exiles involved in the production of British films. It can be argued that film stars and others with a creative input into films are a special case in that, if they come to this country to work on a film, when they go they leave behind them a product with a continuing value to the country. But it is difficult to accept that this factor by itself is sufficient to justify special treatment in a sensitive area of tax policy.

46 However, it appeared to be generally accepted in these consultations, which took place before the June 1979 Budget, that the problem of the emigration of talent (and to some extent other aspects of the problem of film finance) would be eased by a reduction in the generally applicable high rates of income tax, even if they were not reduced as far as the American level. The

view was expressed that film people with creative talents would be more likely to return to live in Britain and play a more continuous part in making films here, thus enhancing the attraction of Britain for foreign investment in film production in this country.

June 1979

Annex A

Text of Letter from

the Chairman of the Cinematograph Films Council

to Sir Leo Pliatzky, Department of Trade

23 June 1979

Dear Sir Leo

At the meeting of the Cinematograph Films Council on Thursday last I put to members the question of the possible use of an unspecified portion of the Eady Levy as a contribution to the National Film Finance Corporation's film production fund. I had previously circulated to members a note explaining my intention to do so and giving something of the context out of which the question rose.

The immediate response of the cinema exhibitors was to express their concern lest the Eady fund suffer any further erosion by diversion from its original purpose and function to reward film producers who invested in British film production. They agreed with the producer members who, for their own part, claimed that a significant number of British films would not have been made without the incentive of some return from the levy. They emphasised that Eady returns play a role in generating investment finance for production much more important than the calculation of their purely economic value would suggest. In answer to some members who argued that the levy in its present form had not been able to prevent a serious decline in British film production, the producers replied that, even though there may be no objective yardstick by which to measure the value of Eady distributions to production, without them the decline would have been even more serious.

Turning to the hypothetical situation in which Eady money were to be diverted to support the National Film Finance Corporation, there was general agreement that to do so would radically alter the relations between the commercial feature film production sector and the Corporation. The Corporation is regarded as the instrument of state support for the industry; were it to be supported by money that might otherwise have returned to the producers, then they, the producers that is, might find themselves in direct competition with the Corporation for sources of finance. Whether in favour or not, members felt that any such change would entail a re-structuring of the Corporation.

On the question of the proportion of the Eady fund to be so diverted, members agreed that if it reached 50% the fund's present purpose would be seriously jeopardised without securing much benefit to the Corporation. Any relatively much smaller proportion would be useless without continued government support.

The subject of the Eady Levy has been exercising Council for some time now. A sub-committee is about to report to Council with a number of recommendations and members trust that the views that emerge from their discussion of the topic at their July meeting will be taken into account by Ministers when policy decisions come to be made.

Allan Grant
Chairman
Cinematograph Films Council

Annex B

TAXATION RECOMMENDATIONS INCLUDED IN THE SECOND REPORT OF THE INTERIM ACTION COMMITTEE OF THE FILM INDUSTRY

1.(a) Tax relief for a loss from an investment by either an individual or a company should be granted on the same basis as currently applies to banks and financial institutions, ie treated as trading. Income received from a film would correspondingly be subject to tax.

The effect of this proposal would be to enable investors - both individuals and companies - to obtain relief from income tax or corporation tax in respect of a loss from an investment by way of loan, or participation in a partnership, for film production. At present such relief can only be obtained where an advance of this sort forms part of the trade of the person making it.

It is difficult to envisage such a measure being accepted solely in relation to investment in the film industry. The Interim Report on the Financing of Small Firms by the Committee to Review the Functioning of Financial Institutions raised the possibility of a relief of this kind in respect of investment in small businesses (paragraphs 44-47) but after outlining arguments in favour and against were unable to reach agreement on a firm recommendation.

At present, where the investment is in shares or debentures and there is a loss on their disposal or in certain circumstances their value has become negligible capital gains tax loss relief will be available (Section 23(4), Finance Act 1965). In addition where the participation takes the form of a loan then under the provisions of Section 49, Finance Act 1978 a loss on such a loan or a guarantee payment made in respect of it can, under certain circumstances, be regarded as an allowable loss for capital gains purposes. For those providing investment capital in the form of participation or "angels" agreements any profit made on the investment is liable to tax under Case VI of Schedule D and a loss made in respect of such investment can be set against other Case VI income for the year of loss or any subsequent year.

Reference is sometimes made in this context to the incentives which exist in America in respect of investment in film production. It is of course extremely difficult to compare tax regimes between one country and another and it does not necessarily follow that a particular provision in one country could be fitted into a different taxation structure in another. Our understanding is, however, that under the American provisions tax credit is available in respect of capital investment, the amount of the credit being determined by among other factors the life of the asset. The 1976 Tax Reform Act confirmed that investment in films qualified under these provisions and enabled increased credit to be obtained if the film were made in the US rather than elsewhere on the grounds that this encouraged employment. The credit available is limited to an individual's tax liability up to $25,000 and is further restricted beyond that point.

1.(b) <u>Expenditure incurred by a film production company or partnership in the making of a British film should be deductible for tax purposes as it is incurred.</u>

There are no statutory rules dealing with the computation of the tax liabilities of film producers. In the accounts of film companies the cost of producing films is normally treated as deferred revenue expenditure, ie it is not written off immediately but spread over a period of years following the principle of matching expenditure to receipts to produce a true view of the profit or loss arising from the production of the film. Tax treatment normally follows accountancy treatment with the result that expenditure has been regarded as qualifying for tax relief not when it is incurred but at some later date when it is written off in the accounts.

It has recently been suggested that, although production expenditure is not capitalised in film companies' accounts, it is nevertheless capital expenditure; and that the end result - the master print of the film - ranks as "plant" for tax purposes so that the whole of the production costs should qualify for capital allowances. Since the tax code provides 100 per cent first year allowances for capital expenditure on plant, it would follow that in most circumstances tax relief would be given for production expenditure as it was incurred ie significantly sooner than under the present arrangements.

We have now considered this claim, and have concluded that in most cases capital allowances are due on film production expenditure. A claim to capital allowances would be regarded as admissible if the master-print of the film had an anticipated potential life of at least 2 years, so that it was in fact a capital or permanent asset in the business. This would, we presume, invariably be the case with feature films, but might not be so with news or current affairs films.

If it is accepted that the expenditure qualifies for capital allowances, the relief would normally be given as and when the expenditure is incurred. However, in the case of a new film production company - and we understand that it is not uncommon for a new company to be set up for a particular film - no relief can be given until the company starts to trade. This follows from a general rule in the capital allowances code that pretrading expenditure is treated as if it were incurred on the day on which trading begins. However, a film production company is normally regarded as beginning its trade when it starts filming, so any delay in giving relief for such expenditure is likely to be small.

The film production industry regards its present tax arrangements as unsatisfactory since it does not qualify for stock relief on film production expenditure, and has to wait to obtain tax relief on production costs for some time after they are incurred. The acceptance that film production expenditure qualifies for 100 per cent first year allowances, and thus immediate tax relief, represents a significant improvement in the film industries' tax regime.

1.(c) The 20 per cent initial and 4 per cent straight line writing down allowances available for expenditure on hotels under the Finance Act 1978 should be made available for expenditure on cinemas licensed with the Department of Trade under Sections 25 and 26 of the Films Act 1960.

A substantial part of the capital expenditure on the construction, reconstruction or refurbishing of a cinema will qualify as expenditure on machinery and plant for 100 per cent first year allowances, for example expenditure on central heating and air conditioning equipment, sprinklers and alarm systems, lifts, projectors, sound equipment, screens, carpets and furniture.

The only commercial buildings which qualify for capital allowances in respect of structural expenditure are hotels, for which allowances were introduced last year on the basis of their central importance to the tourist industry and thus employment and the balance of payments. The position of cinemas is clearly much different; in any case, notwithstanding the special treatment of hotels, it remains very difficult to single out one type of commercial buildings for tax allowances while withholding them from others. There is, for instance, considerable pressure at present for allowances for shops. Moreover, it would in any event be difficult to propose a relief for cinemas only and not to extend it to other places of entertainment. This would be a very broad and more costly relief; and given the nature of some such places it would be difficult to justify giving them priority over other forms of investment.

2.(a) An individual involved in the production of a British film should be able to work on such film in the United Kingdom for an average of up to 120 days a year over any four year period without becoming liable to UK income tax on world-wide income.

Under the present rules an individual (including a British National) whose permanent home is abroad can visit this country up to an average of 91 days per tax year over a four year period without falling into the resident category for UK tax purposes. The individual must also not exceed a stay of six months in any one year nor keep a place of abode in the United Kingdom. This rule is more flexible than it may appear since if the average is exceeded the individual is regarded as resident for tax purposes in the fifth and possibly subsequent years but not for the four earlier years. In effect, therefore, the individual can work for up to six months in, say, one or two years provided that the visits are strictly contained for the other two. Alternatively, visits can be made for up to six months for four years provided no visits were made in the fifth year.

The proposal to increase the average to 120 days a year would in our view have to be generally applicable and in any case it is arguable that the present rules are too generous. It could also be expected that there would be less need for easing of this rule, following a reduction in the higher rates of tax.

2.(b) <u>Those working in the British film industry should be entitled to average their income for UK income tax purposes over a period of not less than three years.</u>

There are, of course, many industries and professions which are subject to fluctuations in income and it would be very difficult to limit such a relief as proposed to those working in the film industry. The limited provisions for averaging for farmers introduced last year were justified in the light of the unique combination of dependence on the climate and the need for sustained capital investment in agriculture. The introduction of averaging for all taxpayers on the lines proposed would have serious administrative consequences.

Annex C

ASSISTANCE TO THE FILM INDUSTRY THROUGH THE ITV LEVY

The Independent Broadcasting Authority Act 1974 provides for payments to be made to the Exchequer by independent television programme contractors out of the profits attributable, directly or indirectly, to the provision of television programmes in Britain. Schedule I to the Act defines the leviable profits of a programme contractor as the excess of 'relevant income' over 'relevant expenditure'.

2. 'Relevant income' means, in particular, advertising revenue but includes any other earnings from the provision of programmes; 'relevant expenditure' means, broadly speaking, the cost of providing television programmes. The assessment of relevant income and relevant expenditure is carried out by the Independent Broadcasting Authority.

3. The Prime Minister's Working Party proposed (paragraph 67-72 of Cmnd 6372)[1] that expenditure by programme contractors on production of feature films intended to be shown first in cinemas (and on TV only after three years) should be counted as 'relevant expenditure' and deductible in the assessment of levy. Similarly, the earnings from the exhibition of the films in cinemas would be excluded in reckoning 'relevant income'. As a result, the levy would be diminished.

4. Expenditure on programmes (including films) for television qualifies as 'relevant expenditure' in the year in which the programme is first shown on television. If the same principle is applied to expenditure on cinematograph films, there would be a delay of 3 years before the expenditure would qualify; but if, alternatively, the expenditure qualified in the year in which it

[1] Published in January 1976

was actually spent, it would be difficult to resist applying the same principle to expenditure on other programmes.

5. Legislation would be needed and this would need justification in much the same way as direct subvention to the film industry.

6. Briefly, the arguments against any such proposal are as follows:

(a) There is no guarantee that additional funds would be drawn into film production since it is likely that a good deal of existing film production investment by television contractors (or linked companies) could easily qualify for levy relief and would be put forward to qualify for this.

(b) When account is taken of the levy on the independent television companies (broadly 66.7% of their profits) and of Corporation tax, so that, at the margin, over 80% of their profits accrue to the Government, companies would need to recover only one third or less of the costs of making a film to break even. Thus they would be unlikely to apply normal criteria to this investment.

(c) ITV companies would be diverted from their principal purpose which is providing television programmes.

(d) There will be a reduction in the yield from the levy over the next few years in connection with the fourth channel.

(e) The present basis on which levy is calculated is that expenditure on programmes does not qualify for exemption until the programme is shown. Unless this basis is changed (which would also require legislation) and this would create serious problems, the same would apply to expenditure on films. This would mean that there was a substantial delay of perhaps 3 to 5 years bedore money expended qualified for exemption - a serious objection to such an arrangement from the film industry's point of view.

(f) At present the IBA is responsible for policing the levy. Amongst other things it has responsibility to see that expenditure is not excessive. It would be difficult for the IBA to carry out its responsibilities in relation to activities falling outside its main responsibility, ie. for television.

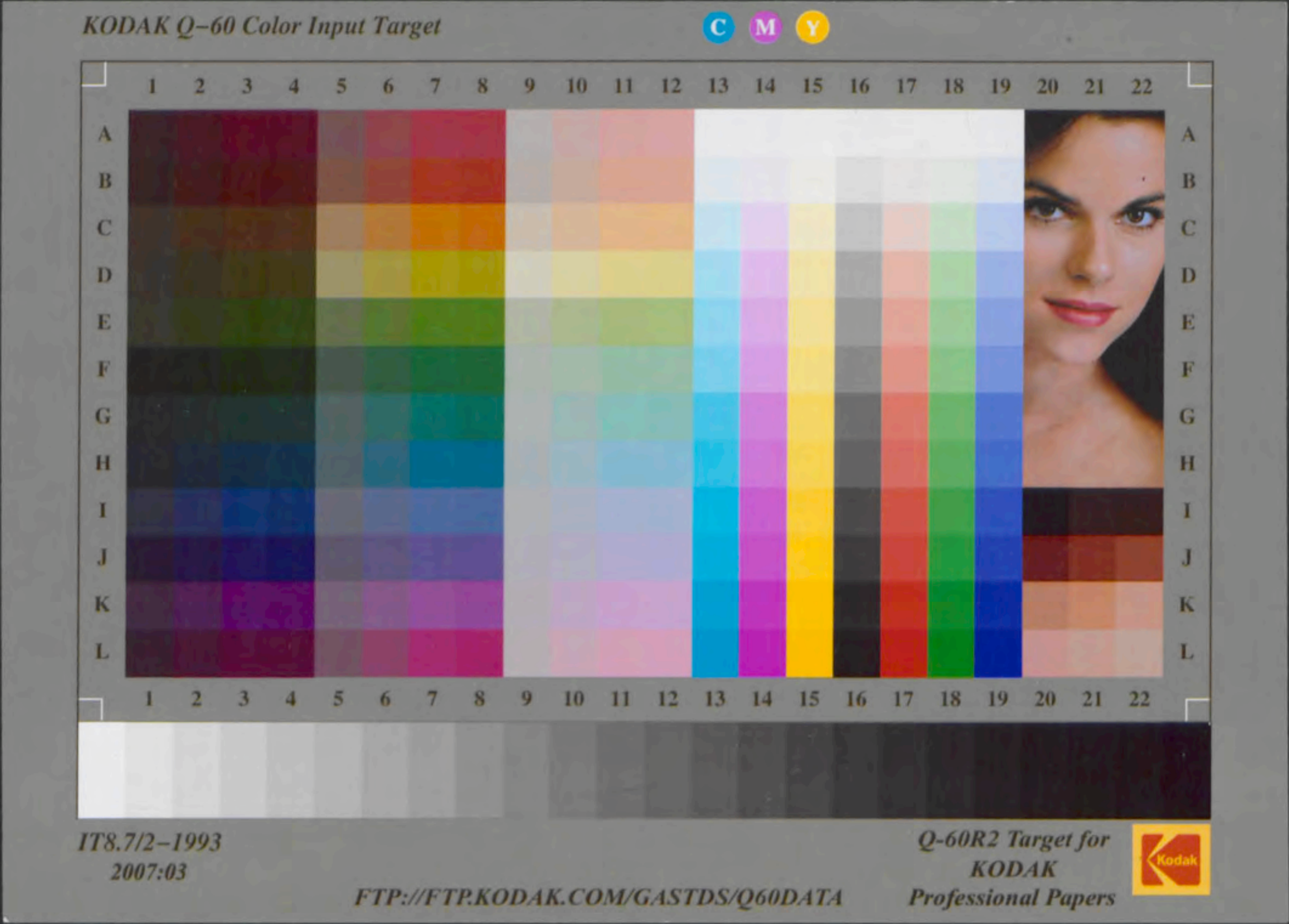
(g) The proposal would favour the ITV companies to the disadvantage of the BBC.

Annex D

Those Consulted in the Course of the Review

Sir Harold Wilson)	Chairman, Interim Action Committee
Lord Lloyd of Hampstead)	Member, Interim Action Committee
Sir Max Brown)	Member, Interim Action Committee
Mr G Williams	Chairman, National Film Finance Corporation
Mr M Hassan	Managing Director, National Film Finance Corporation
Miss F Green	Board Member, National Film Finance Corporation
Mrs R Hart	Board Member, National Film Finance Corporation
Mr C Young	Board Member, National Film Finance Corporation
Mr W A Grant	Chairman, Cinematograph Films Council
Lord Brabourne	G W Films Limited
Lord Grade	Chairman and Chief Executive, Associated Communications Corporation
Sir John Read	Chairman, EMI Limited
Mr R Evans	Group Managing Director, Rank Organisation
Mr T E Chilton	Chairman of Hotel and Leisure Division, Rank Organisation
Mr K L Maidment	President, British Film Producers Association

Mr J A Craven	Chairman, Association of Independent Producers
Mr P Livingstone	President, Kinematograph Renters Society
Mr R Camplin	President, Cinematograph Exhibitors Association
Mr A Sapper	General Secretary, Association of Cinematograph Television and Allied Technicians
Mr D Puttnam	Enigma Productions
Mr S Hartog	Convener, Film Policy Group, Film Makers Association
Mr M Relph	Boyd's Co


KODAK Q-60 Color Input Target
C M Y
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22
A B C D E F G H I J K L
IT8.7/2-1993
2007:03
FTP://FTP.KODAK.COM/GASTDS/Q60DATA
Q-60R2 Target for
KODAK
Professional Papers
Kodak