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DISCUSSION PAPER: LARGE BUDGET SCREEN PRODUCTION GRANT REVIEW

Dear Tim,

Thank you for this opportunity to comment on the discussion paper outlining potential enhancements to the large budget screen production grant for the domestic industry, which was released at SPADA's annual industry conference in November 2004.

SPADA commends the Screen Council on its work on this initiative in investigating the impact of potential enhancements to this grant scheme.

The following comments have been devised and approved by the SPADA Film sub-committee, incorporate the consensus of the SPADA board and have been shared with members and other industry organizations.

1. Background

SPADA believes that the proposed amendments to the LBSPG must not be looked at in isolation. The existence and continuation of the New Zealand Film Fund is vital for the domestic industry. Should the Film Fund not receive funding in the future then the domestic industry's ability to derive benefit from the LBSPG would be extremely limited and nullify the inclusion of multi-funding in the criteria.

SPADA is very keen to see the grant scheme enhancements engineered towards strengthening the capability of the domestic screen production sector as the overall long term viability and health of the New Zealand industry lies in a strong and sustainable domestic base. This base is supplemented by offshore production and therefore it is also important that the LBSPG scheme assists in building an environment of a sustainable and predictable level of production in New Zealand that does not lead to a boom and bust cycle, as in some other countries where too much reliance has been placed on runaway productions.

Currently the LBSPG is largely inaccessible by even the top end of the domestic screen sector, which is of considerable frustration to the industry given that there needs to be a balance between incentives for domestic and international larger productions. There has been considerable inflationary pressure on the domestic industry over the past few years from rates and competition for crew and resources from offshore productions. The domestic industry is also experiencing one of its busiest periods ever. Therefore SPADA believes that if the Film Fund is continued and two of the recommended enhancements to the LBSPG are implemented (bundling and multi-funding) the scheme will be able to fulfill the government's original intentions: *to provide an incentive for the production of both foreign and domestic large budget and television projects in New Zealand*.

SPADA offers the following suggestions on each of the proposed enhancements:

2. Options

i) Bundling

SPADA supports the Screen Council's suggestion to amend the Large Budget Screen Production Grant Scheme to allow projects to be bundled together to reach the threshold of $15million production spend. However in order to benefit the domestic industry, SPADA recommends that the criteria become **three to five productions over two years** rather than one year.

The Screen Council's suggestion of three to five productions over one calendar year would be most advantageous to major overseas studios. Very few New Zealand production companies would the have the capability to produce the bundle of projects required to meet the threshold in a calendar year, particularly when it is considered that 70% of a production budget needs to be spent in New Zealand in order for the grant rebate to be triggered.

It must be pointed out that any form of bundling eligibility is likely to encourage offshore Movie of the Week production companies and their servicing and post production (and the consequent engagement of crew and facilities) in New Zealand as well as being of some benefit to the domestic production industry. As it stands, the scheme allows for MOW productions to access the grant and has $4million earmarked for this area, including television and direct-to-video productions. But no-one has been able to reach this level. This is therefore currently a "Claytons" clause; as it is highly unlikely that one MOW budget would reach the minimum threshold production spend of $15m. When formulating the "12.5% Refundable Tax Offset" scheme, Australia decided against allowing bundling and the eligibility of MOW's. Very few MOW's are now made in Australia and the effect of excluding bundling has been a significant factor in this trend.

Bundling creates the potential for a large overseas company or studio to set up a production servicing company in New Zealand for the express purpose of making low budget MOWs. On initial consideration this could be an unfavorable situation for New Zealand producers, but there could be benefits to the domestic industry should these productions contract crew, creatives, cast and post-production facilities, particularly given the lead time inherent in such production.

As the scheme currently stands, if an overseas production is planning to shoot here, but the production budget falls short of the $15million threshold, there is no economic incentive to bring the production to New Zealand. However, if bundling was allowed, a local production company could take up a production servicing contract, and marry this overseas production up with say, a domestic drama series or feature film that was already on the slate. The two projects would then collectively qualify for the grant. This attribute could have significant positive outcomes for the domestic screen industry, generating revenue for the production company involved and in fostering a consistency of production work available for crew.

As **television** is the backbone of a strong and sustainable domestic production industry, it is also important to consider how bundling would increase the capability of New Zealand's domestic television production companies. Combinations of New Zealand and offshore content are the most likely contenders in any package to take advantage of the ability to bundle. With the introduction of bundling over a two year rather than a one year period, a production servicing company would be able to group three to five productions together to access the LBSPG. This bundle could comprise a mixture of feature film, television series episodes, movie of the week and direct-to-video productions and both offshore servicing and domestic productions. This ability to aggregate could encourage a number of production companies to develop a servicing wing, which would subsidize overheads and activities in other areas relating to domestic production, freeing up resources to invest in development etc.

In turn, bundling could generally encourage the development of New Zealand's overall screen production infrastructure. There is likely to be more investment in studios, sound stages and crew training if there is a more predictable level of work. There may also be increasing cost pressures on production with increased level of activity. Bundling could also have a positive effect on crew capability. For example, while it may not always be possible to have a New Zealand 1st AD on a large budget, one-off production, there may be room for this to happen on a smaller scale MOW that is part of the budget. Thus bundling could assist in upskilling the New Zealand industry.

Documentary productions are not eligible under the LBSPG scheme in its present state. With the critical and commercial development of the documentary genre, and the NZFC's moves to fund feature length documentary, it is conceivable that a documentary production shot in New Zealand could have as much economic benefit as an MOW. Admittedly, a documentary will almost always form part of a bundle, but there seems to be no economic reason to disqualify documentary production from the scheme.

The Screen Council has a mandate to build economic viability and development of the industry. Bundling would assist in creating consistency of work levels in the screen production industry, and go some way towards evening out the boom/bust cycle which has been endemic in the domestic industry. The net effect of having a known quantity of productions lined up would be to render the economic environment of the industry more predictable and sustainable at the top end.

SPADA believes that the criteria for bundling needs to be carefully thought through, as there is potential for this enhancement to backfire. Recommended criteria are:

- That the bundle criteria be **three to five productions over a period of two years** to meet the $15million threshold. We estimate that up to five New Zealand production companies may be able to take advantage of bundling and carry a qualifying slate if the criteria is amended to three to five productions over a period of two years. If two of these companies were able to qualify in any one year, the uptake on the grant would be less than $4million per year, from an annual allocation of $40million.

- Last project in slate must have commenced principal photography within two years.

- Each project in the slate must commit to a New Zealand spend of a minimum of 70% of the total production budget, and no project in the bundle would qualify for the grant as a stand alone production.

- It would be prudent to formulate a ruling to exclude production companies from banding together to form one company for the express purpose of attaining a rebate on a bundle of projects. This may be problematic, given that the forming of an SPV is a condition of funding from NZFC and the Film Fund.

ii) Training Levy

SPADA supports the objective behind this option i.e. that New Zealand practitioners gain experience by working on and benefiting from large budget offshore productions. However, SPADA suggests an alternative means of delivering this objective and proposes instead an **attachment or intern scheme** instead of a levy, which could be paid for by the production and therefore included within eligible New Zealand expenditure for the grant.

SPADA believes that a direct levy on productions could act and be perceived internationally as an **economic disincentive**, effectively reducing the grant to 12%. SPADA also notes that the UK model referred to in the Screen Council's discussion paper, the Skills Investment Fund, is currently being reviewed, and that there is a suggestion that the levy they administer becomes mandatory for all film production in the United Kingdom. This seems to reinforce SPADA's belief that levies are difficult to collect and that productions are not always forthcoming in their contributions. Under a voluntary scheme, UK's SkillSet notes that some productions subsidize the benefits for those who don't contribute a levy. SkillSet is richly resourced, having the buy in of the major broadcasters, the UK Film Council, MPAA, the relevant trade union and SPADA's UK equivalent, PACT.

Against the background of economic incentives, SPADA therefore recommends that an attachment scheme would be preferable to a training levy in order to upskill and train New Zealand practitioners. Line producers and industry bodies dealing with offshore productions filming in New Zealand are often faced with the argument that New Zealand does not have practitioners with the appropriate experience to satisfy the demands of a large budget, large scale production. For this reason, it is common for these productions to import key crew, particularly first and second assistant directors. SPADA proposes that an attachment scheme which directly tied large budget offshore productions to the upskilling of the domestic industry would help to circumvent this issue in the long term.

Productions accessing the LBSPG scheme could be compelled to take on an attachment or number of attachments, relevant to the size and budget of the production. Areas of skill and experience shortages would be identified through industry consultation and a mechanism for locating and engaging the appropriate attachments devised. This trainee would 'shadow' on set for the duration of the production. In return, they would be paid an allowance by the production company, at a rate agreed by relevant guilds and enforced as a condition of accessing the grant.

Furthermore, UK and American productions should be comfortable with such an arrangement and it would be less likely to be perceived as an economic disincentive. The Directors' Guild of America and the Alliance of Motion Picture and Television Producers run a similar training programme for second assistant directors, in which a trainee commits to 400 days of on-set training over a two year period on a variety of productions, and also attends short courses. US studios regularly take on voluntary interns, who learn the ropes of the business through immersion. The United Kingdom's Skillset runs "ft2", which is an apprenticeship-styled scheme for new entrants to the screen industry. It concentrates on areas of shortage identified by the industry, most notably set craft and factual researchers. Potentially, the New Zealand system could be modeled on the modern apprenticeships scheme. This intern or attachment approach would be acceptable internationally, create upskilling opportunities for the New Zealand industry via Large Budget Grants Scheme productions and enable industry collaboration among associations and guilds to identify and help to solve current skill shortages in the domestic industry.

iii) Multi-Funding

SPADA strongly advocates for the Screen Council recommendation that multi-funding be adopted under LBSPG, as it is in the South African equivalent scheme. SPADA's strong endorsement of this option is predicated upon the continuance of the three tier system of support for film that has been developed over the past few years:

i) adequate support for the developmental end of the domestic industry via the New Zealand Film Commission;
ii) recapitalisation and continuing support for the New Zealand Film Fund for experienced domestic filmmakers making larger films for an international and domestic audience;
iii) incentives for larger budget productions (i.e. the LBSPG) with these recommended amendments that enable some domestic access and are balanced by adequate and sustainable domestic industry support.

SPADA agrees with the Screen Council statements that production budgets for films have increased disproportionate to the increase in government funding, and that the addition of multi-funding to the criteria would assist domestic producers in raising finance for productions in the $15million and over range. We understand that the NZFC has suggested a lower qualifying tier to the scheme for domestic films. This was initially proposed and endorsed by the industry when the scheme first came in; putting the issue of its desirability aside, SPADA now believes that this needs to be seen in view of developments around the continuation of the New Zealand Film Fund. The number one priority for support and incentives for medium to larger budget domestic films is the recapitalisation of the Film Fund and we do not believe that it is realistic to expect that the Government will agree to both at once. Hardly anyone in the domestic industry will be able to take advantage of this multi-funding option without sustainable resourcing levels for domestic film via the Film Fund that in turn attracts international investment.

SPADA's understanding is that the multi-funding model works as such:

If	$20m	Total production budget to be spent in New Zealand
	$ 7m	Less NZFC/Film Fund/Private Investment
Then	$13m	Expenditure eligible for the tax grant

Given that the uptake on the grant to date is less than the apportioned $40million, there may be room to consider a retrospective application of the multi-funding criteria, to incorporate those large budget productions that have taken place since July 2003. SPADA estimates that at most this rebate would total up to $2.5 million over two productions, once deductions and the New Zealand spend are calculated. As the grant was made retrospectively for *The Last Samurai* it is only appropriate that it be made retrospectively for domestic films. Films that may possibly meet these criteria are *River Queen* and *Perfect Creature.* This position is supported by the producers of these films.

The inclusion of multi-funding would potentially make investment in New Zealand productions more attractive to investors. To use the model above as a hypothetical example, if the Film Fund and NZFC invested $5million in a production, and an international investor contributed the remaining $15million, for a total production spend in New Zealand of

$15million; then the rebate according to LBSPGS would be $1.25 million. Therefore the investors would only need to recoup the budget less the LBSPGS. In this case recouping $18.75 million before the film went into profit, excluding commissions etc. In effect, investors would be paid out more quickly, thus making investment in New Zealand films more appealing.

SPADA is aware of some concern that the allowance of multi-funding will offer tacit encouragement to major offshore production companies or studios to characterize large-scale films as New Zealand films, and thus apply for funding through the NZFC and/or Film Fund, putting pressure on cultural funding for truly domestic films. However, whereas the criteria for LBSPG are purely economic in nature, with the Film Fund and New Zealand Film Commission no decision is automatic. They have a cultural (and in the case of the NZFC a developmental) mandate that dictates the projects in which they will invest and which would enable them to make decisions based on the true cultural nature and other merits of these films.

Under this multi-funding option exceptionally large budget New Zealand films would be eligible for both cultural funding and the rebate on their international investment. Therefore it is true to say that this could put pressure on limited cultural funding. However, SPADA believes that the number of higher budget films in this category would be few and far between and in addition the chances of major international success on such rare films is likely to be high and therefore of great benefit to the country.

3. Conclusion

In summary, SPADA recommends the adoption of both multi-funding and bundling (within clear and enforceable criteria) largely due to the ease of implementation and direct benefit to the domestic production industry. SPADA would also support a training attachment scheme if the details of its administration and mechanics could be agreed by the industry.

SPADA is eager to be involved in discussion on proposed enhancements for the grant scheme. As the professional body for domestic film and television producers, SPADA is committed to advocating for a greater economic benefit for the domestic industry. We consider that amendments to the Large Budget Grants Scheme are necessary for sustainability of the New Zealand screen industry and will help to ameliorate the cyclical nature of the industry. SPADA's priorities are:

i) recapitalisaton of the Film Fund
ii) introduction of the multi-funding and bundling (over two years) amendments to the LBSPG with the introduction of a intern or attachment system for large budget offshore productions.

Yours sincerely

Penelope Borland

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