

spadaNEWS

April 2000
number 58

IN THIS ISSUE...

- ⌋ Quota
- ⌋ Employment Relations Bill
- ⌋ *Show Me The Money* - seminar for producers
- ⌋ Festivals, seminars, markets and meetings
- ⌋ BSA and Children
- ⌋ Swingers evening
- ⌋ Sundance channel
- ⌋ SPADA savings
- ⌋ Film NZ Update

A.K. GRANT - 1941-2000 - Rest in Peace

MORE on QUOTAS

The stirring up of hornets' nests has been the main preoccupation over the past few weeks. As flagged in our last newsletter SPADA has presented a discussion paper to Marian Hobbs, the Minister of Broadcasting. As expected she was courteous and very interested but could make no commitment at this stage.

SPADA is very grateful for the support of the Green Ribbon Trust, Writers' Guild, Actors Equity, Technician's Guild, Actors Agents Guild, WIFT and the Children's Television Foundation in presenting the discussion paper to Government. All these organisations recognise that placing quotas high on the agenda is critical and that quotas were (and are) in danger of being overshadowed by other broadcasting issues. The guilds will make their own submissions in due course as there are differing opinions on some issues, as you'd expect, but the willingness to work together at the early stages has been invaluable.

Meetings for SPADA members were held in early April in Auckland, Wellington and Christchurch. If any member has not received a copy of the discussion paper and wishes to read it, contact jane@spada.co.nz.

SPADA has also provided the paper to, and talked with NZOA, Te Mangai Paho, TVNZ, TV3, the BSA, the NZFC and DPMC. This is to help those organisations understand the concepts and to ensure they are informed. If you want us to approach other organisations, let Jane Wrightson know.

The main industry issues arising from feedback on the paper appear to be whether the levels are too low (they may well be, and more number crunching is needed); whether co-productions which do not fit the definition of a New Zealand programme should be included (we're thinking about an additional mechanism); and, of course, whether Australian programmes should be included. At present they would have to be because of CER (and don't all blame Project Blue Sky too much: the problem was always there and the NZ broadcasters would have twigged as soon as soon as quotas loomed).

However it's a genuine issue and discussed in the paper. Now that we may be approaching a level playing field with Australia for the first time, and given Australia's ongoing stated unhappiness at including New Zealand programmes >

**Got some feedback?
Something you want
to get off your chest?
Drop us a line. You'll
find us at...
info@spada.co.nz or
PO Box 9567,
Wellington or
Fax 64 4 385 8755**



QUOTAS continued

in their quota, there may well be an opportunity to commence further bilateral discussions to seek an arrangement satisfactory to both countries. SPADA will be supporting this, along with the other guilds.

This whole area - the General Agreement on Trade in Services (GATS) presents similar problems - points out the rapid change of approach that will be needed in future trade negotiations. In the quota discussion paper, SPADA has called for a clearer understanding of the need to distinguish between free trade issues and the need to protect and develop national cultures, especially those of smaller nations. For the first time in well over a decade, we have a Government who seems to understand.

What happens now?

An officials committee has been set up to look at broadcasting issues, comprising senior personnel from the Department of Prime Minister and Cabinet (DPMC), the Ministries of Cultural Affairs and Economic Development, Treasury and CCMAU. Two major papers are being prepared, the first on technology issues, the second on public broadcasting issues (which among many other things includes quota). The timetable is unknown at the time of writing.

In its various conversations around Wellington, SPADA understands that quotas were not particularly high on the priority list and that views among officials tend to be mixed. Very few officials seem to view quotas positively, and those who even entertain the concept seem to prefer a voluntary system. We suspect that many see the problems being solved purely by a TVNZ charter and (perhaps) throwing some more money at NZOA. This does not help with improving the competition for good ideas and would not materially change the current situation, especially relating to production output and improving the local content presence on TV3, TV4, Prime and pay television.

It is by no means certain that quotas won't be relegated to the too-hard basket, given the weighty broadcasting issues being considered, or softened to the point of worthlessness (a voluntary system or too-low points). The ACT party has already press-released its hostility and we expect the Nats won't be far behind. Public opinion will also include some powerful opponents.

Unanimity by the industry is vital. The main point of the discussion paper was to show what a quota model could look like, so the industry could prod things along from the "how" questions to the "when" ones. If we can keep quotas high on the agenda, we might just have the best chance of securing the best bedrock for local culture that we've had for fifteen years. Brush up your letter writing skills!

SO YOU WANNA BE ON DIGITAL...



Sundance Channel, which is a premium channel on Sky's Digital service is interested to hear from local producers who have films, short films and documentaries that may be suitable for use on our service. It is particularly interested in local documentaries for the Matter of Fact slot. For further information contact Glenn Usmar gusmar@sundance.co.nz.

SWINGERS EVENING

A Night of Professional Matchmaking for Producers, Writers and Directors

Looking for a writer and/or director? SPADA, The New Zealand Writers Guild and the Screen Directors Guild present an opportunity for a ménage à trois. Find the writer and/or director of your dreams!

7pm Monday 29 May
The Classic Comedy & Bar
321 Queen St, Auckland

Registrations for the evening are essential – contact Dominic at the Writers' Guild, 09 360 1408 email nzwwg@clear.net.nz

DOCUMENTARY OPPORTUNITY

In September this year, New Zealand documentary makers will have the opportunity to pitch their documentaries to key international television representatives at "Documentary Sites", the third international documentary conference to be held at the University of Auckland.

Prospective commissioning editors include representatives from BANFF (Canada), SBS (Australia), the ABC (Australia), HBO-Cinemax, The Learning Channel, Discovery, NHK (Japan), National Geographic, History Channel as well as PBS (US). A representative of the Soros Documentary Fund - supporters particularly of human rights documentaries - will also attend.

For more information or to pitch an idea or paper proposal, see www.auckland.arts.ac.nz/ftvm or email s.corrick@stargate1.auckland.ac.nz



THE BSA AND CHILDREN'S RIGHTS: Producers, children and Wombles

Last month the BSA held a symposium in Wellington on the Protection of Children, as part of a review of the Free-to-Air Television Code. SPADA will be watching with interest the progress of the review. We note with some concern that it is being conducted initially by the broadcasters.

One of the highlights of the day was a thought-provoking personal view presented by **Rex Simpson** of Kids TV, producer, programmer, trained teacher and by his own admission former Womble, on the producer's role in protecting the rights of children. Following are some excerpts from his speech:

"In the decade since the ratification of the UN convention, article 17, on the rights of the child to information, participation in its production and dissemination, we have seen little progress on its implementation into our broadcasting policy, planning and practise.

"Why is this? Is it because the wide range of actors in the broadcasting saga have conflicting interests? Where is the producer in this tableau and what role have they in ensuring children's rights are protected?"

THE PRODUCER'S ROLE

Television producers do not work in a vacuum, unaffected by the laws that govern society and business. The human rights of children have only recently been defined in international law with the UN convention on the rights of the child set to become the first universal law of humankind. It is in this environment that

producers make editorial decisions.

How well a producer does this job depends on their personal skills, their education and knowledge, together with their professional qualifications. There is no formal qualification to determine who practises as a producer. Producers are not licensed. Training in ethics and human rights with an emphasis on the rights of the child, is not yet a prerequisite to becoming a producer.

The broadcaster is a producer's primary client, and the producer must meet their requirements. The commercial requirements of the broadcaster can be in conflict with the producer's desire to do the right thing. Producers have to balance the vulnerability of children to subliminal messages while satisfying the commercial demands of the client. It is often a fine line. The guiding principle for me has always been to favour the interests of the child, bearing in mind their right to access commercial information along with everyone else.

We live in a consumer society. We shop in the global marketplace. It is hypocritical to preclude children from participation. The fundamentals of a consumer economy are part of our basic education system. Children are taught about the media and its messages as a preventative tool, enabling them to distinguish between appropriate and harmful information. Ultimately the parents set household rules and have the power to turn the TV off.

In my experience in recent years broadcasters don't appear to have a plan for the development of more local programmes to supplement the diet of offshore offerings.



If children are to grow up appreciating their own culture, then the media has a responsibility to recognise, respect and nurture the cultures with which children are familiar, at a level that doesn't deem the productions second rate. The long-term cost of importing someone else's culture, moral and social standards has yet to be fully researched.

I read recently that it takes a village to raise a child. There is still a lack of commitment in our village, in my opinion, to ensuring that children get the right inputs. To improve this as a society we need to recognise the rights of children.

Television, I believe, will do its part as a responsible member of the village only if other members like parents, caregivers and teachers, do theirs to promote the principles set out in the UN charter.

This has been a personal perspective from one who has been passionate about the establishment and growth of an indigenous children's television industry. In my middle years I have been reflecting on the value of my contribution and realise that I am now perhaps a dinosaur, at odds with current attitudes. You see I wish to remain a Womble who is idealistic and not cynical, filled with thoughts about the infinite possibilities and not bogged down by the negatives, in essence and in spirit childlike and a little naïve perhaps.

EMPLOYMENT RELATIONS BILL

This Bill will provide a shake up in several areas of the film and television industry. It is being progressed quickly and will come into effect on 1 August 2000. Some general information is set out below. All employers are strongly advised to familiarise themselves with the Bill (at Bennett's Government bookshops) and to begin reviewing their contracting procedures. Consult your lawyer!

The Bill includes all participants in the employment environment, not just employers and employees. In the words of Minister of Labour Margaret Wilson, the Bill's objectives include the intention to promote collectivism as a means to address the inherent inequality of employment bargaining, while protecting individual choice. There is also the intention of promoting mediation as a primary dispute mechanism to reduce the need for judicial intervention.

Three key film and television industry issues are the re-emergence of collective bargaining, changes to the process of individual contracting and the status of contractors (ie the definition of employee).

Collective bargaining

The Bill promotes collective agreements between employers and unions. The Bill's notes say *Union membership will authorise the union to represent members in their relationships with employers and the employment institutions. In order to carry out their roles, unions will have statutory rights of access to workplaces for bargaining, representation and union business purposes including recruitment (subject to not unreasonably interfering with the conduct of the employer's business).*

Unions must be registered and be an incorporated society. They may have a minimum of two members.

Employers may not initiate collective bargaining if there is no collective agreement currently in place.

If a union seeks to initiate negotiation of a collective agreement, the employer must follow specific steps as outlined in the Bill. Neither party may adopt a "take it or leave it" approach.

If there is a collective agreement already in place, a union may initiate bargaining within 60 days of expiry of the agreement and an employer may do so within 40 days of expiry.

More than one union can initiate bargaining with more than one employer for a multi-party collective agreement.

The new duty of "good faith bargaining" requires the parties to outline their issues, present their proposals, articulate the underlying reason for the proposals and make every reasonable effort to reach common ground so a collective agreement can be reached. The employer may not communicate directly with employees on issues affecting the negotiation while the bargaining process is in train.

Employers may be required to provide specific information, such as financial data on company position, to support a case.

It is very likely that new unions will emerge, maybe from some industry guilds, as well as existing unions seeking to extend their coverage. Employees may opt to negotiate their contracts either individually or

collectively and may not be pressurised to choose either option by either an employer or a union.

Individual Agreements

Before any new employee enters into an individual employment agreement, where there is no collective agreement, every employer **must**:

- Provide a copy of the intended agreement
- Advise that independent advice may be sought
- Give reasonable time to seek advice
- Within 14 days of starting work, the employee must be given a copy of the agreement

An individual agreement must, generally speaking, be consistent with, or better than, any existing collective agreement.

An existing individual contract will be deemed an independent agreement, and may run its course **except as amended by the new legislation.**

When a fixed-term agreement ends, an employee will be deemed unjustifiably dismissed unless there are genuine operational reasons at the beginning and end of the agreement.

INDEPENDENT CONTRACTORS

For contractors, the Bill *extends access to the rights, obligations and protection of employment law to those persons who are currently classified as 'independent contractors' but are in reality working in situations that are identical to an employment relationship.*

To decide if a person is an employee, not a contractor, the most weight is given to:



- The **extent** to which the employer exercises control and direction over the activities of the person, and
- The **degree** to which the person forms an integral part of the employer's business on an ongoing basis

The least weight is given to how a contract might describe the person (namely even if the agreement states that the arrangement is not an employment one or is a contract for services, it ain't necessarily so).

It would seem that many people currently classed as independent contractors will be employees (dependent contractors) under the new legislation. This gives them access to the collective bargaining options described above, and specific personal grievance procedures irrespective of what is currently in their contracts.

Schedule 2 of the Bill, enclosed with this newsletter, sets out a process chart of how the Bill will require conflict resolution to be managed. A copy will need to be provided to all employees.

The tests to decide whether a person is an independent contractor or employee will emerge. The defining factors will doubtless include who determines the hours of work, who determines who carries out the work, is the role part of the

core business, is there an office provided, is payment made by regular instalments or flat fee etc etc.

One test not relevant is whether income is derived from a number of sources. The focus is on who controls the work.

Issues

If the ACC legislation is any indication, it is clear that this Bill will go through Parliament largely unchanged. Therefore meaningful select committee submissions need to focus on pointing out anomalies rather than arguing ideology.

SPADA will be making a short submission (deadline 3 May) requesting thought be given to the following, given the film and television industry's unusually heavy reliance on contractors:

1. The tax status of dependent contractors is unclear. The Bill makes no mention of whether PAYE now applies and if the person can still operate as a company and deduct business-related expenses, especially if they provide their own equipment. It is undesirable for this to be left for the IRD to determine given the IRD's continuing problems in dealing consistently with production issues. SPADA will be seeking clarification, arguing that company status should remain for tax purposes, to avoid an inflationary effect on budgets.
2. The effect of other employment-related legislation on dependent contractors is also unclear, such as whether they are subject to provisions of the Holidays Act and the minimum wage, may accrue paid annual leave and sick leave, etc.
3. Thus the Bill needs to define the difference between dependent and independent contractors more clearly (eg. to check if/when it is intended to cover actors, writers, technicians etc).
4. We will suggest transitional provisions be included, so employees and contractors can have a reasonable period to review arrangements and potentially agree on new contracts.
5. We will also comment on the narrow definition of 'working day' which currently focuses on Monday - Friday and excludes between 25 December and 2 January.

Once the Bill is through its second reading SPADA will organise information workshops for members.

Main features of the Employment Relations Bill

- Good faith concept underpins the Bill
- Collective agreements must be negotiated in good faith
- Principles of freedom of association and the right to organise are recognised
- Unions have greater access to workplaces
- Access to more information (including financial information) during negotiations
- Multi-employer and/ or multi-union bargaining allowed
- Employees must be union members to be, or remain, a party to a collective agreement
- New regime for resolving disputes (mediation may be required)
- Independent contractors may be caught by the legislation
- Use of fixed term contracts to be limited
- Reinstatement to be the primary remedy for unjustifiable dismissals
- Labour Inspectors' role to be expanded



EXECUTIVE

A SPADA Executive meeting was held in Auckland on 3 April. Among other things, the Executive:

- Established a subcommittee of John Harris, David Rose and Kate Doherty, to look at training. If you are interested in this issue, contact kate@spada.co.nz
- Discussed quota strategies
- Discussed issues relating to NZ On Air

WHAT ELSE HAS SPADA BEEN UP TO?

- We have consulted interested parties about filming on Department of Conservation Lands, and will be writing to DOC shortly with a series of requests based on the information provided through this consultation. For more information, contact kate@spada.co.nz
- The Auckland and Wellington Film Focus Groups have met with the NZFC.
- We've held meetings about quota for members in Auckland, Wellington and Christchurch.
- We've co-ordinated the Television@NewZealand stand at MIP-TV this month. 7 companies - Foreign Films, Ninox, Gibson Group, Greenstone Pictures, Pinflicks, Te Reo Television and Top Shelf - were involved, and initial feedback suggests that the event was very successful.



Film New Zealand has been operating for the last 2 years, and we have figured out what works and what doesn't. In fact after a long trip "around the houses" I have come back to my original thoughts on the domestic industry's facilities and practitioners.

In NZ we have a limited number of people/facility companies who have experience in delivering to the international market. The expectations of overseas producers are different to local expectations. By taking the opportunity to be marketed as a *FNZ preferred supplier*, individuals and companies are making a commitment to work to international expectations and will develop their business along these lines. As you know, this requires marketing strategies and investment within the company.

FNZ wants to work in partnership with the individuals and facility companies. This requires an agreement from both to work for the betterment of the whole. This relationship is central to FNZ's philosophy, and is exemplified in the relationship we already have with Kodak and Xtreme Forwarding. We give each other production leads. We back up and service their needs, and together we try and find solutions to common problems.

FNZ will never have a large number of staff, or a huge budget. This is why we promote and work with organisations that are responsive and effective in their market position and support ours.

When we work together, the whole industry benefits.

CONTACT SPADA

The SPADA office:

P O Box 9567

Wellington, NZ

Ph +64 4 802 4577

Fax +64 4 385 8755

Email info@spada.co.nz

Jane Wrightson

Chief Executive

Jane Gilbert, Film NZ

Kate Doherty

Membership Manager

Lisa-Marie Tamariki

Administrator

SPADA Executive:

Auckland

Karen Soich, President

09 376 6382

John Barnett, Vice President

09 839 0999

Caterina De Nave 09 378 8119

John Harris 09 630 7333

Nicole Hoey 09 360 1188

David Rose 09 377 2770

Wellington

Grant Campbell 04 388 9739

Bronwen Stewart 04 801 6546

Waka Attewell 04 384 6234

Christchurch

Veronica McCarthy 03 377 7266

Police Uniform and Equipment Hire

Does your drama or advertisement feature the boys and girls in blue?

To hire uniforms and equipment contact the External Relations team of the NZ Police on **04 474 9499**.

It is illegal to hire uniforms or equipment through any other means and without written approval from the New Zealand Police.



Mountainfilm Telluride Colorado, 26-29 May 2000. Festival of mountain, adventure, environmental and cultural film & video. For more info email mountainfilm@rmi.net, or fax 001 970 728 6458.

Banff Television Festival – BTVF 2000 Banff, Canada, June 11 - 16. Prior to the festival itself a Conference - **Public Service Broadcasting: Beyond 2000** will be held from 9 - 11 June. For further information about the Banff Television Festival e-mail info@banfftvfest.com or fax 001 403 678 9269. Entries close 21 February. For information about the conference contact Peter Senchuk e-mail tvconfer@ualberta.ca

Marseille 2000 Festival International du Documentaire 23-28 June, Marseille, France. One of the world's top documentary festivals. Entries close 17 March. For more info see www.filmfestivals.com or email vuesurlesdocs@wanadoo.fr

Nescafé Short Film Awards
The "NESCAFÉ Short Film Awards" offer a commercial return to short film makers, through the payment of screening fees for year-round screenings of short films at NESCAFÉ Cafés in Australia, festivals sponsored by Nescafé, and through RealVideo at www.nescafe.com.au, as well as prizes awarded to the 3 best films. Entries for the 2000 "NESCAFÉ Short Film Awards" are open from May 1 until July 31. See www.nescafe.com.au for more information, or call 0800 430 043.

5th Annual MilanoFilmFestival Milan 17-20 September. Short and feature films. For further information, see website www.milanofilmfestival.it, email info@milanofilmfestival.it or ph/fax +39 02 8942 1256

Moving Pictures October 2000, Toronto. Festival of Dance on Film & Video. Entry deadline 31 May. For more info email movingpix@total.net or see www.total.net/~movingpix

14th Leeds International Film Festival 5-20 October 2000. Two competitive strands: New Directors and Short Film, as well as a variety of non-competitive strands, including new films, children's and interactive. Deadline for entries 23 June 2000. For more info email filmfestival@leeds.gov.uk, fax +44 113 247 8397, or website www.leedsfilm.com

Wildscreen 2000 International Festival of Moving images from the Natural World Bristol UK, 7-13 October. Competition, screenings, seminars, training workshops, masterclasses, trade show. For more info email info@wildscreen.org.uk or see www.wildscreen.org.uk

St Johns International Women's Film and Video Festival Canada 18-22 October. Non-competitive. Entry deadline 31 May. For more info email filmfest@thezone.net or see www.mediatouch.com/film

Kalamata International Documentary Film Festival 22-28 October, Greece. Entries close 15 May. For more info see www.documentary.gr, or email info@documentary.gr

FAN 2000 International Film Festival 26-30 October 2000 Norwich, England. Short film and animation festival. Workshops and lectures. Entries close 30 June 2000. For more info see www.filmartsnorwich.co.uk

Sport Movies and TV 2000 Oct 28-Nov 3, Milan. Coincides with MIFED. Entries close 31 July 2000. For more info email ficts@starlink.it

Margaret Mead Film and Video Festival New York November 3-11. Non-fiction films and videos, submission deadline 15 May. For more info and submission form email meadfest@amnh.org or see www.amnh.org/mead

London Effects and Animation Festival (LEAF) 14-16 November celebrates the best work in Computer Generated Animation and film special effects. For more information see www.digimedia.co.uk.

Moondance International Film Festival Women film-makers, screenwriters, playwrights and short-story writers. Entries accepted 1 April-1 October 2000. For more info see www.moondancefilmfestival.com or email moondanceff@aol.com

spadaSEMINAR

SHOW ME THE MONEY: FINANCING FILM AND TELEVISION PROJECTS A Seminar for Producers

This one-day seminar, to be held in Wellington on Thursday 1 June and Auckland on Friday 2 June, is aimed at producers who already have some experience.

Topics covered include:

- The new domestic funding scene
- International finance - markets, the package, ongoing relationships
- Rights and negotiations
- Royalties
- Video sales and merchandising

To register, contact info@spada.co.nz. Forms will be e-mailed to all members early May.



THANK YOU TO OUR
SPONSORS



Sponsored by



SPADA SAVINGS

FILM STOCK & RELATED SERVICES

Kodak is a major investor in the New Zealand Film industry. Internationally Kodak has won eight academy awards for quality and service. For more information about any Kodak product or service, call Peter or Chris on 0800 500 135.

LEGAL ADVICE

Members receive first 15 minutes of advice free. For larger inquiries members should seek a quote.

Buddle Findlay

- Call Auckland 09 358 2555, Wellington 04 499 4242.

Crengle Shreves and Ratner

- Call Teresa Shreves on Wellington 04 473 6655

TRAVEL

Ansett New Zealand

- First obtain a flightcard. Any bookings made on this flightcard attract a 5% discount (this discount comes off an already discounted fare).
- Flightcards can be obtained by calling Leah Murray on 0800 243 000. Tell her you are a SPADA member.

Budget Rent A Car

- Offer members the best rate available on the day.
- Ask for the SPADA rate when making your booking or call Nikolas Cheals 04 388 0987.

The Corporate Traveller

- 2% discount on all Trans-Tasman airfares.
- 4% discount on all other International Published airfares.
- Management of existing travel discounts (eg. Ansett).
- Call Richard Withell, 021 504 499 or 04 473 5533 and tell him you are a SPADA member.

LOCATIONS

DOC

- 10% off all charges (except consents) associated with filming on Department of Conservation land.
- Ask for the SPADA discount at any Conservation office.

ACCOMMODATION

CDL - Millennium, Quality and Copthorne Hotels

- Discounts vary from 25% to 43%, depending on the day of the week and the hotel.
- Ask for the SPADA discount when you make your booking at any CDL hotel.

Flag Choice

- Discounts vary from 10% to 50%, depending on the day of the week and the hotel.
- Call reservations on 0800 803 524, Quote the following "ID" numbers: **2205322** (SPADA InnClub membership) and **00203360** (SPADA ID)

