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Committee on Budgetary Oversight
Report on Section 481 – Film Tax Credit
May 2023

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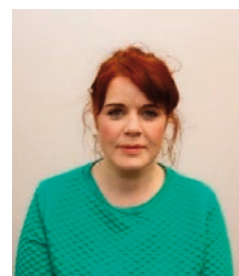
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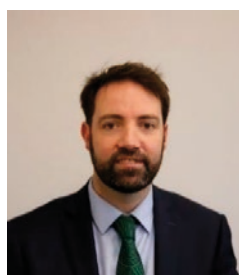
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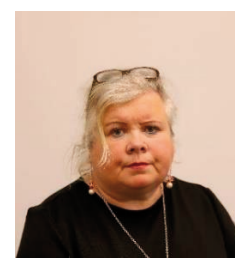
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¹ Mairéad Farrell TD was discharged from the Committee on 26 April 2023 and Rose Conway Walsh TD was appointed in her stead

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³ Kieran O'Donnell TD was discharged from the Committee on 21 December 2022 upon appointment as Minister of State. Colm Brophy TD was appointed to the Committee on 7 March 2023.

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Introduction

The Select Committee on Budgetary Oversight (“the Committee”) examines tax expenditures on a regular basis. The Committee decided to examine three tax expenditures, Research and Development Tax Credit, the Knowledge Development Box and the Film Credit in advance of Budget 2023 and met with representatives from the Department of Finance, Office of the Revenue Commissioners and the Department of Enterprise, Trade and Employment.

The Committee published a report on the [Research and Development Tax Credit and the Knowledge Development Box](#) on 22 September 2022 and decided to hold further engagements on the Film Credit.

The Committee held four meetings with a range of stakeholders⁴ from across the film and television sector to understand the operation and impact of the Section 481 Film credit.

This report was agreed by the Committee at its meeting on 19 April 2023.

⁴ [See Appendix 1](#)

Summary of Recommendations and Observations

1. The Committee recommends that the Department consider altering the claiming process, with a reduced amount of funding to be made available up front based on budgeted expenditure (currently 90%), and the balance claimed on completion, as a means of encouraging compliance with the criteria.
2. The Committee recommends that consideration be given to extending the 6-month time limit to submit a claim to the Workplace Relations Commission for cases involving the audio-visual sector due to the nature of their operation and structure.
3. The Committee recommends that DACs established for the purposes of TV, Film and Media production be required to continue in existence for 3 years following the completion of a production, as a requirement for receipt of Section 481.
4. The Committee recommends that the term 'quality employment and training', in the context of the audio-visual industry, be defined.
5. The Committee recommends that it is clearly established that producer companies who receive Section 481 on the condition of creating quality employment and meeting the industry development test must take responsibility for employees and acknowledge their employment relationship with film crew across different productions and recognise the accumulated service of all such employees as a condition of receiving Section 481.
6. The Committee commits to writing to the EU commission requesting an examination of the use of successive use of Fixed Term Contracts for film crew working across multiple productions, where such crew never acquire Contracts of Indefinite Duration or any acknowledgement of their service, and whether this amounts to a breach EU Directives in terms of both the Fixed Term Workers Directive and EU directives relating to state aid for the Audio-visual sector.
7. The Committee recommends that under the industry development test, assurance must be given that Irish performers will not be subject to lesser terms and conditions regarding their intellectual property rights than international performers in similar roles when employed on the same project receiving Section 481 funding.
8. The Committee recommends that compliance with the Copyright and Related Rights Act 2000, as well as the EU Copyright Directive should be a specified requirement in order to avail of the Section 481 credit. In this

regard the Committee wishes to highlight the importance of compliance with Articles 18 to 23 of the EU Copyright Directive.

9. The Committee commits to writing to the EU commission requesting an examination of the use of 'buy-out' contracts in the Irish film production.
10. The Committee recommends that the Department of Finance engage with the European Commission with a view to retaining the Regional Uplift at a higher rate of 5%, and to increase the 45-kilometre area limit to 75 kilometres or further.
11. The Committee recommends that the Department of Tourism prioritise and engage with the Department of Education, Screen Guilds Ireland and Screen Ireland and other interested stakeholders to develop an accreditation framework, in line with the National Framework of Qualifications, for recognised skills across the audio-visual sector.
12. The Committee recommends that the Department of Finance, when providing information on the performance of the Section 481 Film Relief or otherwise, provide data regarding the number of individuals employed on certified projects in addition to FTEs, and to provide data on FTEs excluding extras.
13. The Committee recommends that consideration be given to removing or increasing the €70 million cap.
14. The Committee recommends that the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and the Department of Finance convene a stakeholder forum as a priority to discuss how to maximise the benefits of the Section 481 credit for all concerned stakeholders, and to facilitate best practice in employment rights, industrial relations, collective bargaining, address Copyright and Intellectual Property issues and any other relevant issues.

Overview of Section 481

Section 481 of the Taxes Consolidation Act (TCA) 1997⁵ provides relief in the form of a corporation tax credit related to the cost of production of certain films.

The credit is granted at a rate of 32% of the lowest of:

- a) eligible expenditure;
- b) 80% of the total cost of production of the film; or
- c) €70 million.

The minimum amount that must be spent on the production is €250,000 and the minimum eligible expenditure amount to qualify is €125,000.

Claiming Process

The relief may be claimed against a producer company's corporation tax liabilities and the relief applies to feature films, short films of feature quality, television dramas, animations, and creative documentaries.

There are two options available to claimants when claiming the credit. One option is to claim 100 per cent of the credit based on actual expenditure. This claim must be made within 6 months of completion of the production.

Alternatively, a claim can be made during the course of the production. In this scenario the claim is made in 2 instalments. The first part of the claim may be made for 90 per cent of the credit based on budgeted expenditure. The balance is calculated based on actual expenditure and must be claimed within 6 months of completion.

Section 481 may only be claimed by a producer company, meaning a company carrying on the trade of producing films. In addition, the producer company must hold all of the shares in a qualifying company. A qualifying company is a special purpose company set up solely for the purpose of producing one qualifying film. The

⁵ <https://www.irishstatutebook.ie/eli/1997/act/39/section/481/enacted/en/html#sec481>

qualifying company must be incorporated and resident in the State or carry on a trade in the State through a branch or agency.

Qualifying Criteria

In order for a production to qualify for the relief it must have been issued with a cultural certificate by the Minister for Tourism, Arts, Culture, Gaeltacht, Sport and Media. The Minister, when considering whether to issue a certificate to the producer company will examine the anticipated net contribution that the credit and other state schemes will make to the project and will consider whether the film will either or both:

- a) be of importance to the promotion, development and enhancement of the national culture including, where applicable, the Irish language (referred to as ‘the Culture test’), and
- b) act as an effective stimulus to film making in the State through, among other things, the provisions of quality employment and training and skills development opportunities (referred to as ‘the Industry development test’). All applications must also include a Skills Development Plan outlining the number of skills development participants.

Regional Uplift

The Finance Act 2018 introduced a short-term, tapered, regional uplift for productions being made in areas designated under the state aid regional guidelines. The purpose of the regional uplift is to support the development of new, local pools of talent in areas outside the current main production hubs to support the geographic spread of the audio-visual sector. The uplift originally provided an increased level of credit for four years, with 5% available in 2019 and 2020, 3% available in 2021, and 2% available in 2022. However, in recognition of the detrimental impact the Covid-19 crisis had on the audio-visual sector, the Finance Act 2020 amended the regional uplift to provide for an additional 5% year in 2021. The tapered withdrawal of the uplift then continued in 2022 with the planned reduction to 3%. It has reduced to 2% in 2023 and will be unavailable thereafter.

Budget 2023 provided for an extension of the Film Credit Relief to the end of 2028.

Areas for Further Consideration

Industry Development Test

The Committee notes that under the Film Regulations 2019⁶, a certificate shall not be issued by the Minister in relation to a film unless the Minister is satisfied that the film will either or both –

- (i) be of importance to the promotion, development and enhancement of the national culture including, where applicable, the Irish language (referred to as ‘the Culture test’), and
- (ii) act as an effective stimulus to film making in the State through, among other things, the provision of quality employment, and training and skills development opportunities (referred to as ‘the Industry development test’).

When discussing the industry development test with stakeholders from across the audio-visual industry, concerns were raised by some witnesses as to whether this test was being met on all occasions, in particular due the nature and structure of the qualifying companies used, Designated Activity Companies, DACs. In particular, the Committee queried whether much of the employment being provided under Section 281 can be classified as “quality employment”.

In this regard issues were raised by members of the Irish Film Workers Association, IFWA, previously employed by DACs, who advised that that due to the temporary nature of the DAC workers had insufficient recourse to employment dispute mechanisms. IFWA explained to the Committee that as DACs are only required to remain in existence for 12 months following the completion of a project, if an employee of a DAC wishes to bring a case to the WRC or Labour Court by the time such a case reaches the court the employer, or DAC, no longer exists. Further to this they advised the Committee that due to the qualifying company, or DAC, having been the employer of the crew for the production, workers are unable to seek recourse from the production company itself despite that production company being the beneficiary of the Section 481 credit. In essence, they advised that the nature of the DAC structure and requirement under Section 481 is preventing production

⁶ <https://www.irishstatutebook.ie/eli/2019/si/119/made/en/print>

companies in receipt of the Section 481 credit from having ongoing employment relationships with crews employed by such DACs.

In relation to this, IFWA expressed the view that workers' rights as set out in legislation, particularly the Fixed Term Workers Act and the right to have employees' length of service recognised by producer companies funded by Section 481 and the industry generally across multiple productions was being systematically breached. They suggested further to that, that given that state aid to the film sector is conditional on such funding meeting the industry development test and providing quality employment and training, that the industry development test was incapable of being met.

In discussing this with representatives of Screen Producers Ireland, SPI, they advised the Committee that the employment relationship between the DAC and the employee is defined in large part by fixed-term contracts due to the project-based nature of the industry. SPI advised that for various reasons this is the global norm, including in Ireland, and it can be seen as a career choice with employees in the sector aspiring to work on numerous creative projects. SPI further noted that it is true that each time somebody is employed, they are employed in connection with a project for a fixed period of time. This may be only six weeks in the case of a feature film, six months for a season of a television series, or 2 to 3 years for an animation series, but there is always in the end a project-based nature to the industry.

Expanding on the structure of DACs SPI further advised that DACs are a requirement of Section 481 and, as the name suggests, are for one purpose only, providing the relevant parties involved with transparency and auditability in terms of how the spend on a particular project happens. They advised that the establishment of special purpose vehicles such as DACs for audio-visual projects is a practice which dates to long before the establishment of section 481. They noted that it is always the case, and is also the case in other jurisdictions, that for each project the financiers and others involved in the production want a separate vehicle for each project to ensure transparency and accountability. Further to this they noted that the Revenue Commissioners see the value of such transparency and accountability from

having a single company producing a project, as all eligible expenditure goes through that production.

In further discussions around the issue of employee's recourse to their employer when that employer is a DAC, Screen Ireland noted that it is their understanding that the employment relationship exists between the DAC and those that are hired on that particular production. They then noted that as the DAC stays in existence for 12 months following the completion of a production any issues that arise can be addressed within this timeframe.

Representatives from Element Pictures echoed the sentiment of Screen Producers Ireland and noted that DACs are a commercial necessity where multiple parties are involved in financing and completing a project and operate as a vehicle through which all the resources of the project can be funnelled, and all the employees engaged. Element Pictures noted that it is not correct to say that they would ever tell someone that their employment rights do not matter because the DAC is no longer in existence, and advised that they have often facilitated queries from former employees of DACs. They further noted that during the period people are employed by DACs they have all their employment rights and have recourse to industrial relations mechanisms in the same way as other employees in the State.

When the aforementioned issues were put to officials from the Department of Finance they acknowledged that there are different opinions with regards to what quality employment means within the project nature of audio-visual industry, with some looking for more steady and continuous employment and others preferring the fact they can move from project to project. In the context of the industry as it operates globally, they noted quality employment means there is a steady supply of employment and in this regard noted that there was generally more demand for employment in the sector than supply.

Having discussed the employment issues raised by witnesses with all the stakeholders in attendance, the Committee still has concerns around some of the difficulties posed by the structure of the DAC requirement and as such has put forward several suggestions.

Recommendations and Observations

1. The Committee recommends that the Department consider altering the claiming process, with a reduced amount of funding to be made available up front based on budgeted expenditure (currently 90%), and the balance claimed on completion, as a means of encouraging compliance with the criteria.
2. The Committee recommends that consideration be given to extending the 6-month time limit to submit a claim to the Workplace Relations Commission for cases involving the audio-visual sector due to the nature of their operation and structure.
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6. The Committee commits to writing to the EU commission requesting an examination of the use of successive use of Fixed Term Contracts for film crew working across multiple productions, where such crew never acquire Contracts of Indefinite Duration or any acknowledgement of their service, and whether this amounts to a breach EU Directives in terms of both the Fixed Term Workers Directive and EU directives relating to state aid for the Audio-visual sector.

Intellectual Property Rights

Further to the issue of accessing recourse to employment issues, and also relating to issues discussed under the Industry Development Test and the associated aspects of “quality employment”, the Committee also heard of issues relating to the ownership of intellectual property rights.

In this regard representatives from Irish Equity noted that in the same way that contracted crews are protected by a range of employment legislation, all performers and creatives are protected by the *Copyrights and Related Rights Act 2000*⁷ and the *Directive on Copyright in the Digital Single Market*⁸ (*EU Copyright Directive*).

However, they note that although productions must sign a statement to the effect that will comply the relevant employment legislation to avail of the section 481 credit, the *Copyright and Related Rights Act, 2000* and the *EU Copyright Directive* are not specifically listed in the statement.

Irish Equity highlighted the importance of these protections and advised that the real value of the film and television industry does not exist at the point of production but it is contained in the copyright and intellectual property of all the parties contributing to the final product. They note that all performers own property rights under the copyright legislation with such rights having a financial value to those who own them, namely the performers and those who want them, namely the producers. The advised that the most important of these rights is the right to proportionate remuneration for the ongoing financial exploitation of the performance, as enshrined in *Article 18*⁹ of the *EU Copyright Directive*.

Irish Equity suggested to the Committee that in order to manage this legislative risk, adherence to copyright legislation and regulation must become an eligibility requirement for Section 481 applicants, if Section 481 is to be consistent with Irish and European legislation. Irish Equity further advised that *Article 18 of the EU Copyright Directive* vests the performer with the right to an appropriate and proportionate remuneration for the ongoing financial exploitation of his or her work and noted that this means a small percentage of the worldwide revenue streams created by the ongoing sale of the production will find their way back to the performer.

Expanding on this issue, Irish Equity voiced concerns that there is a growing legal and reputational risk to the audio-visual sector due to an imbalance in the

⁷ <https://www.irishstatutebook.ie/eli/2000/act/28/enacted/en/html>

⁸ <https://eur-lex.europa.eu/eli/dir/2019/790/oj>

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019L0790&from=EN#d1e1588-92-1>

remuneration from IP rights between Ireland other jurisdictions such as the UK, the United States of America, and Canada, with Irish performers subject to lesser terms and conditions, as well as being denied their copyright despite both Irish and international performers being part-funded by Section 481 taxpayer funding. In this regard they advised that the prevalence of buy-out contracts in the industry in Ireland has become the norm rather than the exception. They noted that performers are faced with situations where they must either sign a buy-out contract where there is no variability allowed in what actors get for the exploitation of their work or lose that employment opportunity. Irish Equity is of the view that the directive as it is currently implemented does not provide the full protections that it should.

To protect against this and to ensure performers have protection in negotiation processes, Irish Equity emphasise that to avail of the Section 481 credit, the *Copyright and Related Rights Act, 2000* and *EU Copyright Directive* must be adhered to in full and that all agreements and contracts comply with the legislation protecting the rights of the artist.

They acknowledge that the strength of section 481 is that it provides large investment in the cultural sector in Ireland and provides employment but advised it is important that it is, as the legislation states, quality employment that ensures all creatives benefit from a rise in their standard of living and the creation of sustainable careers in an otherwise precarious environment.

Transparency

During the course of the discussions surrounding intellectual property rights, the Committee also heard testimony from Irish Equity that their members are unable to ascertain whether the remuneration they receive is proportionate, equitable, and fair, as they do not know and are not informed of where the rights to their performances are transferred to. They note that *Article 19* of the *EU Copyright Directive* provides for transparency measures relating to the assignment of performer's property rights and their value to the end user. They advised the Committee that when performers sign their rights over to the DAC there is no written information as to where these rights go, and remarked that often the only mention of the transferring of rights is a line on a page that states all rights are assigned to a specific company and that they

can be assigned further. They also note that the large streaming companies often seek all the rights, so it is not just the performers that lose out but the producers also. Addressing this issue would result in significant benefits if performers, including screenwriters, directors, cinematographers and actors, all shared in the global revenue streams as greater number of employees and revenue would be taxable in this jurisdiction, as well as raising the living standards for those concerned.

In discussing intellectual property with representatives from Animation Ireland, the Committee heard that the growth of major subscription video on demand, SVOD, streaming services in the past ten years has meant that the demand for content has never been greater but also noted, as mentioned by Irish Equity, that many SVODs insist on retaining 100% of the IP in that content. They note that the animation industry in Ireland comprises two major components, namely service work which consists of producing animation for international partners by way of foreign direct investment, and their own intellectual property, story development, with service work affording companies the ability to develop and invest in their own projects which in turn secures jobs and builds companies of scale.

In examining the assignment and transfer of intellectual property rights further, representatives from Screen Producers Ireland, SPI, informed the Committee that it is important that the producer company owns all the rights from all the contributors to the project, as if it does not own all the rights, it will be unable to distribute the film. They noted that performers transfer those rights and receive remuneration in return and advised that it is important that a proper contractual arrangement is in place for the actors, writer, director and all the people involved.

When the matter of lesser conditions and buy-out clauses were discussed SPI noted that agreements have been entered into with Irish Equity to provide for the sharing of downstream revenues from the exploitation of television dramas, films and docudramas but noted that an agreement on feature films is not yet in place. In this regard SPI advised that they would hope to reach an agreement with Irish Equity and signalled that they would welcome a greater effort to encourage and incentivise collective bargaining agreements.

In speaking with Equity Ireland, the Committee also noted their willingness to engaged in a stakeholder forum where all stakeholders in the industry can discuss how to extract more benefit from the section 481 credit across the board, including establishing better protection mechanisms to ensure maximum benefit from the credit for taxpayers, workers and other stakeholders involved.

In discussing IP with representatives from Element Pictures, they noted that the distribution of revenues from a performers point of view, whether it be an actor, director, or writer, is usually determined by whether they are party to a collective agreement that allows for participation in those revenues, or they have representation who will negotiate directly with the producer for their client. They acknowledged that historically under the arrangements with Irish Equity there was never a formal collective agreement in place and that there was a buyout but noted that in advance of the *EU Copyright Directive* coming into force there were negotiations with Irish Equity and they would welcome a return to such negotiations.

With regards the imbalance in the remuneration of IP rights between Ireland and other jurisdictions, Element pictures noted that it became common practice for UK TV dramas shooting in Ireland to use the PACT-Equity agreement, an agreement between the Producers Alliance for Cinema and Television. However, they advised that they much rather have a local collectively negotiated arrangement in place.

Recommendations and Observations

7. The Committee recommends that under the industry development test, assurance must be given that Irish performers will not be subject to lesser terms and conditions regarding their intellectual property rights than international performers in similar roles when employed on the same project receiving Section 481 funding.
8. The Committee recommends that compliance with the Copyright and Related Rights Act 2000, as well as the EU Copyright Directive should be a specified requirement in order to avail of the Section 481 credit. In this regard the Committee wishes to highlight the importance of compliance with Articles 18 to 23 of the EU Copyright Directive.
9. The Committee commits to writing to the EU commission requesting an examination of the use of 'buy-out' contracts in the Irish film production.

sector as a standard practice represents a breach of the rights of performers and artists under the EU copyright directive.

Regional Uplift

The Committee, during its examination of the Section 481 Film Relief, heard testimony from numerous stakeholders regarding the utilisation of the Regional Uplift.

Screen Guilds Ireland, SGI, voiced their concern that the Regional Uplift continues to decrease and noted there was no allowance for it in the recent extension to Section 481. They advised that it is essential that the industry grows in the regions as well as in the production hubs of Dublin and Wicklow. SPI echoed this sentiment and voiced their disappointment that it was not extended as it had proved valuable in bringing productions out of Dublin and Wicklow and had seen considerable production activity across the country. SGI further advised that there are crew in the regions who want to work but do not necessarily want to come to Dublin or Wicklow, and they should not have to, that there should be crew nationwide. SGI acknowledged that it would take time to build up that crew base but advised this could be done if the regional uplift was in place.

The Committee notes that the uplift provided for the employment of trainees that habitually reside within a 45-kilometre radius of the assisted area, and Animation Ireland noted that this 45-kilometre criteria is restrictive for the animation industry as it is a highly technical industry needing skilled people. Animation Ireland noted that it was difficult to find such people within that 45-kilometre limit. and in particular in the more rural areas. They noted that they had requested that this limit be extended out to 75 kilometres. Animation Ireland also noted that the National Talent Academy for Animation aims to support skills development across all regions and in this context, it would seem counter-intuitive to reduce the regional uplift while focusing on regional development through the academy.

SPI also advised the Committee that they advocated for the retention of the regional uplift at a minimum of 5% in their pre-budget submission. They noted that the full

aspirations of the scheme were probably not reached. Elaborating on this they remarked that in all probability an entire ecosystem cannot be developed in five years with a declining percentage base, and suggested to the Committee that it be revisited.

Element Pictures also acknowledged that to build such an ecosystem of talent regionally would take time, advising that if there were to be a long-term commitment to the regional uplift the benefits would become apparent.

When discussing the status of the Regional Uplift with officials from the Department of Finance, they informed the Committee that the uplift is an approved state-aid and the premise upon which it was granted was that it would be temporary in nature and would be withdrawn on a tapered basis. They further advised that if the uplift were to be changed or retained for a further period this would require a further notification process with the European Commission. In addition to the policy considerations of such a proposal, technical matters would also need to be addressed. Elaborating on these technical matters the Department noted that the regional aid map upon which the uplift is currently based has expired and advised there is now a new map in place, which covers less regions than the map currently underpinning the scheme, with large portions of Kerry, Limerick and Clare having been removed.

Recommendations and Observations

10. The Committee recommends that the Department of Finance engage with the European Commission with a view to retaining the Regional Uplift at a higher rate of 5%, and to increase the 45-kilometre area limit to 75 kilometres or further.

Upskilling and Training

The Committee notes that under the Industry Development Test, the Minister may consider whether a project will act as an effective stimulus to film making in the State through the provision of training and skills development opportunities. In this regard the Committee examined the prevalence of training and skills development opportunities currently in place across the industry.

In examining this area, the Committee heard that Screen Guilds Ireland predominantly focuses on the area of skills training and development across numerous departments including accounts, art, camera, construction, costume, editing, hair, make-up, locations, production, prosthetics, and others. They noted that they are continuing to grow and endeavour to be fully inclusive of the Irish film industry as a whole. They informed the Committee that they welcomed the introduction of the skills development plan in 2018 as part of the application process for Section 481 funding and advised that since 2019 Screen Ireland has assessed over 160 skills development plans and tracked over 1,700 skills participants across 160 Section 481 productions. Further to this they advised the Committee that this emphasis on skills development within the structure of section 481 led to SGI developing a competency framework in consultation with Screen Ireland. They noted that this competency framework, an informative breakdown document for all crew grades across the various departments in the Irish film industry, is the first of its kind for that industry in the world. This competency framework they suggested, defines the career path that one might take in any given grade.

SPI also advised the Committee that the next generation of training and skills development encompasses a view towards the accreditation of skills within the sector, that this would be the journey of trainees: from mentorship and shadowing through to accreditation. In this regard they noted that if they are putting in significant effort to attract people to the sector it needs to be a sustainable and attractive place to work.

Screen Ireland also noted the development of the competency framework and advised that it enhances the Section 481 tracking process, opens access and career opportunities within the sector and supports third level institutions and training providers with a more targeted and relevant curriculum development. They too noted the next evolution in the training and skills development area is the development of a certification-accreditation model for work-based learning and advised that they have begun working with third-level partners and industry on this.

In addition to the above, Screen Ireland advised that Committee that they intend to launch a new crew and services database for the sector that will help increase

visibility of employment opportunities and access points for all in the industry. They noted that everyone working in the industry and new entrants will be able to self-register on the database and indicate if they are available to work. Producers and companies will also be able to register, search for crew, and advertise employment opportunities.

Though the Committee welcomed the developments in terms of training, upskilling and accreditation goals, when discussing the topic with the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, DTAGSM, the Committee queried the number of people employed by the sector and therefore the number of employees that avail of such skills development and training. The Committee notes that the recent Cost-Benefit Analysis of the Section 481 film relief, contained in the Budget 2023 Report on Tax Expenditures 2022¹⁰, states that in 2021 there were approximately 21,000 employments in the industry and that over half, 55%, of these were for extras. When these are compiled as full-time equivalents, FTEs, these 21,000 employments equate to 3,265 FTEs. The Department of Finance advised the Committee that FTEs are comprised of the sum of the total length of time of individual employments, and noted that all crew, cast, support cast and extras factor into that number. In this regard the Committee notes that the large number of extras in the available data and the sole availability of FTE data prevents one discerning how many individual people were employed under projects receiving Section 481, and how many people were employed on a full-time basis and/or for how many days/hours etc.

Recommendations and Observations

11. The Committee recommends that the Department of Tourism prioritise and engage with the Department of Education, Screen Guilds Ireland and Screen Ireland and other interested stakeholders to develop an accreditation framework, in line with the National Framework of Qualifications, for recognised skills across the audio-visual sector.
12. The Committee recommends that the Department of Finance, when providing information on the performance of the Section 481 Film Relief or otherwise, provide data regarding the number of individuals employed on

¹⁰ <https://www.gov.ie/pdf/?file=https://assets.gov.ie/243743/c7696ee4-d656-487b-ad53-a00ad4ea536a.pdf#page=null>

certified projects in addition to FTEs, and to provide data on FTEs excluding extras.

Expenditure Cap

The Committee notes that under the Section 481 relief, production companies can make a claim for an amount which is 32% of the lower of eligible expenditure; 80% of the total cost of the production of the film; or €70 million.

In discussing the cap with a representative from Element Pictures, the Committee was informed that the single biggest aspect affecting investment in the audio-visual industry at present is the €70 million cap. Elaborating on this Element Pictures notes that if they were seeking to start a project costing €150 million only €70 million of that would qualify for the section 481 credit with no additional benefit for the rest of the spend. They advised that they often conduct analysis on big projects and examine what is available locally and what is the cost base locally. They have found that for a project costing €150 million one will find that the UK has no cap and Hungary has no cap, resulting in both these locations being far more attractive for those bigger projects than Ireland is. Though they are not directly affected as they have not dealt with projects of that size, they outlined the indirect effects. In this regard they advised that the biggest restraining factor for growing employment and the sector in Ireland is the lack of adequate studio space. They noted that for anyone seeking to develop a studio space the biggest issue is that cap on section 481, as because those studios require large capital investment, they require a secure throughput of projects into the future. Therefore, addressing the cap would attract bigger projects and allow the development of larger studios.

Recommendations and Observations

13. The Committee recommends that consideration be given to removing or increasing the €70 million cap.

Stakeholder Forum

In July 2018, the then Joint Committee on Culture, Heritage and the Gaeltacht made the following recommendation in its report [Development and Working Conditions in the Irish Film Industry](#):

The Committee calls on the Irish Film Board to constitute the Board's Film Forum, with an independent Chair, in order to allow all stakeholders within the sector to meet and work together to develop mutually beneficial solutions for the industry.

The Committee heard throughout its consideration of this report that a stakeholder forum would be of benefit to the sector. Many of the issues outlined in this report would be best resolved through an open and thorough engagement with all stakeholders.

Recommendations and Observations

14. The Committee recommends that the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and the Department of Finance convene a stakeholder forum as a priority to discuss how to maximise the benefits of the Section 481 credit for all concerned stakeholders, and to facilitate best practice in employment rights, industrial relations, collective bargaining, address Copyright and Intellectual Property issues and any other relevant issues.

APPENDIX 1 : LIST OF WITNESSES

Wednesday 05 October 2022

Irish Film Workers Association

- Mr John Arkins
- Ms Liz Murray

Irish Equity

- Mr Gerry O'Brien
- Ms Michelle Quinn

Wednesday 12 October 2022

Animation Ireland

- Ms Louise Cornally
- Ms Moe Honan
- Mr. Ronan McCabe

Screen Guild Ireland

- Mr. Eoin Holohan
- Mr. Greg Keeley
- Ms Jessica Drum

Screen Producers Ireland

- Ms Aoife O'Sullivan
- Mr. James Hickey
- Ms Susan Kirby

Screen Ireland

- Ms Désirée Finnegan
- Mr. Gareth Lee
- Ms Teresa McGrane

Wednesday 14 December 2022

Element Pictures

- Mr Andrew Lowe
- Mr. Mark Byrne
- Ms Emer O'Shea

Wednesday 18 January 2023

Department of Finance

- Ms Deirdre Donaghy
- Mr. Ian Kavanagh

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

- Ms Mary Nash
- Mr. Anthony Donnelly

APPENDIX 2: LINK TO MEETING TRANSCRIPT

- [Wednesday, 5 October 2022](#)
- [Wednesday, 12 October 2022](#)
- [Wednesday, 14 December 2022](#)
- [Wednesday, 18 January 2023](#)

APPENDIX 3: LINK TO OPENING STATEMENTS

- [Gerry O'Brien, President, Irish Equity](#)
- [Liz Murray, Advocate for IFWA, Irish Film Workers Association](#)
- [John Arkins, Representative, Irish Film Workers Association](#)
- [Desiree Finnegan, CEO, Screen Ireland](#)
- [Susan Kirby, CEO, Screen Producers Ireland](#)
- [Jessica Drum, CEO, Screen Guilds Ireland](#)
- [Ronan McCabe, CEO, Animation Ireland](#)
- [Andrew Lowe, Co - CEO and Founder, Element Pictures](#)
- [Deirdre Donaghy, Principal Officer, Department of Finance](#)
- [Mary Nash, Principal Officer, Film Unit, Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media](#)

APPENDIX 4: ORDERS OF REFERENCE

219. (1) There shall stand established as soon as may be, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, to be known as the Committee on Budgetary Oversight, to examine and, where it considers it appropriate, report to the Dáil on—

(a) the overall fiscal position, including—

- (i) the aggregated position on revenue and expenditure and the General Government Balance, including structural targets;
- (ii) medium-term projections for the public finances;
- (iii) macro-economic forecasts and developments;
- (iv) general fiscal governance including the application of fiscal rules and risks to the fiscal position; and
- (v) matters arising from the introduction of a supplementary Estimate or Estimates that, in its opinion, have or may have significant budgetary implications: Provided that the Committee shall advise the appropriate Committee or Committees of any decision on its part to undertake such consideration and the reason or reasons therefore;

(b) public expenditure policy, including—

- (i) the expenditure position having regard to the Government Expenditure Ceiling and the expenditure benchmark under the Stability and Growth Pact;
- (ii) Ministerial Expenditure Ceilings applying to individual Estimates or groups of Estimates for the Public Services where significant variations from the expenditure profile could potentially impact on the overall fiscal position; and
- (iii) the adequacy of planned and actual aggregate levels of capital expenditure and the policies and practices in relation to capital

expenditure, including public procurement policy and public private partnership policy, intended to ensure the achievement of value for money.

(c) Exchequer receipts policy.

(2) The Committee may consider a matter of public policy with significant impact on the budgetary position or on the overall fiscal position: Provided that prior to the commencement of such consideration, the Cathaoirleach of the Committee shall consult with the relevant sectoral Committee established pursuant to Standing Order 95.

(3) The Committee may also consider the overall framework for parliamentary engagement throughout the course of the budgetary cycle and may make recommendations thereon to the Committee on Standing Orders and Dáil Reform for that Committee's consideration under Standing Order 119(1)(b): Provided that, in so doing, the Committee shall consult with—

- (a) the Committees established pursuant to Standing Order 95 on any recommendations which, in the opinion of the Committee, impact on their role or remit; and
- (b) the relevant Minister or Ministers on any recommendations which, in the opinion of the Committee, impact on the role or remit of a Department or Departments, and shall notify the results of such consultations to Committee on Standing Orders and Dáil Reform.

(4) The Committee shall have the following powers:

- (a) power to send for persons, papers and records as defined in Standing Orders 96(3) and 99;
- (b) power to take oral and written evidence and submissions as defined in Standing Order 96(1) and (2);
- (c) power to appoint sub-Committees as defined in Standing Order 96(4);

- (d) power to engage consultants as defined in Standing Order 96(14);
- (e) power to travel as defined in Standing Order 96(15).

(5) Every report which the Committee proposes to make shall, on adoption by the Committee, be laid before the Dáil forthwith, whereupon the Committee shall be empowered to print and publish such report, together with such related documents it thinks fit.

(6) The Committee shall consist of fifteen members, none of whom shall be a member of the Government or a Minister of State, and four of whom shall constitute a quorum: Provided that—

- (a) the Committee and any sub-Committees which it may appoint shall be constituted so as to be impartially representative of the Dáil; and
- (b) the provisions of Standing Order 106 shall apply to the Committee

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