

# It's still about the audience:

two years on from the Film Policy Review



January 2014

### **The Film Policy Review Panel:**

Rt Hon Lord Smith of Finsbury (Chair) – former Secretary of State for Culture, Media and Sport

Will Clarke – Chief Executive Officer / Chairman, Altitude Film Entertainment

Lord Julian Fellowes – Oscar® winning writer and actor

Matthew Justice – Managing Director, Big Talk

Michael Lynton – Chairman and Chief Executive Officer, Sony Pictures Entertainment

Lisbeth Savill – Partner, O’Melveny & Myers LLP

Iain Smith OBE – film producer and Chair, British Film Commission

Tim Richards – Chief Executive Officer / Founder, Vue Entertainment

Tessa Ross CBE – Controller of Film and Drama, Channel 4

### **The project team:**

James Butler

Rob Cheek

Hugh Muckian

Jane Glastonbury

Julia Brown

### **Front cover pictures:**

*Good Vibrations* (2012) – courtesy of The Works UK Distribution

*Sunshine on Leith* (2013) – courtesy of Entertainment Film Distributors

*Philomena* (2013) – courtesy of Pathé

*A Field In England* (2013) – courtesy of Film4

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## Introduction: It's still about the audience

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We published our Film Policy Review two years ago<sup>1</sup>; and the government have asked us to reconvene as a Panel to assess progress since then, to consider what more needs to be done, and to make recommendations. I am very grateful to all Members of our original Panel for agreeing to come together again to undertake this work – ably assisted by the team from DCMS and elsewhere, who provided us with administrative, research and secretarial help. We have undertaken discussions with a range of stakeholders from across the industry, but we deliberately haven't issued a comprehensive call for evidence. We wanted this to be a short, sharp, focused Review, taking a look at the major points and themes, assessing what has happened over the two year period, and charting a way forward.

Our starting point has to be a recognition that a lot of change has happened to the world of film over those two years. The internet – once a perceived enemy, spawning huge amounts of piracy – is becoming a primary revenue stream. Whilst piracy remains very much a live issue, the statistics are encouraging: in 2008 around 12% of consumer spending on media and entertainment was devoted to digital; by 2017 that is expected to have risen to around 50%<sup>2</sup>. The range of devices used by the consumer to watch movies has grown enormously. Video on Demand (VoD) is developing rapidly, growing at an overall rate of 105% last year<sup>3</sup>. There has been further convergence between film and high-end television, rightly recognised by the government in the recent broadening of tax relief arrangements to cover both<sup>4</sup>. For some smaller-scale movies, experimental flexibility has been introduced into release patterns, ending the rigid segregation ('windowing') of cinema, home entertainment and television release, with genuine mutual benefit to all forms – as well, of course, to the consumer. And meanwhile, virtually every public screen in the country has become digitised.

Through all of this, two things have remained the same. The first is the thirst of audiences for good stories, compellingly told. Four titles from 2012 (including *The Woman in Black* and *The Iron Lady*) have been amongst the top twenty highest-grossing UK independent films of the past decade<sup>5</sup>. And recent British films like Clio Barnard's *The Selfish Giant*, Stephen Frears' *Philomena*, and Justin Chadwick's *Mandela: Long Walk To Freedom*, have achieved rightful acclaim around the world. The second continuing truth is the persistent draw of the cinema. There is something very special, still, about the scale and drama of the big screen showing, and the "night out" effect of going to the movies. Though attendance numbers have been fractionally down on the levels of the previous two years, in 2013 UK box office revenues have remained strong at around £1 billion<sup>6</sup>.

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<sup>1</sup> <https://www.gov.uk/government/publications/a-future-for-british-film-it-begins-with-the-audience-report-on-the-film-policy-review-survey>

<sup>2</sup> The Economist, August 2013

<sup>3</sup> UK figures. Futuresource Consulting, 2013

<sup>4</sup> <http://www.hmrc.gov.uk/ct/forms-rates/claims/creative-industries.htm>

<sup>5</sup> <http://www.bfi.org.uk/statisticalyearbook2013/>

<sup>6</sup> <http://www.cinemauk.org.uk/media-centre/179>

In broad public policy terms, the picture remains similar, despite all the change. We are very strong in attracting substantial inward investment in movie-making here, frequently for Hollywood blockbusters. Our tax relief provisions are attractive (though this is becoming globally more competitive), and we have an enviable pool of skills and talent that can be drawn upon. We remain less strong, however, in the smaller-scale independent sector, where despite the excellence of our independent film-makers, they still all too often struggle to get their movies financed, distributed, and seen. UK independent films' market share of the UK theatrical market, despite showing an upward trend in the last twelve years, averages only 6% over that time; it is also largely dependent on a small number of high grossing titles each year.<sup>7</sup> Increasing the market share for independent movies, and helping the independent sector to make its way in the world, was at the heart of our 2012 Report. It remains at the heart of our approach now.

We've focused in our Review here on nine principal themes: audience development; film education; the Virtual Print Fee; development, production, distribution and rewarding success; broadcasters; international strategy; skills and talent development; research and knowledge; and the role of the BFI as lead agency for film. In many of these areas, the ambitions set out in the BFI's *Film Forever* five-year plan<sup>8</sup> reflected the recommendations we made in our original Report. And the BFI have set about delivering on those ambitions. There has been significant progress in many areas – as we note through this Review – but there remains a lot to be done. In one or two cases progress has perhaps been a little delayed or disappointing, but the BFI are well aware of the need to press ahead. And to be fair to the BFI, they have had one hand tied behind their back by the imposition of substantial cuts to their grant-in-aid, which haven't helped them in the challenging task of delivering real change and progress.

The BFI do, of course, have access to substantial Lottery funds in addition to their grant-in-aid, and we would express the hope that the BFI can seek to be as imaginative and flexible as they can be in applying those Lottery funds to the various purposes they have. And in a time of straitened finances, one of the keys to continued progress is the development of genuine partnerships, with the private sector as well as with other public bodies. We would encourage the BFI to engage fully, enthusiastically, and with a genuine attitude of equality, with the widest possible range of partners.

The abolition of the UK Film Council, the drawing together of all responsibility for leading both the cultural and the commercial sides of the industry, and the challenges laid out in our original Report, have presented the BFI with a huge task, and a huge opportunity. It is probably true to say that their embrace of the commercial side of their remit has been rather more tentative than with the more familiar work of education, archiving, and cultural support. But it is vitally important for the BFI to do both, and to seize the synergies that can come from having both in the one organisation. A culture change has already begun within the organisation, but it needs to be pushed further forward.

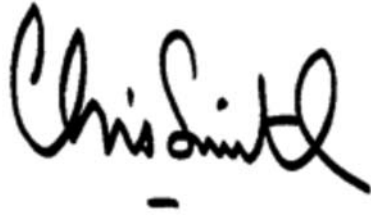
Our original recommendations weren't only for the BFI, of course. Some were for government – including the need to secure support for film-making from those broadcasters who do none of this at the moment. The area of greatest disappointment is the lack of any discernible progress on this since our Report. We urge the government to take active steps to put this right.

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<sup>7</sup> <http://www.bfi.org.uk/statisticalyearbook2013/>

<sup>8</sup> <http://www.bfi.org.uk/about-bfi/policy-strategy/film-forever>

Everything in our original Report stemmed from a sense of what was needed by, what was best for, what could provide the best choice and access for, and what could most benefit, audiences. This remains our fundamental aim in this Review. Helping to develop new audiences for the future; helping to get more British and specialised movies seen by more people; helping to sustain the independent British sector, alongside the global giants; opening our movies up to the wider world: these all flow from that central aim. There's been a lot of progress since we last reported. But there's still a lot that needs to be done. Audiences are not yet fully served.

A handwritten signature in black ink that reads "Chris Smith". The signature is written in a cursive style with a small horizontal line underneath the name.

**Lord Chris Smith**  
January 2014

# Chapter 1: Audience Development

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A key proposal from the 2012 Review was that public policy should be used to maximise audience access to films of every kind. The Panel put the audience at the heart of its work, developing recommendations intended to increase choice and access nationwide, and grow the demand for British and specialised films across the UK. The Review concluded that developing the overall audience for film, across all platforms, can benefit films of every genre.

It is widely acknowledged that the size and complexity of the challenges facing the BFI and its sector partners are not to be underestimated. The general impression from stakeholder feedback is that things are moving in the right direction, with delivery partners positive about the headline intentions from the BFI's *Film Forever* five year plan.

As part of its programme for audience development (2012 recommendation 3), the BFI launched its Film Audience Network (FAN)<sup>9</sup> and the BFI Player<sup>10</sup> in October 2013. The FAN is a major initiative developed to enable film and events experts to work in partnership to boost film audiences across the UK, particularly for specialised and independent British film. The plan is to create an active and supportive professional film community, regionally and nationally, to offer the opportunity to build confidence in screening a broader range of films for UK audiences. The BFI Player is an on-demand online streaming offer which will focus on delivering independent and specialised film content.

The Panel commends the BFI and its partners for this work, and supports their aspirations for these initiatives.

It is rather early to make significant comment on the FAN, although partners have indicated that to date the work here has been solely in establishing the structure of the new network. This has been more challenging and time consuming than anticipated, and delays have been exacerbated by the time taken to negotiate and award contracts. Whilst one could argue these delays have been unavoidable, what is of more concern is that some key stakeholders have indicated they have been left out of central planning discussions.

Relating to the challenge of working collaboratively with partners (2012 recommendation 1), we would like to highlight two areas of concern raised by stakeholders.

The first of these is engagement with potential partners in exhibition. Several stakeholders in this area have suggested that, despite some initially promising conversations, the BFI has failed to connect with the more commercial side of the exhibition sector, across both small and large cinema operators. As a result, a good deal of potential support may be lost, including the use of the greater part of the UK's cinema estate.

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<sup>9</sup> <http://www.bfi.org.uk/film-audience-network>

<sup>10</sup> <http://player.bfi.org.uk/>

**The Panel recommends that the BFI and the stand-alone independent and larger commercial exhibitors proactively work together to increase audiences for British independent and specialised film across the UK.**

Given that the multiplexes alone account for around 75%<sup>11</sup> of the total screens in the UK, inaction here could mean a major opportunity missed; conversely, the BFI has a great deal of experience to offer multiplex operators on building audiences for British independent and specialised films.

The Panel notes that sensitivities surrounding the competitiveness and distinctive agendas of individual venues must not be underestimated. We also recognise the importance for the BFI of capturing and building on the experience and local knowledge in the regions and nations, as well as that of established organisations like the Independent Cinema Office, both in terms of avoiding duplication and spreading best practice (2012 recommendation 15).

The BFI is aware of these challenges and the Panel has been assured they will be addressed in the next phase of work. We would like to see the BFI taking a lead in promoting these opportunities further, and all relevant stakeholders collectively engaging with the next phase of the FAN and related initiatives, in order to increase audience demand and access to a wider range of films.

The second significant challenge is to deliver greater choice through optimum engagement with the distribution sector. The issue we have found here is that the BFI, in developing the FAN, has not fully involved in particular the smaller independent British distributors. This is in part because the FAN has been aimed at exhibition venues; however, engagement with these distributors must be encouraged as their business expertise lies in supplying and promoting precisely those types of films for which the FAN has been established to build an audience.

**The Panel recommends that the BFI, through the FAN, engages more fully and collaboratively with the film distribution sector, in particular the smaller distributors of British independent and specialised films.**

November 2013 saw the launch of the £2m BFI Neighbourhood Cinema Fund<sup>12</sup>, a scheme aimed at supporting communities in the UK who find it a challenge to visit the cinema due to geographic, social or economic circumstances (2012 recommendation 5). Whilst welcoming this development, the Panel shares the BFI's disappointment that, despite initial enthusiasm, Big Lottery Fund decided not to support a community venues programme, as recommended in the 2012 Review. **We are hopeful this conversation can be revived in the near future, with the full backing of the respective government sponsor departments.**

The Panel would like the BFI to consider how best to involve the smaller distributors and exhibitors in supporting the Neighbourhood Cinema Fund, and would like to add a note of caution as to how this is managed in terms of ensuring support specifically for British independent and specialised content.

In addition to the headline engagement issues outlined above, delivery partners have expressed their desire for greater autonomy to enable them to be more responsive to local demands.

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<sup>11</sup> <http://www.bfi.org.uk/statisticalyearbook2013/>

<sup>12</sup> <http://www.bfi.org.uk/about-bfi/partnerships/bfi-neighbourhood-cinema>



When asked what success in 2017 would look like, regional partners suggested it would be for more British independent and international films to be opening theatrically in both multiplex and art-house cinemas, and for more funding to be going directly to the regions and nations to support the development of local audiences for these films. The Panel would like to see the BFI, via the FAN, working to deliver against these measures of success.

## Chapter 2: Film Education

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The 2012 Review found that film education can assist in growing the audiences of today and tomorrow, ensuring that more people have an improved understanding and appreciation of the value of different kinds of film.

In April 2013, following an extensive BFI-led tendering process, a new organisation for film education, Film Nation UK (FNUK)<sup>13</sup>, was established to encourage young people aged 5 – 19 across the UK to learn through and about film, providing them with a wide range of activities to encourage watching, understanding and making film (2012 recommendation 7).

FNUK is a strategic partner funded by BFI-distributed Lottery money, and is supported by over 100 industry partners from national, regional and grassroots organisations, including LOVEFiLM, Pearson, the National Union of Teachers and the National Schools Partnership. The Panel welcomes the award of Lottery funding to FNUK, and the merger of First Light and FILMCLUB which facilitated this.

The Panel commends the appointment of Paul Reeve as Chief Executive and supports the new organisation's aim to fully integrate film into teaching and learning in schools, colleges and universities across the UK, establishing film as a tool to help deliver curricula subjects and raise attainment standards.

The Panel believes that FNUK should provide the catalyst for the creation of a much broader and more eclectic viewing audience for the future. Whilst close collaborative strategic communication with the BFI is critical to everything that FNUK wants to achieve, the Panel wants to see FNUK fully empowered to manage and develop its business. It should be given the freedom to shape and deliver its own programme of work, within very broad parameters established by the BFI.

The Panel commends FNUK's policy ambition to become a self-sustaining business post-2017. In order to achieve this, it must seek alternative revenue streams, with support from government and the BFI.

FNUK must fully engage with government, and specifically the Department for Education (in each of the four nations, not least in England where dialogue has been limited to date), in particular to enable closer engagement with schools and colleges. The Panel notes that a joined up approach by education and cultural departments in other nations has proved very effective, and may provide a useful benchmark here.

**The Panel recommends FNUK, with support from the BFI, urgently engages with schools and teachers to achieve capacity and scale for film education interventions. The Panel stresses the related need for FNUK to engage more fully with the government, and the Department for Education in particular, in order to enable this.**

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<sup>13</sup> FNUK intends to change its name to "In To Film" in early 2014.

The Panel also supports FNUK's goal to build on the experience of learning through and about film and believes that by putting the needs of schools at the centre of its approach (2012 recommendation 7), FNUK can enable film to be recognised far more widely as a cultural peer of literature, drama and music, in terms of both artistic and educational value.

**The Panel recommends that the Department for Education follows the lead from the Henley Review, which noted that film should become part of the cultural education of children in schools across the UK. The BFI are a member of the Cultural Education Ministerial Board and the Cultural Education Partnership Group (CEPG)<sup>14</sup>, and they should maximise these opportunities to make the case for film.**

Recent feedback has reinforced calls for clearer, more accessible progression pathways for young people from a diverse range of backgrounds into careers in film and the creative industries more generally. To achieve this, there needs to be a strong dialogue between the BFI, Creative Skillset, Creative England, FNUK and other key players across film education and skills, to ensure that the ladders of opportunity presented by the partners are well-defined and consistent. This need for alignment and a coherent strategic approach is explored more fully in the skills section of this report.

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<sup>14</sup> <http://www.artscouncil.org.uk/what-we-do/our-priorities-2011-15/children-and-young-people/cultural-education-partnership-group/>

## Chapter 3: The Virtual Print Fee

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The Virtual Print Fee (VPF) mechanism – adopted to fund the cost of digitising cinemas in the UK – has been in operation since 2010, and the Panel commends the industry on the rapid progress that it has achieved in digitisation. Through the work of the Digital Funding Partnership in particular, the UK has led the way to become among the first major film territories in the world to have a fully digitised sector. Particularly notable is the full digitisation of almost 300 independent cinema screens so they are well positioned to take advantage of all the opportunities this new technology allows.

However, as the Panel previously observed (2012 recommendation 13), the VPF mechanism has proven less than advantageous to independent distributors, because it is modelled around studio or 'saturation' releases as opposed to the slow and steady distribution pattern often favoured by independents, where a film is 'platformed' on a smaller number of screens and then transferred to more cinemas later in the run. Whereas in the 35mm world distributors kept their prints and moved them around at minimal cost, with VPFs they have to pay a fee every time they play at a new cinema, and this is potentially more expensive. The Panel is disappointed that the VPF remains a significant issue that continues to limit audience access to a greater range of British and independent films.

Generic discussions facilitated by the Film Distributors' Association with the four UK consolidators<sup>15</sup> have been on-going for almost two years with the objective of securing a solution to achieve the Panel's original stated ambition, namely to put the independent distributor "in an economic position which is as good as or better than the 35mm model."

A Widest Point of Release (WPR) model has achieved consensus amongst distributors as the best possible starting point for further discussions. Under this model, the total number of VPFs payable would be equal to the greatest number of 'virtual prints' in use at concurrent cinema bookings (this is the 'widest point of release'). Once VPFs have accrued at the WPR on any individual title, then that film would be available across consolidator estates for further bookings as the release narrows, without incurring additional VPF payments. In effect, this model aims to replicate the reusable qualities of 35mm prints.

Whilst the exact pricing of a VPF is of course a matter for each individual consolidator and distributor, the proposal would not have the desired effect if any VPFs were priced unreasonably high. The Panel would therefore expect a sensible pricing structure to be agreed by all parties. We also note the need to achieve generic clarification as to what constitutes a full VPF in relation to booking smaller-scale releases (e.g. shorter bookings and reduced showings), as well as transparency regarding the end of the recoupment period.

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<sup>15</sup> The consolidators manage the VPF system by acting as an intermediary between the digital cinema equipment manufacturers and the distributors and exhibitors who have opted for their financing solution.

In addition, the Panel believes that a VPF waiver on films released below a certain number of prints would remove a major economic hurdle to getting a broader range of British independent and specialised films to the widest possible audience. Such a waiver would resolve many of the tangential issues relating to the mechanism as it stands, including the circumnavigation of any possible (yet unproven) competition issues which have previously arisen during discussions with consolidators.

The Panel welcomes the fact that the BFI has, after initial hesitancy, taken a lead role in addressing this issue, and is encouraged that the consolidators have entered into a dialogue as to how resolution may be achieved. **We recommend that the BFI leads a task force, with representation from industry and government, and sponsorship from this Panel as appropriate, to pursue a cross-estates 'Widest Point of Release' (WPR) model as a starting point in its negotiations with the third party consolidators, as well as a waiver for films with a WPR of 99 'prints' or less. This is to help achieve the Panel's cultural ambition of expanding audiences for independent British and specialised films through greater choice. We expect the consolidators to play a full role in helping to realise this ambition, and further recommend that if agreement is not reached by 31 March 2014, then consideration be given to employing an independent mediator.**

**In addition, the Panel recommends that any film benefiting from a VPF waiver should also be free to pursue a more flexible release strategy without the imposition of a traditional cinematic release window. The group convened to address the VPF issue should discuss how this could best be achieved.**

## Chapter 4: Development, Production, Distribution

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The Panel recognises that stakeholder feedback is positive and supportive towards the BFI Film Fund<sup>16</sup>, and of the changes being introduced by its current Head.

The Panel also acknowledges that the Film Fund has been operating amidst organisational and structural challenges inherent in the BFI adjusting to its expanded role; overall the BFI received further cuts to its grant-in-aid during the last Comprehensive Spending Review. The 2012 Review called on the Film Fund to put in place a number of new ideas and initiatives, but it has not received any greater allocation of administrative resource. Therefore the implementation of recommendations necessarily had to be prioritised.

Nevertheless, the Panel welcomes the fact that many have been, or are being, implemented. For example, in May 2013 the BFI announced the recipients of its 2013-15 Vision Awards<sup>17</sup> (2012 recommendation 19); the recycling of development funds has been in place since April 2013 (2012 recommendation 20); regarding the specific challenges of animation (2012 recommendation 21), the Film Fund is going to set up an animation development partnership with Aardman Animations (details are expected to be announced shortly), has made four Vision Awards to animation companies, and continues to support animation through single-project awards. In addition, it is already supporting the development of family films, and commissioning research into the specific challenges of this segment of the market (2012 recommendation 22).

The Film Fund has also put in place new procedures relevant to 2012 recommendation 18, concerning a more transparent and accountable mechanism for plurality of gatekeeping taste. Given the nature of the Film Fund and the limits to how many projects it can support, this is always a difficult and contentious area since stakeholders do not have unified views on how it is best achieved. All production decisions are now taken in the round by the Film Team, and the Fund operates by considering only material that has been officially submitted. It also operates by issuing official Letters of Intent as opposed to giving verbal commitments.

Of particular note is the implementation of 2012 recommendation 31, which entailed collaboration between the BFI and a large group of industry film lawyers on highly specialised and technical issues, resulting in the Film Transaction Summary Sheet and Film Transaction Code of Conduct. These initiatives have already made tangible positive steps in cutting transactional inefficiencies and costs, and have far reaching implications. They are also a very good example of lead agency working in partnership with industry to deliver public value, and could be a model of good practice in this regard.

Evidence and stakeholder feedback suggests that the BFI has been more successful at promoting Film Tax Relief as Producer Equity Entitlement over the last twelve months

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<sup>16</sup> <http://www.bfi.org.uk/film-industry/lottery-funding-development-production>

<sup>17</sup> <http://www.bfi.org.uk/film-industry/vision-awards>

than previously; a large majority of productions that the BFI has invested in since October 2012 have included such a Producer Equity Entitlement, most of which are pro-rata and pari-passu with BFI's equity investment (2012 recommendation 25).

### Joint Venture proposals

The 2012 Review's recommendations in relation to independent distribution and production were underpinned by four themes: joined-up interests, partnership, industry-led collaboration and rewarding success.

The Panel recognises that the design and implementation of the Joint Venture (JV) initiative (2012 recommendation 23) is a complex process, necessarily involving close collaboration with industry partners. After a positive start to discussions, this collaborative approach then appeared to stall.

**The Panel encourages the BFI to continue to show leadership in such circumstances, despite inherent obstacles, and to consider its strategic role as facilitator of industry-led collaboration and partnership to be equally as significant as its operational role as an investor of Lottery awards.**

The Panel welcomes recent positive developments such that a workable JV mechanism supported by stakeholders now seems achievable, and commends all parties who are working towards reaching agreement.

### Rewarding Success

The BFI has confirmed it will implement the 2012 recommendations concerning recoupment (25, 26, and 27). The BFI has introduced the 'Locked Box' system whereby all applicable recouped funding from BFI-supported projects is held and will be available for reinvestment in future filmmaking activities (recommendation 27).

However, some of the recommendations are subject to Pact, Directors UK (DUK) and the Writers' Guild of Great Britain (WGGB)<sup>18</sup> reaching agreement about minimum shares of recouped revenues.

So far Pact, DUK and WGGB have been unable to negotiate such an agreement. The Panel has learned that a contributory factor is the respective stances on the recoupment of Film Tax Relief as Producer Equity (also known as Producer Equity Entitlement).

The Panel would like to reiterate that the 2012 Review's recommendation is that the recoupment of Film Tax Relief as Producer Equity is not part of the revenues to be shared in our proposals; such shared corridors were intended to apply only to the revenue streams deriving from the Joint Venture initiative and the share of the BFI Producer Equity Corridor (PEC) (2012 recommendation 30).

Although it may be argued that the BFI's *Film Forever* plan is perhaps ambiguous in this area, the BFI has now clarified that it does not intend that the recoupment of Film Tax Relief as Producer Equity should be included in the revenues to be shared, and that it did not intend to alter the Film Policy Review recommendation. The Panel therefore strongly encourages all parties to refer to the 2012 Review's original recommendation as the context for reaching agreement.

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<sup>18</sup> Pact is the UK trade association representing the interests of independent feature film, television, digital, children's and animation media companies. Directors UK is the professional association of directors working with the moving image in the UK. The Writers Guild of Great Britain is the trade union representing writers in TV, radio, theatre, books, poetry, film, online and video games.

**The Panel commends the progress the BFI has made on the recommendations concerning transparency, development and recoupment. It encourages the BFI to continue to play a lead strategic role in facilitating agreement between industry partners to implement the recommendations on Joint Venture funding and rewarding success.**

**The Panel strongly urges Pact, DUK and WGGB to seek to reach agreement based on the 2012 Film Policy Review recommendation that recoupment should be shared from Joint Venture films and the BFI Producer Equity Corridor (PEC), not the Film Tax Relief as Producer Equity Entitlement.**

## **Distribution**

Independent distributors support the Joint Venture pilots and the element of industry-led collaboration and autonomy the scheme represents.

The landscape for independent distributors is always changing, and it may be that the operations of the Distribution Fund<sup>19</sup> could be modified to support the sector's needs better. In particular, the Fund could target the smaller companies who distribute UK and specialised films, to help them attract investment and grow; the health of this sector is vital to the Panel's aim of improving the diversity of choice on offer to UK audiences.

New initiatives based on consultation with industry stakeholders could be developed to improve the effectiveness of the Distribution Fund underpinned by the Film Policy Review principles of greater autonomy and rewarding success. One such idea, for example, is whether the 'Locked Box' system could be an effective mechanism for the distribution sector. Another is to consider the part the smaller independent distributors could play in audience development, by ensuring that BFI initiatives in this area are aligned with the strategy of the Distribution Fund. **The Panel recommends that the BFI reviews the strategy and operations of the Distribution Fund, and would welcome any modifications or new initiatives underpinned by the principles of greater autonomy and rewarding success, especially those targeted towards the smaller independent distributors of UK and specialised films.**

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<sup>19</sup> <http://www.bfi.org.uk/film-industry/lottery-funding-distribution/distribution-fund>



## Chapter 5: Broadcasters

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The Panel is frustrated there has been little progress on its recommendations concerning broadcasting (2012 recommendations 32 and 33).

The Panel reminds the government that it endorsed and accepted these proposals; the government's official response to the Film Policy Review stated, "We want to see broadcasters like BSkyB, ITV and Channel 5 doing more to support the industry and this is something we intend to raise with them as a matter of priority"<sup>20</sup>.

The government is in regular dialogue with all of the major broadcasters and discussions about British film could easily be prioritised as part of this conversation.

The key theme underpinning the Panel's recommendations was connecting public policy for the film and television sectors, recognising that in a digital, converged era the distinction is becoming increasingly anachronistic.

Broadcasters are embracing technological change and their audience's changing behaviour, diversifying away from the linear broadcasting model towards the supply of audio-visual content across a range of on-demand platforms. The proven ability of the independent UK film sector to create high-quality content represents an opportunity for the UK broadcasters to engage productively.

**The Panel is disappointed there has been no progress on the Film Policy Review recommendations concerning Memoranda of Understanding between broadcasters (32) and an investigation into the UK film acquisition market (33).**

**The Panel reminds the government that it accepted and agreed these recommendations, and strongly urges the government to prioritise their implementation as a key strategic component of an effective UK national film policy. In particular, by the end of 2015, the Panel would like to see BSkyB investing at least £20m, ITV £10m, and Channel 5 £5m per annum in original feature film production, as well as acquiring a greater number of British and specialised films.**

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<sup>20</sup> <http://www.official-documents.gov.uk/document/cm83/8355/8355.pdf>

## Chapter 6: International Strategy

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UK films earned a combined worldwide gross of \$5.3 billion in 2012 – a 15% share of the global box office – with the twenty-third James Bond film, *Skyfall*, earning over \$1.1 billion alone. The 2012 gross for UK films was less than 2011's high of \$5.6 billion<sup>21</sup>, but more than any other year recorded.

UK studio-backed films (UK films wholly or partly financed and controlled by US studios but featuring UK cast, crew, locations, facilities, post-production and often UK source material) shared 13.4% of the worldwide box office in 2012, with earnings of \$4.6 billion, slightly down from \$4.7 billion in 2011. UK independent films earned 1.8% of global revenues with a gross box office of \$625 million, down from \$900 million in 2011 (when a spike was caused by the success of *The King's Speech*)<sup>22</sup>.

As the Panel noted in 2012 (recommendations 35-36), the success of the Film Tax Relief has ensured that a consistent supply of films is made for delivery to audiences worldwide. Not only does this remain the case, but given the continued convergence between the film and television industries, the Panel warmly welcomes the government's decision to introduce similar tax reliefs for high-end TV and animation productions, as well as recently committing to improving the rate of relief available to film productions from April 2014<sup>23</sup>.

The British Film Commission (BFC) continues to play a vital role in promoting the UK's world-class offer to potential inward investors, particularly the US major Studios. Whilst very successful in carrying out this operational function, the Panel notes that with additional resources even more could be done, particularly with regard to targeted approaches within emerging markets, and in light of the new creative sector tax reliefs, which the BFC has been promoting on a pilot basis in the US with funding from UK Trade and Investment (UKTI). In an era of increased global competitiveness, a more permanent and strategic broadening of their remit is likely to be necessary (with an appropriate increase to their financial resources).

**The Panel therefore recommends that the government gives consideration to moving the BFC under the ambit of UKTI, in order to allow for the development of a strategic vision which reflects the convergence of TV and film and the opportunities to promote the UK's offer to a range of key markets beyond the US. This should include a closer alignment with the promotion of British film exports to other territories.**

In such a scenario, measures should be introduced to ensure that this work is not divorced from wider film policy, and in particular the BFI's international strategy<sup>24</sup>, successfully launched in October 2013, which sets out the blueprint for engagement with key territories over the coming years.

<sup>21</sup> <http://www.bfi.org.uk/statisticalyearbook2013/>

<sup>22</sup> *ibid*

<sup>23</sup> <https://www.gov.uk/government/publications/autumn-statement-2013-documents> paragraphs: 1.190 & 2.88. Subject to State aid clearance.

<sup>24</sup> <http://www.bfi.org.uk/film-industry/bfi-international-strategy>

## Support for British exports

In the 2012 Review, the Panel observed that “the UK’s sales agents are the bedrock of [an] export sector delivering films to distributors and audiences around the world.” The Panel would like to reiterate that the UK’s international sales sector is a vital element in the value chain of the independent UK industry, alongside production and distribution. Despite this crucial role, and in contrast to other European nations such as Germany and France<sup>25</sup>, there remains a lack of significant structured support for this part of the industry.

The BFI’s Film Export Fund<sup>26</sup> provides much-needed support for the promotion of films in international festivals and markets on a project by project basis. The international sales sector relies on the Fund and welcomes the recent changes to its operations. It is vital this kind of support continues and is expanded if possible.

However, there remain significant opportunities for closer collaboration between production and international sales companies. This relationship is often misunderstood, with the crucial role played by sales companies in the independent film ecosystem sometimes being undervalued. Apart from the film sales, publicity and marketing functions, these companies have knowledge of and connections to a dynamic international marketplace; they can be crucial in preparing viable finance plans and in sourcing and closing film finance. They are the point of contact between independent UK films and their potential worldwide audiences.

In the same way that the Joint Venture proposals arose from the idea of industry-led partnership and collaboration over joined-up interests, the Panel suggests there could be an equal opportunity in convening meetings between representatives of independent production and international sales companies.

**The Panel would like to see, as part of the BFC’s suggested realignment with UKTI, the establishment of an appropriately resourced strategic support programme for film sales exports. This should complement and enhance existing support measures, including the BFI’s Film Export Fund and the London UK Film Focus (LUFF) market. As part of this strategic support to the sector, the BFC, together with UKTI and the BFI, could convene a working group of production and sales companies to jointly explore new partnership proposals.**

The Panel also welcomes the recent encouraging discussions it has held with BBC Worldwide and welcomes BBC Worldwide’s wish to increase its involvement with film as part of its international sales offer.

**The Panel recommends that Film Export UK and BBC Worldwide coordinate discussions in the new year between independent sales companies, producers and BBC Worldwide executives, to work out practical ways of increasing the range of British films that are included in BBC Worldwide’s sales.**

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<sup>25</sup> For example, <http://en.unifrance.org/>

<sup>26</sup> <http://www.bfi.org.uk/film-industry/film-export-fund>

## Chapter 7: Skills & Talent Development

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The 2012 Review concluded that the future success of the UK film industry, and the vitality of its film culture, depends on the ability to nurture new talent and skills. We highlighted the multiplicity of offers across the industry and the challenge of rationalising these to provide the best possible outcomes for new talent and the nascent workforce.

There is a recognised difference between skills and talent development, but a need for these two distinct yet related areas to join up their strategic planning and delivery programmes, in order to ensure the best use of public money and value to the end user.

The Panel notes that since 2012, there has been a lot of positive activity in the skills sector. We welcome the ambitious agreement developed between the BFI and Creative Skillset for a funding strategy to cover 2013-17<sup>27</sup>, implementation of which is now well underway (2012 recommendation 39).

In September 2013 the BFI, working in partnership with Creative England and regional and national stakeholders, launched a new Talent Network<sup>28</sup>. The Panel welcomes this initiative (2012 recommendation 44), implementation of which is just commencing.

We received feedback from delivery partners who suggested that the BFI should draw on the sectoral knowledge and expertise that already exists across the UK, and also gain a fuller understanding of the needs and risks for the wider skills and talent support sector. They also expressed concern that there may be duplication because the various strands of work across film education, skills and talent development are not fully aligned. The Panel wishes to reiterate the point made in the 2012 Review that the industry should guard against atomised initiatives and focus on providing a single point of entry for end users.

Feedback also suggests that the BFI's conversations with its key strategic partners should be more joined up, so that learning and opportunities across skills and talent work-strands are being shared. For example, we understand that Creative Skillset discuss the skills agenda with the BFI Partnerships team, whilst Creative England discuss talent development with the BFI Film Fund.

**The Panel recommends that the BFI, Creative England and Creative Skillset work more collaboratively (2012 recommendation 54); and that the BFI facilitates on-going discussions with leading delivery agencies in UK skills and talent development across the UK's regions and nations, to enable a more cohesive strategy for the sector. The Panel suggests this could be done most effectively via a steering group, made up of strategic partners and led by the BFI. Whilst linked to the Film Skills Council, this group would specifically seek to align the BFI's *Film Forever* initiatives**

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<sup>27</sup> <http://www.bfi.org.uk/film-industry/bfi-film-skills-fund-bfi-business-development-fund>

<sup>28</sup> <http://www.bfi.org.uk/news-opinion/news-bfi/announcements/bfi-network-boosts-support-talent-development-across-uk>

**such as the Talent Network with related interventions across film education, skills and talent development – the membership would therefore include FNUK.**

The BFI must ensure all providers have the opportunity to feel a part of this work, addressing in the next phase of engagement any gaps that are identified.

The BFI is developing a Diversity Strategy which is due to be launched early in 2014 (2012 recommendations 44 and 46). We hope that this will be a wide-ranging strategy that acknowledges diversity in its many forms and delivers opportunities for the workforce, including greater representation of women, ethnic minority and socially deprived populations. The Panel recognises this will be best achieved by consulting as widely as possible and ensuring that there are specific and measurable targets in place. The BFI should also ensure they co-ordinate this work with the broadcasters' Creative Diversity Strategy.

**The Panel would like to see all parties, from government through to delivery bodies in the regions and nations, working together to enable this new Diversity Strategy to deliver a real step change in the industry, addressing specific, measurable targets across workforce, content and audience.**

In line with the recommendations above, the Department for Culture, Media and Sport should work with other government departments, such as the Department for Education and UKTI, to ensure that skills and talent initiatives for film are recognised as part of the government's growth agenda. This could perhaps be realised as part of a much bigger support process for developing world class skills and talent across the creative industries.

Our recommendation for a steering group should provide a foundation for this, by facilitating the necessary dialogue between the BFI, Creative Skillset, FNUK, regional, national and other key agencies to ensure that the opportunities presented are not only well-defined and consistent for end-users, but also strategically aligned with government priorities. This group should also facilitate a joined up sector strategy for advocacy and lobbying of government, to maximise the potential benefits to be realised across the education, skills and talent landscape.

## Chapter 8: Research & Knowledge

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The 2012 Review recommended the establishment of a well-resourced Research & Knowledge function at the BFI, focused on creating knowledge and an evidence-base, as well as on the publication of statistics. It was also envisaged that a reflective or research-led component would be added to BFI and Lottery initiatives, to be able to produce and disseminate learning from all such interventions (2012 recommendation 53).

The Panel reiterates the need for a strong evidence-base for film policy.

The current review process has highlighted an ever-increasing requirement for robust research; for example the BFI has suggested the need for major research on industrial policy for the independent UK industry, and the need for access to international VoD data as a key factor in the continuance of the independent film financing model (since this model is driven by international sales estimates); there is a requirement to implement the Panel's 2012 recommendation about research into the UK film acquisition market; and the current debate about the VPF proposals rest on robust data from independent distributors about the economic effect of VPFs as against traditional print fees.

New industry initiatives such as the BFI Joint Venture pilots and the 'Locked Boxes' will also need to be rigorously measured and evaluated, as will the ongoing programmes relating to audience development, film education, skills and talent development.

The Panel notes that the BFI has recently announced its tender for the BFI Film Research & Statistics Fund<sup>29</sup>. Whilst recognising the benefits that a third-party tendering model might deliver in relation to our recommendation (not least the increased resources available for research), there is a concern that the tendering model and necessary arms-length relationship with the BFI could lead to a separation between the research programme and specific BFI initiatives, evidence-base, and policy. The relationship between the existing BFI Research & Statistics Unit and the new Fund will also need to be very carefully considered.

A key element of our recommendation was to enable a robust research function to participate in the design, implementation, and evaluation of BFI initiatives in order to lead to more effective evidence-led policy. The Panel reiterates its desire to see this delivered as a key component of the tender process.

**The Panel notes the continued need for robust research, and welcomes the recent announcement of the BFI Film Research & Statistics Fund tender. It encourages the BFI and applicants to ensure that the Fund structure allows it to engage across all BFI activities, supporting the design and evaluation of BFI initiatives, for the further development of evidence-led policy.**

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<sup>29</sup> <http://www.bfi.org.uk/education-research/film-industry-statistics-research/research-statistics-fund>

## Chapter 9: The BFI as Lead Agency for Film

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At the time of the Film Policy Review, in January 2012, the BFI had only been lead agency for film for some nine months, and was still the same distance from the launch of its *Film Forever* five-year plan. The Panel notes that this plan builds on the recommendations of the Review through delivery against three strategic priorities – i) expanding education and learning opportunities and boosting audience choice across the UK; ii) supporting the future success of British film; and iii) unlocking film heritage for everyone in the UK to enjoy – and within this framework there have been a number of significant achievements relating to Film Policy Review recommendations, including the launch of the Film Audience Network and the establishment of Film Nation UK to lead on film education. The Panel also notes that delivery has taken place against a backdrop of a reduction to the BFI's grant in aid funding<sup>30</sup>.

In 2012 the Panel observed that the BFI "has a remit for both cultural and industrial concerns and –working with partners across the UK – must now take a 360 degree approach to its responsibilities [in] connecting education and skills with development and production and distribution, exhibition and heritage."<sup>31</sup> This requirement remains as relevant and vital as ever; the BFI seems to have been less confident in seizing the leadership of the commercial needs of British film than it has been in sustaining its traditional expertise in cultural, educational and archival work. It needs to develop its business confidence further, and the Panel would encourage continued progress towards the establishment of an organisation that truly represents all parts of the industry, across the broadest range of issues. This should involve genuinely collaborative partnership working with other agencies, government and wider industry, towards the delivery of a clearly articulated vision of success for UK film.

We have seen that where the BFI has taken a lead on industrial issues – for example, with the campaign to influence the European Commission's Cinema Communication consultation – its intervention and reputational weight can provide a reassuring focus for industry and ultimately lead to the negotiation of a successful outcome. The Panel hopes that such achievements will encourage the BFI to grow in confidence in delivering against the industrial side of its remit and be bold in taking the lead on further strategic interventions as necessary. An example of where this leadership is now required is on the VPF issue. The Panel would encourage the BFI to seize this opportunity to enhance its industrial reputation and achieve a result that impacts directly upon many of the ideas promoted during the 2012 Review.

There is a wealth of valuable experience within the UK film industry, and whether the BFI is working to get a broader range of British films to a new audience or to improve diversity within the industry, the Panel would like to see an approach whereby the BFI is drawing on that expertise at all stages of delivery. Where the BFI is delivering

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<sup>30</sup> Both during the 2013 Comprehensive Spending Review and, in line with all arms' length bodies, the 2013 Autumn Statement.

<sup>31</sup> Recommendations 54-56

through a third party, and recognising that a degree of oversight is necessary, we would encourage the BFI to develop partnerships where those involved have genuine autonomy. It is likely that the BFI's ability to strike the right balance between these two positions will go a long way to determining the long-term success of many of the measures set out in *Film Forever*.

**The Panel recognises the progress that the BFI has made towards implementing many recommendations from the Film Policy Review its 5-year plan. As it matures in its role as lead agency for film in the UK, we would encourage it to find an optimum balance between providing strong industry leadership and truly collaborative partnership working that allows partners the necessary licence to deliver against their remit. The Panel notes that a Triennial Review of the BFI will take place in 2014, and recommends that the findings of the Film Policy Review are fed into that process, as well as examining in more detail how the BFI is fulfilling its strategic functions.**



## Annex: Recommendations

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- A.** The Panel recommends that the BFI and the stand-alone independent and larger commercial exhibitors proactively work together to increase audiences for British independent and specialised film across the UK.
- B.** The Panel recommends that the BFI, through the FAN, engages more fully and collaboratively with the film distribution sector, in particular the smaller distributors of British independent and specialised films.
- C.** The Panel recommends FNUK, with support from the BFI, urgently engages with schools and teachers to achieve capacity and scale for film education interventions. The Panel stresses the related need for FNUK to engage more fully with the government, and the Department for Education in particular, in order to enable this.
- D.** The Panel recommends that the Department for Education follows the lead from the Henley Review, which noted that film should become part of the cultural education of children in schools across the UK. The BFI are a member of the Cultural Education Ministerial Board and the Cultural Education Partnership Group (CEPG), and they should maximise these opportunities to make the case for film.
- E.** The Panel recommends that the BFI leads a task force, with representation from industry and government, and sponsorship from this Panel as appropriate, to pursue a cross-estates 'Widest Point of Release' (WPR) model as a starting point in its negotiations with the third party consolidators, as well as a waiver for films with a WPR of 99 'prints' or less. This is to help achieve the Panel's cultural ambition of expanding audiences for independent British and specialised films through greater choice. We expect the consolidators to play a full role in helping to realise this ambition, and further recommend that if agreement is not reached by 31 March 2014, then consideration be given to employing an independent mediator.

In addition, the Panel recommends that any film benefiting from a VPF waiver should also be free to pursue a more flexible release strategy without the imposition of a traditional cinematic release window. The group convened to address the VPF issue should discuss how this could best be achieved.

- F.** The Panel encourages the BFI to consider its strategic role as facilitator of industry-led collaboration and partnership to be equally as significant as its operational role as an investor of Lottery awards.
- G.** The Panel commends the progress the BFI has made on the recommendations concerning transparency, development and recoupment. It encourages the BFI to continue to play a lead strategic role in facilitating agreement between industry partners to implement the recommendations on Joint Venture funding and rewarding success.

- H. The Panel strongly urges Pact, DUK and WGGB to seek to reach agreement based on the 2012 Film Policy Review recommendation that recoupment should be shared from Joint Venture films and the BFI Producer Equity Corridor (PEC), not the Film Tax Relief as Producer Equity Entitlement.
- I. The Panel recommends that the BFI reviews the strategy and operations of the Distribution Fund, and would welcome any modifications or new initiatives underpinned by the principles of greater autonomy and rewarding success, especially those targeted towards the smaller independent distributors of UK and specialised films.
- J. The Panel is disappointed there has been no progress on the Film Policy Review recommendations concerning Memoranda of Understanding between broadcasters (32) and an investigation into the UK film acquisition market (33). The Panel reminds the government that it accepted and agreed these recommendations, and strongly urges the government to prioritise their implementation as a key strategic component of an effective UK national film policy. In particular, by the end of 2015, the Panel would like to see BSkyB investing at least £20m, ITV £10m, and Channel 5 £5m per annum in original feature film production, as well as acquiring a greater number of British and specialised films.
- K. The Panel recommends that the government gives consideration to moving the British Film Commission under the ambit of UK Trade and Investment, in order to allow for the development of a strategic vision which reflects the convergence of TV and film and the opportunities to promote the UK's offer to a range of key markets beyond the US. This should include a closer alignment with the promotion of British film exports to other territories.
- L. The Panel would like to see, as part of the BFC's suggested realignment with UKTI, the establishment of an appropriately resourced strategic support programme for film sales exports. This should complement and enhance existing support measures, including the BFI's Film Export Fund and the London UK Film Focus (LUFF) market. As part of this strategic support to the sector, the BFC, together with UKTI and the BFI, could convene a working group of production and sales companies to jointly explore new partnership proposals.
- M. The Panel recommends that Film Export UK and BBC Worldwide coordinate discussions in the new year between independent sales companies, producers and BBC Worldwide executives, to work out practical ways of increasing the range of British films that are included in BBC Worldwide's sales.
- N. The Panel recommends that the BFI, Creative England and Creative Skillset work more collaboratively (2012 recommendation 54); and that the BFI facilitates on-going discussions with leading delivery agencies in UK skills and talent development across the UK's regions and nations, to enable a more cohesive strategy for the sector. The Panel suggests this could be done most effectively via a steering group, made up of strategic partners and led by the BFI. Whilst linked to the Film Skills Council, this group would specifically seek to align the BFI's *Film Forever* initiatives such as the Talent Network with related interventions across film education, skills and talent development – the membership would therefore include FNUK.

- O. The Panel would like to see all parties, from government through to delivery bodies in the regions and nations, working together to enable the BFI's new Diversity Strategy to deliver a real step change in the industry, addressing specific, measurable targets across workforce, content and audience.
- P. The Panel notes the continued need for robust research, and welcomes the recent announcement of the BFI Film Research & Statistics Fund tender. It encourages the BFI and applicants to ensure that the Fund structure allows it to engage across all BFI activities, supporting the design and evaluation of BFI initiatives, for the further development of evidence-led policy.
- Q. The Panel recognises the progress that the BFI has made towards implementing many recommendations from the Film Policy Review its 5-year plan. As it matures in its role as lead agency for film in the UK, we would encourage it to find an optimum balance between providing strong industry leadership and truly collaborative partnership working that allows partners the necessary licence to deliver against their remit. The Panel notes that a Triennial Review of the BFI will take place in 2014, and recommends that the findings of the Film Policy Review are fed into that process, as well as examining in more detail how the BFI is fulfilling its strategic functions.

