

New Zealand Writers Guild

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Ropu Kai Tuhi a Aotearoa

Submission on the Review of the New Zealand Film Commission

Introduction

1. The New Zealand Writers Guild (the Guild) welcomes this opportunity to contribute to the Government review of the New Zealand Film Commission (the NZFC).
2. The Guild recognises that the purpose of the review is to examine and identify what is needed to enable the NZFC to work in the most effective way possible as New Zealand's film funding agency in a rapidly changing environment, taking account of wider policy and economic imperatives, including fiscal sustainability.
3. The Guild represents the interests of writers for film, television, theatre, radio and graphic novels in New Zealand. The Guild is the oldest and largest film industry group in the country.
4. The five-year vision for the Guild is "Establishing writers as partners". The Guild hopes the review can assist in achieving this vision.
5. This submission represents the views of Guild members following a period of consultation, and includes material submitted by experienced filmmakers.
6. Given the industry expertise that the Guild has to offer the review, the Guild has focused our submission on the following four topics noted in the Terms of Reference:

How can the NZFC most effectively act in a facilitative role to enable the industry to develop and produce high quality film projects that meet New Zealand cultural content objectives and reach a domestic and international audience?

Examine the NZFC's current approach to providing information and research and whether any changes should be made in this area to meet the needs of filmmakers and audiences.

How can the NZFC be responsive to the needs of New Zealand filmmakers to ensure that active industry professionals are involved in setting its strategic direction?

What are the NZFC's objectives and strategy for professional development, training and industry support? Examine these in the light of the international and domestic environment and best practice.

General comments on the review

7. The Guild would like to emphasise the importance to New Zealand of maintaining a healthy, sustainable and successful film industry. The Guild recognises that New Zealanders are fortunate that the government understands the importance of investing in a strong film industry.
8. The Guild recognises the crucial role that the NZFC has played in developing the New Zealand film industry. Reductions in NZFC funding would have serious detrimental effects on the film industry.
9. The Guild believes that overall the NZFC has performed well as a funding organisation, with a vital contribution to developing the infrastructure and culture of filmmaking as well as with commercial successes such as Whale Rider and Black Sheep; and that it continues to perform well, e.g. Show of Hands recently had the highest Sunday night TV ratings achieved in the past year when it screened in June 2009.
10. While feeling the NZFC's performance overall has been good, there are some areas which the Guild believes require urgent attention. The following comments explore the areas where the Guild believes the NZFC can improve its performance to continue to build on its successes.
11. The Guild also recognises that the film industry has a high level of dependence on the NZFC, and this level of dependence on a single organisation is not ideal. New models of distributing funding (production and development financing) would help the industry to grow.

How can the NZFC most effectively act in a facilitative role to enable the industry to develop and produce high quality film projects that meet New Zealand cultural content objectives and reach a domestic and international audience?

12. The Guild strongly believes that incorporating screenwriters as creative partners in a film project leads to higher quality scripts, which are essential to the production of a high quality film.
13. This section of the submission explores:
 - the current model of development funding, and a proposal for improving that model
 - clearer accountability for NZFC funding decisions
 - the tensions between New Zealand cultural content objectives and reaching a domestic and international audience.
14. There is a need for screenwriting to become a viable career for more writers. Screenwriting is the foundation of the film industry, but the great majority of writers are required to financially support themselves with non-writing work.

The current model of development funding

15. The NZFC is the predominant source of development funding in this country due to the small scale of film production in New Zealand.

16. At present, NZFC development funding is distributed through producers, who are responsible for distributing these funds to screenwriters, script assessors, consultants and script editors. There are two limited exceptions where NZFC funds screenwriters directly: the First Writers Initiative (which provides some funds for three screenwriters to work on one draft) and the Writers Awards (for two screenwriters each year).
17. The Guild believes that the current producer-centric model of development funding works against acknowledging screenwriters as creative partners, and leads to inequity in the development process.
18. This arises from requiring writers seeking access to development funding for their own ideas, to enter into contracts early in the process, often selling the rights to their work to the producer before writing a first draft.
19. The Guild believes that the need for a writer to enter into a contract with a producer this early in the development process is at best unnecessary and at worse, disempowering.
20. This imbalance often flows through into creative decisions. The screenwriter is typically excluded from script discussions with the NZFC development team and, in many cases, considered expendable from the project.
21. This general disempowerment of writers has led to a decreased sense of creative control, or even detachment from the script development process. It is the view of the Guild that this inevitably leads to a lower quality of scripts being produced.
22. It is vital for the success of any project that a producer be properly 'cast' who suits the creative and financial demands of that project. Requiring a producer to be already attached at the initial stages of development greatly increases the likelihood of a 'miscast' producer, greatly damaging the potential success of the project overall.
23. Likewise, a project that is able to go through phases of script development is more likely to attract the best possible producer to drive the project forward to becoming a successful production.
24. This situation is exacerbated by the lack of an Auckland office of the Film Commission. It is all too common for producers to use extra flight costs as a reason to travel to script meetings without the writer. Given that most screenwriters, indeed, most film industry practitioners, are based in Auckland it would seem only logical that the Film Commission maintain a presence there.
25. The Guild recognises the role of the producer in the development and production of high quality films, and that the screenwriter must at some stage enter a contract in order for the film project to proceed.
26. However, the Guild believes that it is not essential to involve the producer in the early stages of script development.

A proposal for improving the current model of development funding

27. The Guild recommends the establishment of a tiered structure to development funding, which would allow screenwriters to apply directly to the NZFC for early development funding.

28. This proposal is outlined in Appendix A.

Clearer accountability for NZFC funding decisions.

29. Guild asserts that the accountability for NZFC funding decisions is not clear enough at the present time. From the Guild's perspective, the decision-making roles of staff and the decision-making roles of the NZFC Board are blurred.
30. The Guild recommends a stronger divide between governance and management roles for NZFC funding decisions.
31. The role of the Board should be primarily to assess the funding decisions of staff, then independently test whether film projects meet the development goals of the NZFC. It should be the role of qualified staff to make funding decisions based on their own experience and expertise, with clearer accountability practices put in place to determine the success of those decisions.
32. The Guild submits that a high level of operational decision-making at the Board table is at odds with the governance role of the Board. The ambiguity of roles is disempowering for film makers, especially when it is not clear who is accountable for the decisions that the NZFC has made.
33. The Guild recommends a greater transparency of funding decisions by the NZFC that can flow out of clearer accountability practices.
34. If the NZFC Board are going to continue to make funding decisions, the Guild believes that the NZFC Board should primarily consist of members with film production and development experience. This 'ground level' expertise on the Board greatly assists the governance function.

The tensions between New Zealand cultural content objectives and reaching a domestic and international audience

35. The Guild recognises that sometimes there are seen to be creative and commercial tensions between meeting New Zealand cultural content objectives, and reaching a domestic and international audience. This concern could be expressed as a divide between filmmaking that meets cultural or artistic objectives but does not find an audience on one hand, and safe generic productions that find an audience but do not express New Zealand culture on the other.
36. The Guild asserts that this divide is too simple, and that both goals are achievable (e.g. *Whale Rider*, *the World's Fastest Indian*). A New Zealand film with strong cultural content that provides a point of difference, can be commercially successful.
37. The Guild recommends the consistent and flexible application of a development framework that values both New Zealand cultural content objectives and the requirement to reach domestic and international audiences.

38. The development process of any given project should be consistent and appropriate to the intentions of that project, with strong awareness of its intended market and audience.
39. The development framework should have the flexibility to recognise that cultural content will sometimes be the strength of a particular film project, and that sometimes the film project will draw its strength from other elements.
40. The Guild believes that the points framework of the SPIF Significant New Zealand Content Test is one example of how such a framework can be consistently, flexibly and transparently applied.

Examine the NZFC's current approach to providing information and research and whether any changes should be made in this area to meet the needs of filmmakers and audiences.

41. The Guild recommends the NZFC develop better internal systems to enhance their script development processes. For instance, the Guild understands there is currently no accurate record of scripts received by the NZFC. This leaves staff vulnerable to future problems, and makes it hard to quantify levels of script production against the number of successfully completed films. Statistical collection of data is, on the whole, a current weakness.
42. These systems should set clearer expectations for screenwriters and staff, which can prevent stress for both parties when consistently enforced. For instance, the Guild is aware of screenwriters who have not had their expectations met, e.g. staff not returning phone calls or emails, or reading scripts by the dates agreed to by the staff.
43. Better systems can also alleviate the risk that the recommendations of NZFC staff will be subject to (or perceived as subject to) personal taste, rather than informed professional opinion.
44. The Guild also recommends an increase in publicly available information on levels of development and production. This information would be greatly beneficial to the growth of an informed and knowledgeable local film industry. The Guild notes an increase of this type of information in the most recent NZFC newsletter, which is an encouraging step.

How can the NZFC be responsive to the needs of New Zealand filmmakers to ensure that active industry professionals are involved in setting its strategic direction?

45. The Guild aims to be a creative partner with the NZFC as part of the Guild's vision of establishing writers as creative partners.
46. The Guild has concerns around the current level of consultation the NZFC has with filmmakers. The Guild believes the NZFC needs to listen closely to the industry in order to be able to act on behalf of the industry.
47. The Guild recommends investigating the establishment of an industry advisory body to the NZFC, which could assist the NZFC in setting its strategic direction. This advisory body could be comprised of representatives from throughout the various industry professional organizations.

What are the NZFC's objectives and strategy for professional development, training and industry support? Examine these in the light of the international and domestic environment and best practice.

48. The Guild recommends that the NZFC continue to use industry partners to deliver services in professional development, training and industry support. This is in keeping with practices overseas.
49. The Guild is the primary organization for the delivery of these services to screenwriters in New Zealand, and is actively developing the range and quality of the services it offers.
50. A profile of the New Zealand Writers Guild and a list of the services we provide is attached as Appendix B.

Conclusion

51. The Guild recommends:
 - the establishment of a tiered structure for development funding, which would allow screenwriters to apply directly to the NZFC for early development funding
 - a stronger divide between governance and management roles for NZFC funding decisions, with all funding decisions being made by experienced industry professionals.
 - greater transparency of funding decisions by the NZFC
 - consistent and flexible application of a development framework that values both New Zealand cultural content objectives and reaching a domestic and international audience
 - that the NZFC develop better internal systems to enhance their script development processes
 - an increase in publicly available information on levels of development and production
 - investigating the establishment of an industry advisory body to the NZFC, which could assist the NZFC in setting its strategic direction
 - that the NZFC continue to use industry partners to deliver services in professional development, training and industry support
52. The Guild looks forward to discussing this submission further in person, if possible.

Sincerely,

Steven Gannaway
Executive Director
New Zealand Writers Guild

Appendix A

Proposal for an Alternative NZFC Script Development Funding Model

Background:

1. Under the current funding model, the NZFC only considers script development funding applications from producers.
2. In order to access development funding for an original treatment or script, a screenwriter must sign a contract with a producer, who then submits their work to the NZFC for funding consideration. If funding is granted, the producer then disperses funds to the writer as agreed under the contract.
3. We believe this effectively puts writers in a 'back-foot' position from the start and does not acknowledge that the primary 'creator' of the film at this early stage is typically the writer. It also has the effect of reducing the amount of funding received by the writer.
4. Typically if \$20,000 is granted by the NZFC for writing a draft, the writer will only receive \$12,000 - \$15,000 of that as a writing fee. While a good producer will certainly bring something to the writing process, the majority of their \$5000 to \$7000 fee is to cover overheads and legal costs rather than actual work involved in creating a screenplay (which in many cases is minimal).
5. In effect the producer's legal costs and overheads are subsidised by the NZFC, while the writer is expected to pay their own legal costs and overheads out of their 'writing fee'. This means that in real terms the writer receives perhaps only \$10,000 - \$12,000 for actually writing the draft out of the \$20,000.
6. In addition to this inequity, in many instances, producers also defer option payments to writers until development funding is granted by the NZFC. Effectively this means that while writers must fund themselves to write a treatment or first draft (often months of work) to take to a producer, the producer pays nothing out of their own pocket to option that material.
7. In short, the current policy assists producers to develop their careers without significant investment of their own capital whilst writers must invest substantially in their own careers to produce treatments and scripts in order to attract a producer before receiving any development assistance from the NZFC.
8. There is an argument that the requirement for any project to have a producer attached before it receives funding is there to act as a filter so that only a reasonable standard of scripts reach the NZFC for funding. However the Guild believes that experienced writers are quite capable of developing a script and working with the NZFC development team without the need for a producer holding their hand.
9. We also believe that the staff at the NZFC should be qualified and experienced enough to recognise a script worthy of development funding without needing a producer's endorsement.

Alternative Funding Proposal

1. The Guild would like to propose a simple two-tiered structure allowing both writers and producers to apply directly to the NZFC for development funding.
2. Tier One:
 - Experienced writers with strong Film or Television credits can choose to bring treatments or first drafts directly to NZFC without a producer attached.
 - If NZFC approve development funding the full amount goes to the writer.
 - Writers sign a standard contract with the NZFC to deliver by a due date.
 - The writer develops the draft and presents it to the NZFC
 - The NZFC can choose to support further funding or not. The Writer can be funded up to third draft level without the attachment of a producer.
 - After this stage, the NZFC can then choose to stipulate that this funding is now contingent on the writer finding a suitable producer for the project.
 - If the project is declined by the NZFC for second draft funding, the writer still has an opportunity to take the draft to a producer who sees value in it and is prepared to work with the writer to develop it further.

Tier Two:

 - An avenue by which writers not considered to meet the criteria for 'tier 1' can choose to bring their projects to NZFC for initial assessment without a producer attached.
 - If NZFC approve development funding the full amount goes to the writer.
 - Writers sign a standard contract with the NZFC to deliver by a due date.
 - The writer develops the draft and presents it to the NZFC
 - The NZFC can choose to support further funding or not.
 - After this stage, the NZFC can then choose to stipulate that this funding is now contingent on the writer finding a suitable producer for the project.
 - If the project is declined by the NZFC for second draft funding, the writer still has an opportunity to take the draft to a producer who sees value in it and is prepared to work with the writer to develop it further.
3. Result: Screenwriters are able to develop screenplays more fully before signing a contract with a producer.
4. Benefits:
 - Increased likelihood of the best possible producer being attached to a project, resulting in a much more likely chance of the project's overall success.
 - Competition between producers is more likely to lead to best practice in regards to negotiations with writers, as they seek to bring in viable projects.
 - Writers have a greater sense of creative ownership and inclusion through the development process, leading to a stronger quality of work being produced.
 - Producers are now in a position of having more developed scripts brought to them. They spend less time pitching a multitude of projects to the NZFC, more time nurturing projects that have already attracted interest.
5. In Conclusion: Benefits of a writer-centric development funding model.
 - More funding directly to writers will enable experienced and talented writers to earn a viable living - keeping them in the industry.

- Writers will inevitably form better relationships with producers because they will be viewed as equal partners.
- A writer-centric funding model would create a more direct dialogue between the writer and the NZFC. It is generally recognised that the script is the foundation of any good film.

Appendix B

Profile of The New Zealand Writers Guild

The NZWG has a very clear objective: to help build a secure and vibrant film and television industry in which writers prosper as central and vital partners.

Founded in 1976, the New Zealand Writers Guild is a professional non-profit association for writers in the fields of film, television, radio, theatre, video and multi-media. The Guild is recognized in New Zealand as the writer's representative in the entertainment industry.

The Guild's primary focus is the support of writers, both at a professional and craft level. The Guild works to ensure that writers' rights are protected, to assist them with negotiations (whether they be contractual or creative issues) and to provide them with a range of services that improve the environment they work in. By doing this, the Guild helps writers build viable, sustainable careers and enables them to focus on their craft, empowering them to produce better scripts, which will in turn make for better films.

We believe we are a vital organization in the industry, providing support to not just writers but also producers, directors, and a host of other creatives who access our services in one way or another. In times of economic hardship, support networks like the industry guilds are essential. We're proud to be a part of this industry and look forward to remaining so.

Staff

Executive Director - Steven Gannaway (BFA)

Membership Manager (part-time) - Dara McNaught (BA, DipSocSt)

Treasurer (part-time) – Fiona McEwen

Board

Board Members - Peter Cox (President),

Benedict Reid (Vice President), Allan Baddock, Roseanne Liang, David

Mamea, Sean Molloy, Dianne Taylor, and Athina Tsoulis.

The NZWG has regional representatives in Auckland, Wellington and Dunedin who are active in running local events, funding initiatives, and writers groups.

Members

Total current membership at 18/5/2009: 447

This is comprised of 180 Full members (writers who have had work made into a feature film, short film, stage or television production) and 251 Associate members (aspiring writers). We also have a few Complementary members (contributors to guild activities, awards) and student members at the following institutions: Unitec, Victoria, Whitireia & Auckland University.

Regionally our membership consists of 291 in the Northern region, 107 Central, and 37 in the Southern region. We also have 12 members who reside overseas.

In 2008 the membership of the NZWG increased by 9%.

Our membership includes not only the writers of most of New Zealand's finest film and television, it also includes many high profile producers and directors. Our membership includes the creative minds behind some of New Zealand's most recognised culture, such as The Lord of the Rings, Sione's Wedding, Shortland Street, Outrageous Fortune, Out of the Blue, Perfect Creature, Vigil and King Kong.

NZWG Services And Projects

Core Services

Mediation and Advocacy - Things don't always go smoothly in any professional relationship. Given the compact nature of the film and television industry in New Zealand it is important that professional relationships remain functional. The NZWG offers mediation and advocacy services when required to ensure a return to good working relationships.

Contract and Legal Advice Service - pro bono advice given to members on copyright issues, legal issues, contract drafting and chain of title. This service is being increasingly used by producers looking to secure good working contracts with writers and the NZWG is very happy to see an increase in this trend.

Access to Lowndes Jordan - barristers and solicitors - for free/reduced rate legal advice is available to members.

Credit Arbitration Service - a free arbitration service provided to the industry where there are disputes over appropriate screen credits.

Rates Advice - advice given over writing rates for all types of screenwriting. Again, this advice is given out freely to all other industry professionals.

The WriteStuff - biweekly electronic newsletter sent to members and various industry contacts. Over the last year this newsletter has been expanded to include writer profiles and has also featured profiles of producers and production companies and the types of projects they are looking for, how they prefer to receive pitches etc. This has been widely appreciated and has facilitated greater interaction and networking.

Find-A-Writer - The Find-A-Writer functional database addition to our existing web-site is operational and many of our members find work through this. Work continues to be done on populating, maintaining, and promoting this fantastically useful industry tool. It enables easier networking between producers and our members, and is a great membership benefit. The NZWG will be utilising new media platforms to increase its profile.

Library - the Guild holds the largest specialist screenwriting library in New Zealand, including over 2000 film scripts. We actively encourage our members to use this fantastic resource.

Lobbying - the Guild lobbies government and other groups on behalf of writers and the industry in general.

Public Comment - on issues affecting writers and the film industry in general.

Registration Service - writers are able to register projects to protect against theft of copyright.

Information Service - general writing advice and information given to all enquiries ñ advice includes career advice, information on funding providers, educational institutions and producers.

Professional Development - Craft Evenings and Seminars - the Guild provides educational evenings nationally, focused on the craft and business of writing. Over the last year we have, in collaboration with Script-to-Screen, attempted to reach all regions more effectively. The Date Night events, while run as joint events with SPADA and SDGNZ, are very much driven by the Writers Guild. These events are designed to be catalysts for greater networking between writers

and producers, and to provide both with greater opportunities. Several projects are currently in development as a result of these events.

Model Contracts - drafted by the Guild these are Option, Purchase and Screenwriting Agreements for film production and are provided free to anyone who requests them, along with free advice.

Producer's Directory - a listing of New Zealand producers.

AIL - American Income Life Insurance (an insurance company that provide insurance for union members) - free insurance for members.

Authorship Fees Collection - the Guild liaises with collection agencies on behalf of members, including Screenrights and AWGACS ñ the Australian Writers Guild Authorised Collecting Society.

Other Membership Services - including the Discounters scheme, website, legal documents (Confidentiality Agreement, Collaboration Agreement, Limited Option Agreement) and discounted scriptwriting software.

Specific Projects

Professional Development Workshops - The majority of screenwriters are independent contractors. In 2009, the NZWG is running a series of professional development workshops. These are free for all our members and are aimed at increasing professional practice and business skills. We believe that acquainting writers with the workings of the film/television industry and educating our members on the roles of other industry professionals is essential.

The Date Night events, while run jointly with SPADA and SDGNZ, are very much driven by the Writers Guild. These events are designed as catalysts for greater networking between writers and producers, providing both with greater opportunities.

We will continue to hold events outside of Auckland and Wellington; this incurs additional but necessary expenditure, as whilst the Guild has Regional representatives in Auckland, Wellington and Dunedin, large areas of the country are still unrepresented.

Script Competitions - The inaugural NZWG Short Film Script Competition in 2008 was a great success, measurable not only by the high level of participation but also by its stimulation of productivity. The response was satisfactory to us especially because we believe it was the first script competition in the nation to accept scripts in Te Reo. This is important to us. We ran the competition again in 2009, timed to lead into the Film Commission POD's, and received 107 entries.