

**For discussion
on 14 December 2009**

**Legislative Council Panel on
Information Technology and Broadcasting**

**Report on the Review of the Operation of the
Film Development Fund Scheme**

PURPOSE

This paper briefs Members on the review of the operation of the Film Development Fund (FDF) Scheme and proposes measures to improve the operation of the Scheme in response to the needs of the local film industry.

BACKGROUND

2. The film industry is the flagship of the creative industries in Hong Kong. It contributes significantly to the development of our creative industries as well as tourism, and enhances the international and cultural image of Hong Kong. However, there has been a substantial decrease in the number of film productions, particularly small-to-medium budget films, as well as box office revenues in recent years. With a shrinking film market and decreasing number of local productions, the film industry is facing a difficult time. The Government is committed to providing a favourable environment conducive to the long-term and healthy development of the Hong Kong film industry. One of the measures is the setting up of the FDF to support the Hong Kong film industry.

3. The Government established the FDF in 1999 to finance projects conducive to the long-term development of the film industry, such as providing training for film workers and the promotion of local films, etc. The FDF is administered by the Film Services Office (FSO), which was formerly established under the Television and Entertainment Licensing Authority (TELA). The FSO was transferred to Create Hong Kong

(CreateHK) in the Commerce and Economic Development Bureau (CEDB) with effect from 1 June 2009. At the meeting on 6 July 2007, the Finance Committee of the Legislative Council (FC) approved the Government's proposal to inject \$300 million into the FDF with an expanded scope to provide financial support for the production of small-to-medium budget films, and to continue to finance projects which are beneficial to the long-term and healthy development of the film industry.

4. The funding support from the Government for film production aims to encourage more commercial investment in film productions, create a larger mass of film activities, more employment opportunities, and assist the film industry to revitalize and develop further. Under the expanded scope of the FDF, financial support is provided to small-to-medium budget films with production costs up to \$12 million employing a specified number of Hong Kong talent. The Government's contribution is capped at 30% of the production budget, while the remaining 70% is expected to be funded by private investors. The eligibility and criteria for financing film production under the FDF are set out in **Enclosure 1**. In seeking the funding approval from FC in July 2007, we undertook to review the FDF in consultation with the film industry two years after the injection of \$300 million and expansion of the scope of the FDF.

ADMINISTRATION OF THE FDF

Controlling Mechanism

5. The Permanent Secretary for Commerce and Economic Development (Communications and Technology) (PSCT) is the controlling officer of the FDF¹. The PSCT decides whether applications are approved and funds are disbursed to approved FDF projects on the basis of the recommendations of the Fund Vetting Committee (FVC)² set up under the Film Development Council (FDC) to examine the merits of the FDF applications. Regarding the assessment of the applications for financing

¹ The Commissioner of the Television and Entertainment Licensing was the controlling officer of the FDF prior to 1 June 2009. With the transfer of the FSO from TELA to CreateHK of CEDB with effect from 1 June 2009, PSCT has become the controlling officer of the FDF.

² The Fund Vetting Committee is set up under the FDC to evaluate the merits of the film financing applications and make recommendations to the Government on whether the applications should be approved.

film productions, the FVC is assisted by a Panel of Examiners consisting of professionals with experience in film production, sales and distribution of movies. The Examiners assess the commercial viability and reasonableness of the budget of the film projects. For each eligible application, six Examiners will be drawn from the Panel to carry out the assessment work and the FVC will consider the Examiners' assessment before putting forward their recommendation to the PSCT.

6. Upon approval of an application by PSCT, the Government will execute a set of financing contracts with the successful applicant. The contractual arrangements seek to strike a balance between the protection of public coffer and allowing an appropriate degree of flexibility for the industry to produce films in line with market practices. The opportunity has been taken to introduce provisions in the contracts to encourage small-to-medium filmmakers to adopt better management and accounting measures in line with the international best practices, e.g., the requirement of insurance coverage for film workers; the preparation of audited reports; and the submission of regular reports on progress of film production. This will enhance the ability of the industry to seek commercial financing in the long run. The FDC Secretariat³ has prepared both a Chinese and English version of the related contract documents.

Applications

7. Since October 2007 (when the FDF started to receive applications for financing film productions) up to 31 October 2009, a total of 22 applications have been received. Of these, 14 have been approved; four have been withdrawn by the applicants; and four applications failed to obtain approval for financing. The total amount of funding approved for the 14 applications is \$38.8 million. A list of the 14 approved film production financing applications is at **Enclosure 2**.

8. The 14 approved films include six new Hong Kong directors and five new film producers directing or producing commercial films for the first time. A list of the new directors and new producers who are involved in the approved films is at Enclosure 3. This shows that the FDF is able to help the industry to train new blood.

³ Secretariat service to the FDC is provided by the staff of FSO.

9. Of the 14 approved applications, 10 are submitted by small-scale film production companies (i.e. independent companies which do not have their own distribution network). This shows that the FDF has been successful in providing financial assistance to the small-scale film production companies for film production, thereby creating a larger mass of film activities for the local film industry.

10. Of the 14 approved films, four have been theatrically released in Hong Kong and the Mainland starting earlier this year. The total box office receipt of the four films is about \$117 million, whereas the total production budget of these films is \$35.4 million. The actual amounts of revenue which will be made available for distribution to the financiers of the respective films have yet to be finalized. We are still awaiting the submission of the finalized account and audited statement on the income and expenditure of the respective films from the production companies before we are in a position to assess the profit and loss situation of the respective films. Normally, for estimation purpose, about 80% of the sales income of a film will be received 12 months after the film has been theatrically released. Nevertheless, based on the information in hand, we are confident that the Government could recoup its investment for three of the four released films. For the other released film, it is likely that part of the Government's contribution may not be recouped.

11. One of the FDF-financed films which was directed by a first time director was nominated to participate in the Hong Kong Film Awards and Hong Kong Asian Film Festival as well as film festivals outside Hong Kong (including Locarno Film Festival, Venice Film Festival, Fusan International Film Festival, Tokyo Film Festival, Berlin International Film Festival, Golden Horse Awards Competition in Taiwan, San Francisco International Film Festival, Deanville Asian Film Festival and Barcelona Asian Film Festival). It was also awarded the Best Screenplay and Film of Merit by the Hong Kong Film Critics Society Awards. This shows that the FDF has played a positive role in nurturing film talent, strengthening Hong Kong's film industry and raising its standard. The FDC Secretariat will continue to liaise closely with the Hong Kong filmmakers, particularly new directors and producers, to encourage the use of the FDF for film productions.

12. As regards other film-related projects which are beneficial to the healthy and long term development of the film industry, a total of 35 applications have been approved since July 2007, with a total approved funding at \$52.4 million. The projects include mega promotional events for films, funding support for the industry to attend overseas film festivals, the production of an industry handbook and a teaching kit, etc. A summary of the approved film-related projects is at Enclosure 4.

13. As at 31 October 2009, the uncommitted balance of the FDF is \$213.9 million.

REVIEW OF THE FDF

14. We conducted a review of the film production financing scheme (the Scheme) from March to June 2009. A working group, consisting of industry members, was formed to collect and assess feedback from the film industry. The review covers areas including the user-friendliness of the application forms, the terms and conditions of Government's funding for film productions, and the effectiveness of the FDF in promoting the long-term, sustainable development of the industry.

15. During the review, we conducted a number of consultation sessions with the stakeholders including the Panel of Examiners, applicants and various film associations and trade organizations. Based on the feedback received, we had submitted the review findings to the FDC for consideration. After considering the review findings, the FDC recommended that the operation of the Scheme should be improved in the following aspects:

- (i) to raise the upper limit of the production budget of a film project supported by the FDF from \$12 million to \$15 million;
- (ii) to raise the upper limit of Government's contribution per approved film project from 30% to 40%; and
- (iii) to remove the 10 years' time-limit for relevant film-making experience in respect of the applicant, the film director or producer.

The revised eligibility and financing criteria in respect of the Scheme as recommended by the FDC is at Enclosure 5. The operation of the FDF for financing other film-related projects was not included in the scope of the review.

16. The recommendations at paragraph 15 above reflect the views of the film industry on how the Scheme could be improved to better meet the needs of the industry. The film industry considers that under the prevailing market situations, a production budget of \$12 million would be insufficient to produce a medium budget commercial film of acceptable quality, and that it would be reasonable and appropriate for the Government to raise the maximum limit of the production budget of a medium film to \$15 million. On the other hand, given that the film producers of a smaller scale film would normally be those who have difficulty and cash-flow problems in securing commercial finance for film production, the Government should increase the amount of contributions to 40% to provide the funding support needed by the industry. In this regard, the FDC agreed that given the present proposal to raise the upper limit of the production budget of a film project, which will in turn lead to an increase in the amount of Government's contribution per approved film project, it would be reasonable if the Government's contribution per approved film project be capped at 35% of the production budget **under normal circumstances**. Only under very special circumstances and after careful examination of the exceptional merits of the case would the FVC recommend to the Government to make a contribution of 40%.

17. In respect of the proposal to remove the 10 years' time-limit for relevant film-making experience in respect of the applicant, the director or the producer, the film industry considered that there were some very experienced film-makers who had directed or produced a number of successful commercial films more than 10 years ago. It would not be in the interest of both the industry and the film-makers concerned if their experience and expertise could not be counted under the Scheme. As the intention of this eligibility criterion is to ensure that the film projects financed by the FDF should be produced by film-makers with acceptable experience, we agree that it would be appropriate to remove the 10 years' time-limit requirement.

18. Besides, the FDC also recommended that the Government should make known to the industry clear procedures for selling back the copyright of the film to the applicant five years after the film has been theatrically released. We will promulgate clear guidelines to the industry when the improvement measures are implemented.

19. Having carefully examined the FDC's recommendations, we agree that it would be in line with the objectives of the FDF to enhance the Government's financial support to the film industry to a level which is more in keeping with the prevailing market situation in film productions. Accordingly, we support the proposals set out in paragraph 15 above.

20. Apart from the recommendations at paragraph 15 above, we can also improve the application and vetting procedures to make the Scheme more suited to the needs of the film industry, by improving the layout of the application form and providing clearer explanatory notes to make it more user-friendly; providing bilingual texts for all contract documents and samples; and by arranging briefing sessions and seminars for film practitioners to explain to them the relevant application rules and procedures, etc.

21. Regarding the design of the application form, while the current application form (in bilingual format) comprises a total of 53 pages, most of the pages are explanatory notes and supplementary statements for reference of the applicants. Of these 53 pages, 14 pages involve declaration and undertaking to be made by the applicants, which are considered essential by the Department of Justice. The applicants are only required to provide basic and essential information about themselves (5 pages), and about the film project including the casting and script (3 pages), and the budget and income forecast (6 pages). In respect of these 14 pages, most of the information required can be provided by filling in the boxes and crossing out inapplicable items. There is no need to fill in excessive information. In this connection, upon our explanation to the industry in seminars and meetings held in the past months, the industry generally agreed that for Government funding support of up to \$3.6 million per film project, the information required from the applicant is not unreasonable and inappropriate. However, we agree that there is always scope for improvement to make the application form less

voluminous and more user-friendly, e.g. by separating the Chinese and English versions, grouping those parts which require completion in one appendix, and re-arranging the format of the form. We believe that these improvements will address the concerns of, and will be welcomed by, the industry as a whole.

FINANCIAL IMPLICATIONS

22. Based on the existing rate of utilization of the FDF that a financial commitment of \$38.8 million has been approved under the Scheme over a period of two years for supporting film productions, the financial provision for financing film productions under the FDF is estimated at around \$19.4 million per annum. The additional financial provision that will be required for increasing the Government's contribution by 5% (from 30% to 35%) is about \$3.2 million per annum. Additionally, it is expected that the raising of the production budget ceiling from \$12 million to \$15 million may attract some applicants which were previously not eligible for financial support under the Scheme to apply for financing. In this connection, we estimate that this may incur an additional financial provision of 10%, or \$2.3 million, per annum. Therefore, the total additional financial provision for implementing the improvement measures set out in paragraph 15 is estimated to be \$5.5 million per annum.

WAY FORWARD

23. Subject to the views of Members, we will implement the improvement measures in paragraph 15 with effect from the first quarter of 2010. We will also keep the Finance Committee informed of our review.

Communications and Technology Branch
Commerce and Economic Development Bureau
December 2009

**Eligibility and Financing Criteria for Financing Film Productions under
the Film Development Fund (FDF)**

The eligibility and financing criteria for financing the production of film projects under the FDF are:

- (a) The applicant should be a company formed and registered under the Companies Ordinance (Cap. 32);
- (b) The applicant, or the film producer, or the film director should have produced at least two completed films in the past 10 years for commercial theatrical release in Hong Kong;
- (c) The applicant may only receive the Government financial support under the FDF for up to two approved film projects at any one time;
- (d) The film project must –
 - (i) have an production budget of not more than \$12 million;
 - (ii) be in the form of a full script to produce a feature film intended for commercial theatrical exhibition in Hong Kong;
 - (iii) be identifiable as commercially viable and have secured some form of third-party financing of , for example, 50% of production budget; and
 - (iv) constitute at least 50% of the main cast and film crew with Hong Kong permanent residents.
- (e) The Government will contribute up to 30% of the production budget of the film project under the FDF, i.e. a maximum of \$3.6 million per film project.

Approved Applications for Financing Film Productions

(as at end October 2009)

	Film Title	Film Company	Director	Production Budget	Fund Approved
1.	McDull Kungfu Ding Ding Dong	Bliss Pictures Limited	TSE Lap-man	\$11,996,000	\$3,598,800
2.	Claustrophobia	Runaway Films Production Limited	HO Pik-mun	\$5,394,186	\$1,618,255
3.	Coweb	Joy Charm Enterprise Limited	XIONG Xin-xin	\$9,977,265	\$2,993,179
4.	Give Love	BIG Pictures Limited	MA Wai-ho; LEE Ka-wing	\$8,065,580	\$2,419,674
5.	Strawberry Cliff	Glory Top Properties Limited	CHOW Chun, Chris	\$10,058,118	\$3,017,435
6.	Lover's Discourse	ET Media Group Limited	Derek TSANG; Jimmy WAN	\$6,184,326	\$1,855,297
7.	The Fighters	One Hundred Years of Film Company Limited	MAK Chi-sin, Marco	\$11,520,000	\$3,456,000
8.	Childhood Story	Dadi Entertainment Limited	LAW Kai-yui, Alex	\$11,994,249	\$3,598,274
9.	Break Up Club	Diva Productions Limited	WONG Chun-chun, Barbara	\$5,865,000	\$1,759,500
10.	Killer Never Kills	ET Media Group Limited	HUNG Man-yin	\$11,847,575	\$2,369,515
11.	荒村公寓 (English name pending)	Bona Entertainment Company Limited	LO Chi-leung	\$10,848,446	\$3,254,533
12.	La Comédie Humaine	Icon Pictures Limited	CHAN Hing-kai, CHUN Siu-chun	\$8,400,000	\$2,520,000
13.	37	Manner Movie Limited	Dennis CHAN	\$11,370,000	\$2,842,500
14.	Aberdeen	Making Film Productions Limited	PANG Ho-cheung, Edmond	\$11,570,000	\$3,471,000
			Total:	\$135,090,745	\$38,773,962

(I) List of New Directors Involved in Films Financed by the Film Development Fund

	Film Title	Film Company	New Director(s)
1.	Claustrophobia	Runaway Films Production Limited	HO Pik-mun
2.	Coweb	Joy Charm Enterprise Limited	XIONG Xin-xin
3.	Give Love	BIG Pictures Limited	LEE Ka-wing
4.	Strawberry Cliff	Glory Top Properties Limited	CHOW Chun, Chris
5.	Lover's Discourse	ET Media Group Limited	TSANG Kwok-cheung, Derek WAN Chi-man, Jimmy

(II) List of New Film Producers Involved in Films Financed by the Film Development Fund

	Film Title	Film Company	New Film Producer(s)
1.	Claustrophobia	Runaway Films Production Limited	CHENG Kim-fung, Cary
2.	Lover's Discourse	ET Media Group Limited	FUNG Wai-yuen, Weldon
3.	Break Up Club	Diva Productions Limited	LIEM, Augustinus Khik Djin
4.	37	Manner Movie Limited	WANG Yu-zhe LEE Chi-kong

**Summary of Film-related Projects Approved
from 6 July 2007 to 31 October 2009**

	Content and Category	Items	Fund Approved
1.	To finance major film promotion activities, including Entertainment Expo Hong Kong, Hong Kong Film Awards Presentation Ceremony and Asian Film Awards	10	\$33,011,811
2.	To finance seminars and training courses relating to the long term development of the Hong Kong film industry	6	\$14,304,423
3.	To finance local films nominated to participate in film festivals or film financing forums overseas	16	\$1,847,834
4.	To finance the compilation of data and guidelines for development of the film industry	2	\$1,440,200
5.	To finance the research and development of new film-related technology	1	\$1,753,700
	Total :	35	\$52,357,968

Revised Eligibility and Financing Criteria for Financing Film Productions under the Film Development Fund (FDF)

The revised eligibility and financing criteria for financing the production of film projects under the FDF as recommended by the Film Development Council are:

- (a) The applicant should be a company formed and registered under the Companies Ordinance (Cap. 32);
- (b) The applicant, or the film producer, or the film director should have produced at least two completed films for commercial theatrical release in Hong Kong;
- (c) The applicant may only receive the Government financial support under the FDF for up to two approved film projects at any one time;
- (d) The film project must –
 - (i) have an production budget of not more than \$15 million;
 - (ii) be in the form of a full script to produce a feature film intended for commercial theatrical exhibition in Hong Kong;
 - (iii) be identifiable as commercially viable and have secured some form of third-party financing of , for example, 50% of production budget; and
 - (iv) constitute at least 50% of the main cast and film crew with Hong Kong permanent residents.
- (e) The Government will contribute up to 40% of the production budget of the film project under the FDF, i.e. a maximum of \$6 million per film project.