Written evidence submitted by Writers' Guild of Great Britain (WGGB)

WGGB evidence to the CMS Committee Inquiry into 'British film and high-end TV'

1. The Writers' Guild of Great Britain (WGGB) is a trade union representing professional writers in TV, film, theatre, audio books, comedy, poetry, animation, and videogames. Our members also include emerging and aspiring writers. We negotiate national agreements on pay and conditions with key industry bodies, including BBC, ITV and Pact.

   Our members are freelance workers who are directly impacted by Government policy related to film and high-end TV and so we welcome this opportunity to provide evidence to the Culture, Media, and Sport Committee.

2. There can be no doubt that the UK is an attractive location for film and television production and has been successful in attracting investment. According to the BFI[1], of the 220 features made in the UK during 2022:

   '*90 were inward investment films with a UK spend of £1.74 billion, accounting for 88% of the total UK film spend, a 37% increase from 2021 and a further 30 features were co-productions with a UK spend of £58 million, almost parallel with 2021…[…] The 2022 spend on inward investment HETV production was £3.63 billion (84% of the total HETV spend), co-productions was £37 million (1% of the total) and domestic productions accounted for £633 million (15% of the total)*

3. Record amounts of money have been spent and record numbers of programmes made (in some areas). However, we feel it is important to question who has benefited from this success and whether the measures that contribute to the UK's "attractiveness" as a production centre are actually harmful in the longer term to the UK creative workforce.

Challenges of inward investment

4. There is mounting evidence that the UK's "appeal" as a production centre to overseas companies, particularly those in the US, is harming our domestic industry by embedding unfair remuneration systems, stripping IP from UK creatives and businesses, reducing the amount of capital available to UK producers, and failing to develop a pipeline of skilled practitioners.

5. Without significant changes, it will be increasingly difficult for the Government to deliver on the aims of its recent Sector Vision for the Creative Industries – particularly Goal Three: Maximise the positive impact of the creative industries on individuals and communities, the environment and the UK's global standing.

6. The impact of the recent US strikes highlights how vulnerable the current arrangement makes the UK workforce. A recent survey of film and TV workers, including behind-the-scenes crew such as camera operators and costume designers from our sister union BECTU, found that over three quarters of respondents are currently out of work as a result of the US industrial action, and this is not surprising considering that 69% of the total UK film spend was accounted for by US studio-backed productions.

[1] **Film and high-end television programme production in the UK: full-year 2022**
BFI Research and Statistics Unit 2 February 2023

7. Meanwhile, UK independent film production is struggling as a result of long-term under-investment, the impacts of Covid 19, declining box office takings and rising costs, driven in part by inward investment and skills shortages. BFI figures suggest that in 2022, domestic independent films accounted for just 28% (£174 million) of spend, the lowest percentage since analysis started in 2016.

8. The limited resources currently available from the BFI for domestic production means that they are often able to do little more than provide initial development opportunities for UK writers and this risks a significant loss of talent to the US.

9. With US-backed high-end TV often able to spend more *per episode* than the total budget of most British independent films, it is no surprise that those films struggle to compete for audiences.

10. The BFI report, *The UK Box Office in 2022* shows that, for the period studied, the market share of gross box office earned by UK independent film was just 7.9% which is lower than the 10-year (2013-2022) average of 10.3%. Only one UK Independent film, the Oscar winning Belfast, exceeded £10 million at the box office, whilst US films such as Top Gun Maverick grossed over £80 million.

11. To create a more stable, successful, and sustainable climate for writers and the wider creative community in film and high-end TV, the following issues must be addressed:
    - The unchecked expansion of US-owned streaming platforms in the UK
    - A Cultural Test for film and television that is no longer fit for purpose.
    - Gaps in copyright protection
    - A lack of accountability for companies in receipt of public funds

12. It has been widely acknowledged that the entry of the global streaming platforms into the creative ecology has had a massively disruptive impact on the film and television industry. Their distribution models (subscription and on-demand streaming) have significantly impacted on cinema box office rates and audiences and advertising revenue for traditional broadcast channels. For UK writers, their arrival and expansion has also heralded a significant change in terms and conditions, representing a significant loss of long-term earnings and a significant transfer of intellectual property out of the UK and into the US.

13. Prior to the arrival of streamers, and as is still the case for many domestic productions, scriptwriters assigned the rights in their work to UK production companies in exchange for residuals – shares of future earnings. Subsequently, the IP stayed within the UK and the writers were rewarded for the success of their work – the more it was shown or sold, the greater the earnings of the writer.

14. The streaming platforms, however, tend to operate on a ‘buy-out’ basis: one upfront payment and no more, irrespective of whether the work is watched a thousand or a million times and whether it is on the platform for a week or ten years. This represents a significant loss of earning potential for the writer as well as a national loss of IP (which now goes to a US company).

15. The streaming platforms generally don’t use existing union agreements, and some even include anti-union clauses in writers’ contracts. Ironically, they are unable to do this in the US and the

recent strike by the Writers Guild of America (WGA) is precisely to prevent US writers suffering the same fate as those in the UK.

16. Prior to exiting the European Union, the UK supported legislation aimed at curbing this situation for creative workers (the Copyright Directive). Sadly, the Government later decided not to adopt it, leaving UK writers at a disadvantage compared to some of our European counterparts.

17. ***WGGB believes that legislation is still required in the UK to make streaming platforms more transparent about their audience figures and revenues, and (at least) to require an adjustment where sales/revenues have far exceeded expectations resulting in the writer being significantly underpaid (the so-called 'best-seller clause').***

18. ***WGGB also supports calls for a 'levy' on streaming services, requiring an annual financial contribution to independent film development and production funds.***

19. There are other areas where a combination of Brexit and the dominance of US streamers continues to present a challenge. UK writers have now lost access to European film funding and this loss has only partially been offset by the new Global Film Fund.

20. It is important that the UK maintains positive creative relationships with EU member-states if we are to continue to benefit from the range of mutual agreements currently in place, including the use of collecting societies for European revenues. An over-reliance on US funding and content is likely to raise suspicions about the genuine European status of some UK works. To prevent that, we believe a more robust Cultural Test is required.

21. The current guidance for the Cultural Test for a British film awards points for British location, British characters and underlying British story or underlying material written by a British resident. However, all of this can be achieved with all US-owned IP and no UK writers, directors or lead actors involved.

22. Furthermore, this requirement allows US companies to rely on out-of-copyright UK works to help meet the requirements and then use US writers for the contemporary production. A dependence on out-of-copyright British work also risks presenting a heritage-tourism version of 'Britishness', rooted in colonial-era stereotypes, rather than presenting the UK's diverse contemporary culture.

23. There is a very real risk that, rather than fostering a thriving UK film and TV industry, the current arrangements facilitate the UK becoming a cut-price off-shore production centre for the US.

24. Whilst this would have economic benefits for some, it would leave the UK exposed to sudden labour changes (as seen with the strikes) and lessen the UK's cultural influence.

25. **To counter this, *WGGB proposes that the Cultural Test should prioritise projects where the IP was not just created in the UK, but which is owned and/or remains in the UK.***

26. Similarly, the current guidance allocates points to a production based on personnel attached to the production, though the same weight is given to a writer or director as a member of the cast or crew. While all creative workers are important, some clearly have a greater impact on the content, direction, and culture of a production than others.

27. ***We therefore propose that greater emphasis should be given to those roles which have significant creative control on the narrative – i.e. having a writer or director who is a resident UK national should warrant a larger allocation of points than a cast member or member of crew who is a UK national.***

28. This move will also help prevent US companies effectively using the UK as studio space, bringing all key creatives and performers in from the US and yet gaining cultural status by virtue of the technical crew alone.

Ensuring a strong skills pipeline and retention in the film and high-end TV industry.

29. A strong skills pipeline for the film and TV industry should cover all aspects of the industry and offer a range of routes to the profession. The Government's *Sector Vision for the Creative Industries* sets out a series of goals and targets for improving access to employment in the creative industries across the whole UK, but these routes and proposals remain focused largely on technical roles within the industry, rather than those who write or generate IP. For screenwriters, there remains a need for a viable apprenticeship model that will work within the project-based, freelance nature of the industry.

30. Links between higher education and industry need to be improved, but this is made more difficult by the rhetoric from some policy makers about the usefulness of arts education, particularly creatively-focused degree programmes which remain the main route for professional writers. Funding and success measures for HEIs and individual programmes that only look at narrow definitions of 'highly skilled employment' after twelve months are unhelpful and largely irrelevant in an industry made-up of freelances who work on a project basis, and where it can take years to 'break-in'.

31. In terms of retention of creative workers, the current benefits system fails to recognise the specific requirements of freelance workers within the creative industries as highlighted by this recent report from our sister union Equity.

32. These issues make it difficult for many, especially those from low-income backgrounds, to start and sustain a career in the industry.

33. The Government's strategy continues to look to its large funding and development agencies (such as the BFI) to support the development of the writers of the future, however, the current funding accountability systems are insufficiently robust to ensure that the production companies and/or projects that receive public funding are paying and treating key creatives appropriately. The current system provides producers with too much freedom to operate without any real scrutiny other than whether the overall project meets its stated aims. This approach continues to fail writers from key demographic groups and continues to result in high writer turnover on projects.

34. ***WGGB proposes that new accountability systems for production companies become a condition of funding.***

AI

35. WGGB has produced a separate paper outlining the risks and potential benefits for writers that AI presents.

36. In particular, we would highlight that while AI systems are not yet sophisticated enough to produce works which accurately mimic the standard of writing produced by professional writers, this is a likely future scenario.

37. However, the WGGB does not believe that AI will be able to replicate the originality, authenticity, enthusiasm, and humanity that professional writers put into their storytelling.

38. An early impact assessment by OpenAI indicated that the exposure risk to poets, lyricists and creative writers was amongst the highest, at 68.8%. 61% of respondents to a recent WGGB survey on AI 'somewhat agreed' or 'strongly agreed' that, "The increased use of AI could replace writers in their craft area."

39. As well as having the potential to replace some writers, there are concerns that AI will be (and in some cases already is) used by some producers, publishers and employers to cut corners and save costs, meaning that the pay of professional writers will be squeezed further. A recent report by KPMG, *Generative AI and the UK Labour Market*, estimates that 43% of the tasks associated with authors, writers and translators could be automated, with humans 'fine tuning' machine output.

40. For example, writers could be used to 'polish' draft scripts written by AI tools rather than develop original work themselves and be paid less as a consequence.

41. In a recent WGGB survey 65% of respondents 'somewhat agreed' or 'strongly agreed' that, "The increased use of AI will reduce my income from writing."

Supporting inclusivity

42. Success in the creative industries has not been equally enjoyed. Race, gender, social class and disability status still have too great an impact on the likelihood of a writer (or other creative) getting opportunities to work. Until now, the industry has been allowed to monitor and regulate itself in these areas, but patience is running out as little to no progress has been made in terms of opportunities for writers and other creatives.

43. Decades of schemes and initiatives have yielded little or no improvement, despite report after report highlighting the types of infrastructural changes required. **It is now time for independent inquiries into racism, sexism, and other inequalities in the creative industries.**