



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 4 February 2015

Session 4

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ECONOMY, ENERGY AND TOURISM COMMITTEE

4th Meeting 2015, Session 4

CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

DEPUTY CONVENER

*Dennis Robertson (Aberdeenshire West) (SNP)

COMMITTEE MEMBERS

*Chic Brodie (South Scotland) (SNP)

*Patrick Harvie (Glasgow) (Green)

*Johann Lamont (Glasgow Pollok) (Lab)

*Richard Lyle (Central Scotland) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Lewis Macdonald (North East Scotland) (Lab)

*Joan McAlpine (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Fergus Ewing (Minister for Business, Energy and Tourism)

Fiona Hyslop (Cabinet Secretary for Culture, Europe and External Affairs)

John Swinney (Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy)

CLERK TO THE COMMITTEE

Douglas Wands

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 4 February 2015

[The Convener opened the meeting at 10:00]

Creative Industries (Economic Impact)

The Convener (Murdo Fraser): Good morning, ladies and gentlemen, and welcome to the fourth meeting in 2015 of the Economy, Energy and Tourism Committee. I welcome members, our witnesses, whom I will introduce shortly, and those joining us in the public gallery. I remind everyone to turn off or at least turn to silent all mobile phones and other electronic devices so that they do not interfere with the committee's work.

Under agenda item 1 we will continue our inquiry into the economic impact of the creative industries. Joining us from the Scottish Government we have Fiona Hyslop, Cabinet Secretary for Culture, Europe and External Affairs, and John Swinney, Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy. They are joined by Stephanie Cymber, senior policy officer, creative industries, and Michelle Campbell, team leader, media and creative industries. Welcome.

Before we get into questions, do you want to make an introductory statement, Fiona Hyslop?

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): I welcome the committee putting a spotlight on the creative industries, which are one of our key sectors. They employ more people than oil and gas, contribute more to gross value added in the economy than life sciences and, as I set out in my written evidence, cover a range of areas that are very important to the economy.

The one thing that I would stress, which may have come through in the evidence that you have received, is that we cannot build a successful creative industry sector unless we have a strong and vibrant cultural sector generally. That is the life-blood of creativity that can find expression in the range of sectors that you have examined. You have focused on particular areas, but in areas such as architecture, fashion, design, crafts, information technology, museums and galleries and the music industry Scotland is in a strong place in a cultural sense and opportunities for industry to grow are really important. The committee's efforts, not least the showcase that

you hosted here at the Parliament, have been a good example increasing awareness of that area and its contributions to the economy.

The Convener: Thank you. I know that you need to be away by 11.30, so we have about 90 minutes for this session. Members want to cover a range of areas, so I ask them to keep their questions short and to the point, and answers should similarly be short and to the point, which will allow us to get through the topics in the time available.

I will start with a brief summary of where we have got to with the evidence. We heard from the specific sectors of games, TV and film. Clearly there was an overlap of interests but, to characterise the evidence that we heard, I would say that the games industry has challenges but generally has quite an optimistic outlook, and television faces challenges, but probably the most serious issues that we heard related to film.

We heard quite a lot of concern from people in the film sector, including many film producers, about what they feel is a lack of a joined-up approach from public bodies such as Creative Scotland and Scottish Enterprise. In fact, one person who gave evidence said that the relationship between Creative Scotland and Scottish Enterprise is like "a failing marriage". We also heard quite a lot about what witnesses believe to be a lack of public sector leadership in this policy area. Did that evidence come as a surprise to you, Ms Hyslop?

Fiona Hyslop: In a sense, since the establishment of Creative Scotland as a new body, there has been a development of its relationship with Scottish Enterprise. There are challenges in working across different sectors—not just in the creative industries but in other key sectors, such as food and drink, life sciences and the energy sector—and that will require relationships with, and supply of support from, a range of public services. The key is how we respond to industry needs.

Scotland's creative industries partnership was established to bring together not just Scottish Enterprise and Creative Scotland but the other players, such as the Scottish Further and Higher Education Funding Council. The committee heard a lot of evidence about the importance of skills investment and the role of the funding council in investing in computer gaming at Abertay University. Skills Development Scotland is developing the skills investment plan for creative industries.

It is not just the relationship between Creative Scotland and Scottish Enterprise that is important, because other sectors have interests too. The important thing for us all is to ensure that they are

marshalled, co-ordinated and facing the response from whatever sector they are dealing with. As I explained, there is a range of different areas in the creative industries.

I recognise the challenges as well as the opportunities and ambition for the film sector. That is why we are ensuring that we work well together across ministerial portfolios and public agencies.

The Convener: You recognise the challenges, so I take it that some of what the committee has heard did not come as a surprise to you. What are you doing to take it forward?

Fiona Hyslop: Part of taking that forward is the important work of the creative industries partnership and making sure that there is support for skills development. That is why the plan is being developed by Skills Development Scotland, working with all the agencies.

As an example of our support, yesterday I announced £1 million of development funding. That funding will be administered by Creative Scotland but heavily influenced and informed by the creative industries skills plan that is being put together by Skills Development Scotland.

Production is a challenge. We know that we want to get more investment into production. Yesterday, I announced £2 million for a loan fund, which is intended to help production cash flow, so that the tax credits that are available from the UK Government can be maximised. Again, that is a big incentive that has just been delivered. It is a welcome development that will help on the production side. It is not the end of the journey, but it is a significant contribution.

The third element is the studio, on which there is active involvement and engagement as we speak. I set up the film studio delivery group, which brought Creative Scotland and Scottish Enterprise together to work more closely to deliver on that. That is an example of where agencies are working together.

The test will be the delivery and that is what people are interested in. The different sectors in the creative industries are at different stages in terms of how that contribution is being made. As the committee has heard in evidence, there is a difference between the games sector and the film and television sector.

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I add to the cabinet secretary's comments by saying that the support that individual sectors of the economy require in the complex world that we occupy will rarely come from one particular organisation. If we consider any sector of the economy, we see that there will be skills development requirements, business

development requirements and particular sectoral development requirements.

If we leave the creative industries aside for a moment and turn to the food and drink sector, for example, there will be business development requirements that will be met by Scottish Enterprise, there will be skills development requirements that will be met by Skills Development Scotland and there will be particular technological and product development solutions that will be provided by Government agencies or by higher and further education institutions and other research institutions. That example illustrates that we must ensure that we draw together all the expertise to make it available to the individual sectors. That is what lies at the heart of what we try to do in each sector.

We want to ensure that sectors are properly and fully supported and have access to the range of skills and expertise that can enable them to realise their full potential. In the creative industries sector, Creative Scotland supports the creative development process, Scottish Enterprise delivers the business development process and Skills Development Scotland supports the development of skills.

Some of that will apply in the games sector. The very close proximity that a number of companies have with academic institutions provides them with a very direct channel for taking forward their interests in the development of skills and individuals' potential. We have to ensure that, at all times and to the best of our ability, all of that is joined up and works effectively and to the satisfaction of the individuals involved.

The Convener: You have both raised a range of issues that I think the committee will want to get into in more detail, including public sector leadership and the film studio. However, before we move on to that, I want to ask Fiona Hyslop about yesterday's announcement of £3 million funding—£2 million for a tax credit loan fund and £1 million for the screen industries skills fund. I know that the funding has been welcomed by the sector, but is the fact that it was announced yesterday afternoon just a coincidence or did you make the announcement because you were coming here this morning?

Fiona Hyslop: No, convener, I think that it is a coincidence that you are having this inquiry at the same time. In February and August, John Swinney and I met the film industry as represented by Independent Producers Scotland and discussed these very issues with it. We were in the process of delivering the 2015-16 budget, which is where the £1 million development fund comes from. Indeed, if you look at page 108 of the draft budget document, you will see a reference to the financial transactions that I secured for the culture portfolio.

Much as you might want to take credit for this, Mr Fraser, these plans were already in train.

Obviously, it is not for Government to dictate the timing of an inquiry. I welcome this inquiry but, over the next few weeks and months, there will be significant developments with regard to the delivery of Creative Scotland's skills investment plan, the creative industries strategy and other such issues. I acknowledge that people might be frustrated at not having had these announcements sooner, but I think that this particular announcement is just a happy coincidence.

John Swinney: With regard to the cabinet secretary's reference to financial transactions, this issue emerged from discussions that she and I had with the independent producers, who raised with us a particular problem with increasing the scale and significance of film projects that could be undertaken in Scotland because of access to external investment finance. What struck me during that conversation was that the difficulties that the producers were having in accessing that finance from the wider private sector could be resolved by our making available some of the financial transactions that we are able to deploy. Indeed, during the budget process, the cabinet secretary proposed this possibility to me.

However, as we are finding and as I think the committee will be aware from its general scrutiny of the budget process, it is not easy to design schemes to make them compatible with the use of financial transactions. It takes time. We would dearly have loved to have cleared this earlier than we have been able to, but we have to be satisfied that the basis on which this finance is being offered is such that it can be paid back, because I have an obligation to pay it back to the Treasury as part of the financial transactions arrangements. It is not just a simple proposition of distributing grant finance; we have to be satisfied that the propositions meet these particular requirements. I also note that the independent producers requested loan finance, and that is what we have delivered, but we have to be satisfied that we are able to pay that loan finance back to the Treasury in due course.

The Convener: In October 2013, Fiona Hyslop announced a £2 million loan fund for studio development. How much of that money has been spent?

Fiona Hyslop: The fund requires someone from the private sector to want the loan for investment purposes. As you will know, the film studio delivery group put out a call for applications for private sector investment in a film studio and, as part of that, made it clear that applicants would be able to access that loan facility. However, that money has not been drawn down, because no proposal has

gone forward as a result of the original private tendering process.

At the moment, Scottish Enterprise is putting forward a new proposition that provides the specification that we looked for in the development brief that we issued last year. Should that be successful, it would provide the highest sound stage of any location in the UK, which would be a significant step forward in the provision of a large studio space and particularly for inward investment. However, the challenge for a film studio lies not just in getting the inward investment that comes from large productions but in providing support on a smaller scale for the indigenous film industry.

I cannot give the committee extensive information about that proposition; the discussion is live, and it is a moveable feast. In short, the money in the loan fund has to be requested, and there must be a proposition that goes with that request. However, the loan facility stands and is still available.

The Convener: We will come to the film studio in more detail later, but I have a final question before I move on. On the general point, you announced a £2 million fund in October 2013, but not a penny of that has been spent. You are at the committee today having coincidentally—or not—announced yesterday afternoon another £3 million. It all looks a bit like a sticking-plaster approach rather than a demonstration of leadership and having an overall strategy to take the film sector forward.

10:15

Fiona Hyslop: I disagree. When Scottish Screen was in existence, it invested £3 million in film, but the latest figure from Creative Scotland is £8 million, which is a significant increase. That has been done at a time of, as we all know—I am sitting next to the finance secretary, so I must be careful about my remarks—very difficult budgets across the Government.

The investment in screen when we came into power was £16 million, but in 2013-14 it was £21 million. The announcement that we made yesterday will take that figure to £24 million, which is significant. Would we want to see more investment in production and other areas? Yes. There has been progress, but there are opportunities to do more. I agree with the film industry that the issue is how we realise the scale of ambition and opportunity that there is for the industry. However, the pace of activity on that depends greatly on the private sector. We cannot dictate the discussions with that sector. As I am sure the committee knows from its wider scrutiny of other areas, the Government cannot dictate to

the private sector what to do; we must work in partnership with the sector, which is what we have been doing.

The Convener: Chic Brodie has a brief supplementary question.

Chic Brodie (South Scotland) (SNP): Good morning. A paper that we received from the Scottish Government states:

“The Scottish Government is providing funding of circa £52 million (for 2014/15) to enable Creative Scotland to fulfil their role as the national body”.

The year before, screen got £4.2 million of lottery funding. Who is monitoring the actual spend in relation to the strategy?

Fiona Hyslop: Some of Creative Scotland’s spending comes from the Scottish Government and an amount has always come from lottery funding. What I have managed to do is to protect Creative Scotland’s cultural funding overall. I set out in my previous reply the increase in the spend on film, which has gone from around £3 million in 2007-08 under Scottish Screen to about £8 million now under Creative Scotland.

On the scrutiny of where and how Creative Scotland spends its money, the position is similar to what it is for other bodies. It is clear from the legislation on Historic Scotland and its successor body, historic environment Scotland, and on the National Library of Scotland that, as a minister, I am prevented from directing those bodies in terms of curatorial issues. I am similarly prevented from directing Creative Scotland on its decisions on what it spends and on what films it invests in, which are solely decisions for Creative Scotland. It is not my job to say what film the body should invest in.

In terms of attracting inward investment for locations in Scotland, we have seen Scottish locations used for “World War Z” and “Outlander”. Creative Scotland has also invested in some very successful films. The important point is that Creative Scotland deals with the creative and cultural sector. Yes, it must have commercial successes but, to develop the conditions for great creative content to come through, there will be films that will not be commercially successful. However, it is important that Creative Scotland still supports the film sector, because from that successes eventually come through.

Creative Scotland must perform a balancing act in terms of its creative leadership. As minister, I cannot direct Creative Scotland or interfere with its creative decisions. However, I can ensure that Creative Scotland supports the film industry, and it is very focused on doing that. I am delighted that Creative Scotland has recently appointed a director of film. A few weeks ago, I announced the new chair of Creative Scotland, who comes from a

film and television background but also has theatre experience.

Be under no illusion that I scrutinise what Creative Scotland does, but it is very focused on the film industry.

Dennis Robertson (Aberdeenshire West) (SNP): Good morning. One of the main criticisms coming through from our written and oral evidence has been that there seems to be a lack of leadership in the industry, which is causing confusion and conflating problems. This morning, we heard you say that the creative industries are very diverse. We have Scotland’s creative industries partnership, and Mr Swinney said that we have appropriate expertise. Is leadership lacking? Is there the expertise to develop all the diverse industries from film and television right through to gaming?

Fiona Hyslop: Creative Scotland has responsibility for the leadership and co-ordination of support for the creative industries and it works with all the agencies in that regard.

We set up Scotland’s creative industries partnership five years ago. The partnership, which Creative Scotland chairs, brings to the table Scottish Enterprise, Highlands and Islands Enterprise and all the public agencies including the Scottish Further and Higher Education Funding Council and Skills Development Scotland. As John Swinney pointed out, the business development contribution comes from Scottish Enterprise.

In relation to that focus, it also important that the industries articulate their wants and needs. I am sure that, in all the evidence that you have taken, you will have heard the industries, not least those in the film and television sector, articulate their wants and needs.

I was encouraged by and supported the establishment of Independent Producers Scotland. I met the body when it was established and I encouraged it to develop, because it is important for all public agencies not just to respond by and co-ordinate among themselves, but to work with industry. Industry must take a lead, too, in articulating the ask, whether it is to do with skills or production. We responded with yesterday’s announcement, and other work is on-going.

Industry has a responsibility, but so, too, does the public sector. On the public agencies, it is quite clear where the leadership should lie. However, I think that what you are getting at with a lot of the questions that you are asking me and asked previous witnesses is how Scottish Enterprise and Creative Scotland, which are the key players, can bridge the tension between creative talent and business opportunity. That has always been and will always be an issue, and I

acknowledge that we need to get better at dealing with it.

On ministerial responsibility, John Swinney takes responsibility for economic development and growth, and each of us has an interest in the key sectors. The Cabinet Secretary for Health, Wellbeing and Sport has a key interest in life sciences and Richard Lochhead has a key interest in food and drink. I take a lead on and am responsible for having an overview of what the Government can do in the area of the creative industries.

I point out that I have one of the smallest budgets, so it is important to work with the private sector, as well as other agencies, to maximise what we can deliver. Despite my budget being constrained over a considerable time, we have seen increases in funding for and investment in film. I would like the funding to be greater, and we will work with the sector to improve that over the piece.

Dennis Robertson: Last week, Creative Scotland suggested that it is looking to appoint various directors to manage the diversity that we have. It also said that it could do better, but that that would probably be dependent on getting more funding.

Fiona Hyslop: These questions are probably better addressed to Creative Scotland. We need to remember that the Scottish Arts Council did not have a leadership or co-ordination role in the creative industries; that new responsibility was established when Creative Scotland was set up. Janet Archer has set out how she has ensured that there is more alignment with industry. That is to be welcomed, as is the appointment of Natalie Usher as director of film and media towards the end of last year. That focus is there, and it is also there on the other creative industries.

There are also synergies between the sectors, such as between gaming, digital and film and television. It is important to look at that whole media and not to see the industries as silos. We have worked with Channel 4 on skills and development and funding, and the ways in which it has developed interactive and offshoot gaming opportunities from some of its television production are good examples of the synergies. It is important that the sector is seen in the round and that its different elements are not seen in isolation. Another good example is the computing gaming sector's evidence to you about how it is reaching across different sectors including not just entertainment but health and other areas. The synergy across digital media is going to be important as well.

Dennis Robertson: To be fair, the computer gaming witnesses were probably less critical of

Government, in many ways. They understood that the industry needs to take the lead. However, they were slightly critical of Scottish Enterprise's account management, saying that their industry tends to fall between the stools of Creative Scotland and Scottish Enterprise. There is a one-size-fits-all system that does not fit what they require. Is there any flexibility in Scottish Enterprise's account management to assist the computer gaming industry? Perhaps that is a question for Mr Swinney.

John Swinney: A range of computer gaming companies are account managed by Scottish Enterprise. I read the evidence on the issues and I will listen carefully to the committee's conclusions on them. Whatever the committee concludes, I will consider and pursue that with Scottish Enterprise, because the account management system must address the needs of business in Scotland, whatever the business is.

The mandate that we have given Scottish Enterprise is that the account management system should focus on companies with growth potential. There is often confusion about that. People think that it applies to big companies—I hear that shorthand frequently—and that small companies do not get that support, but I have visited two-person companies that are account managed by Scottish Enterprise because they have growth potential.

To answer Mr Robertson's question directly, there must be flexibility in the system to ensure that Scottish Enterprise recognises and addresses the needs of different and distinctive sectors in selecting companies that are then account managed. The key proposition is that they must be able to demonstrate growth potential. However, growth potential in one sector will look different from growth potential in another sector, so there must be flexibility in that respect.

I assure the committee that, for business development purposes, companies in the creative industries sector have as much right to attract account management support from Scottish Enterprise as they have to access the range of business development support packages that is available through Scottish Enterprise or through ventures that are designed to support new start companies, such as the Scottish encouraging dynamic growth entrepreneurs—EDGE—fund. Whatever sector they operate in, they should have access to that type of support.

However, I will look carefully at the evidence that has been marshalled in the committee's inquiry and at whatever conclusions the committee arrives at.

Dennis Robertson: One aspect of that would be to convey that information to the industry,

because it suggests that the information is not available to it. There is a sort of breakdown of communication with the industry, which is why it is calling for more clarity.

John Swinney: Scottish Enterprise operates 18 to 20 industry leadership groups that draw together various players in different industries to ensure that Scottish Enterprise, in formulating its interventions in the economy, is informed by the needs and aspirations of business. Increasingly, we have been encouraging that discussion to spread across a range of areas where industrial and commercial sectors in the economy will have needs for public sector support.

For example, the Cabinet Secretary for Culture, Europe and External Affairs mentioned the skills investment plan around the creative sector. That is a product of the dialogue with the industry to ensure that our colleges and universities and our wider education system are putting in place provision that will meet the needs of individual sectors. There should be an open dialogue about the needs of different sectors in the economy, and that should be addressed by the conclusions that we arrive at from the interaction with public agencies and particularly with Scottish Enterprise.

Dennis Robertson: Thank you. I want to ask the Cabinet Secretary for Culture, Europe and External Affairs about leadership and expertise. Does the public sector have a role in encouraging mentoring?

10:30

Fiona Hyslop: Support for business development is provided by Scottish Enterprise, but the best people to mentor specialists, whether in gaming or in other sectors, are those in the industry concerned, and the public sector can help to support that. The Scottish games network has been established, as has been mentioned, and it is there to support the sector, and especially new entrants. John Swinney spoke about the various leadership groups, and the digital media leadership group deals with requests to support mentoring in that area. It is also a matter of the industry supporting itself. With specialisms, the mentoring must come from the industry.

There are different aspects to that. When it comes to growing new businesses in the creative sector, a very good programme is starter for 6, which is run from the cultural enterprise office within Creative Scotland. It provides funding and support, including mentoring support for new businesses in the creative sector. I have spoken to representatives of a number of the companies that have come through that programme, and they said that the networking and the business mentoring—on the business development side—have probably

been as valuable to them as the investment. They might not have realised that at the beginning, but that is an example of why mentoring is really important, particularly in the creative industries. I am sure that it is important in many other sectors, too, but that is the feedback that we have been getting. It is more a matter of co-ordinating the support for that.

Dennis Robertson: It is indeed about the co-ordination of support. The industry acknowledges that it should take the lead when it comes to mentoring. I do not think that it is suggesting that the public sector should do that. However, I think that it is hoping that leadership will come from the public sector in terms of co-ordination and trying to bridge the gap. Those in the private sector would find it difficult to hold a directory of who requires mentoring.

John Swinney: Mr Robertson's question indicates an acceptance that industry must articulate its needs and requirements. From the Government's perspective, that is very welcome. The more we can encourage industry to be clear about what public sector intervention will assist in ensuring that the industry fulfils its potential, the better. That could not be a more welcome approach from the Government's point of view, so that we can refine exactly what we can do to support the development of particular sectors of the economy. The more clarity there is about the industry's aspirations, the more we can focus public sector support on delivering on them.

Dennis Robertson: One of the main criticisms that was made in evidence to us was about the number of meetings that have taken place with Creative Scotland and representatives of the industry. The number was 26. Last week we were assured, I think, that the next meeting would perhaps be the one to resolve the problems and take things forward. Will the Cabinet Secretary for Culture, Europe and External Affairs respond to that?

Fiona Hyslop: I do not have the details of what meetings have been held and when, but I heard the comments that were made. I have come to this committee meeting before having the opportunity to speak to IPS to go through the announcements that we made this week, which came as a direct response to one of the two meetings that John Swinney and I had with it. I think that those comments were made before those announcements, and before progress was made.

If people have not seen progress from those meetings, it is fair for them to identify that and to be critical. I hope that they have now realised that there has been progress. I think that the witness who made those comments has been quoted as saying that a start has been made in terms of that dialogue and that she is encouraged by it. She

also indicated that there is more to do, and I recognise that.

Dennis Robertson: I am sure that you welcome that progress, as does the industry. You would also acknowledge that the number of meetings that have taken place without progress is quite concerning.

Fiona Hyslop: I do not know the details. On the one hand, public agencies and the Government get accused of not having enough meetings with the industry; then, we get criticised for having too many. I am sure that there is a happy medium in there somewhere.

The most important thing is to ensure that we have good relationships so that those in the industry can articulate their needs, which vary between different sectors. Even within one area, there can be different demands and interests. The balancing act has to involve, for example, how support can be provided for the three elements in the film industry—development, production and infrastructure—in a way that meets the needs of most of the industry. It will not always be possible to meet everybody's needs at the right time, but engagement is a good thing if we get results, and that is what we are in the process of doing.

Dennis Robertson: And results are what we are looking for.

Fiona Hyslop: Yes, exactly.

Lewis Macdonald (North East Scotland) (Lab): Dennis Robertson mentioned the 26 meetings to which a committee witness referred. The critical thing is not the number of meetings but the conclusion that nothing had changed in spite of all the meetings. I think that that is what caused concern.

Fiona Hyslop: As John Swinney said, one of the discussions was about loan financing through financial transactions. That was not an easy process and there are a lot of considerations and issues to do with Government accountability. It was about identifying how the package could usefully be used—it has been used for other mechanisms, but not in the area that we are talking about. It is a pilot, and we want to see how successful it is. It is not about having meetings for the sake of it; it is about working out what it all looks like.

John Swinney: Precisely. I am not privy to the list of 26 meetings that have allegedly taken place, but I think that the Parliament would be a bit surprised if it was not thought necessary to have a number of meetings to ensure that loan funding, for which I am accountable to the Parliament, is not made available without a proper understanding of how the finance will be handled, given the necessity for loans to be repaid. We are talking

about public money. I would have thought that Lewis Macdonald would be at the front of the queue to accuse me of not scrutinising matters enough before reaching a conclusion. A huge amount of detail has to be considered on some of these questions, and that requires extensive engagement.

Other sectors of the economy could probably tell us that vast numbers of meetings take place there. Loads of meetings take place all over the shop—we are all involved in meetings all the time. It is about trying to ensure that we progress an agenda and take everyone with us in getting to the right destination. I do not know how many of the 26 meetings I am guilty of requiring because I want proper scrutiny of financial transactions, but I think that the Parliament would be a bit surprised if I was not ensuring that due process is in place for the handling of public money.

Lewis Macdonald: John Archer told us at our meeting a fortnight ago that at one of his meetings with you, last March, you undertook to get Scottish Enterprise to sort out its approach to the film industry, but that has not happened. There is a bigger issue. The committee has heard a lot of evidence, but we have not heard a lot of witnesses say that what they really need is a £2 million loan fund, although I am sure that that will be welcome—

John Swinney: I heard John Archer on the radio this morning saying that it is a welcome response from the Government and that I had suggested it as a response to what the industry was demanding.

Lewis Macdonald: Absolutely, but what the committee heard from a wide range of witnesses was a call for clarity, focus and leadership from Government. That is the bigger picture.

John Swinney: The Cabinet Secretary for Culture, Europe and External Affairs set out the position, and I think it is crystal clear. Leadership on the development of the creative industries rests with Government—with Creative Scotland and the cabinet secretary. However, Creative Scotland and the cabinet secretary have a call on other players in the public sector to support the strategic efforts that they take forward.

I give the committee a clear assurance that any support that can be given by Government agencies that are answerable to me, in the context of my portfolio responsibility for Scottish Enterprise and Highlands and Islands Enterprise, will be made available to the culture secretary and Creative Scotland. In the context of my wider responsibilities as Deputy First Minister, if any involvement or participation of other public bodies is required, I will make it my business to ensure

that the cabinet secretary is supported in securing it.

Lewis Macdonald: It is clearly appropriate that public bodies should work together. The critical point is whether the direction and leadership that is provided is effective. I was interested to hear you say that you would welcome the opportunity to hear more about what the industry wants. You cited the loan fund, but the industry has mentioned other things to us, which I suspect it has also put to you directly. For instance, it would like a task force that is led by a key person in the film industry to try to sort out the issues connected with remits, leadership and direction, and I guess that it would also like to have a sense that the Government takes seriously the position that the sector finds itself in.

Two weeks ago, Alan Clements told us that, 80 years ago, Scotland was the number two centre of production for television programming in the United Kingdom but we are now down to fourth or fifth place. He described that as an indictment of public policy. That suggests to me that, although you might be clear technically as to where leadership lies, the question is whether the leadership is forthcoming. If it is not forthcoming, what can be done to address that?

Fiona Hyslop: I will address that point, which I saw in the evidence. The BBC has taken decisions to develop Salford. That is a deliberate move. It has also looked to commission more widely. With cross-party support, we called for greater production from the BBC and it has increased substantially. Eight years ago, STV was producing long-term dramas such as "Taggart". Broadcasters are not without their own responsibilities when it comes to sustainability in the film and screen sector.

One of the first things that I did when I took on the role of culture secretary was to bring together the independent producers and the broadcasters, because at that point the relationship was not as happy as it might have been. I also did that so that concerns about the growth of the sector, which relies strongly on the commissioning that comes from broadcasters, could be aired. In the past, STV has produced some strong dramas. I will not talk about the merits of the content, but I point out that long-term sustainable drama helps the industry to develop. That applies most obviously to the actors, but also to the technicians and all the different disciplines that are used.

Part of what I want to do next in making progress on the area is to work with the BBC and STV to encourage more sustainability. They cannot just take the cream of the talent that is available for their own purposes; they must invest back into the industry. In my discussions, such as my first discussion with Tony Hall, we have had a

good dialogue on how the broadcasters can help with skills, training and apprenticeships. I gave the example of Channel 4 working with Creative Skillset. There was public sector funding to help with that, and the same ask can be made of the BBC and STV.

I want to see expansion, and there is an opportunity for it, but commissioning plays a key role. The production of many programmes has been transferred to Scotland, but the question is whether they reflect Scottish character or could be made anywhere. Any business is welcome, but a lot of that content is shown UK-wide and could be made anywhere. The commissioning decision making is critical and we have not got to a maximum position with the BBC or STV.

I am absolutely clear that we can do more on investment and the areas for which we have responsibility. The potential for film in Scotland is extensive. However, you should not underestimate where we are. We have just gone through a year in which we had the highest level of inward investment for film, such as with the "Outlander" production. It was £40 million in one year. The year before that, it was £33 million. That is the highest level and share of inward investment that we have had for some time. There is scope for more and we can build on that success, but the responsibility lies not just with the Government but with the industry. I would play that back to STV and the BBC in particular.

Lewis Macdonald: I hear that point, but—

The Convener: This should be your last question.

Lewis Macdonald: Yes, indeed.

Do you accept, cabinet secretary, that as a Government and as the responsible minister, you nonetheless have a role in engaging with those commissioners to secure the progress that you mentioned?

Fiona Hyslop: Yes, I do. I regularly meet the BBC and STV on those issues.

The Convener: We need to move on, because I am conscious of the time and we ought to get on to discuss the film studio.

Joan McAlpine (South Scotland) (SNP): I am aware that the saga of the film studio is a long-running one. I used to edit the culture section of *The Sunday Times Scotland* in the 1990s, and film journalists would regularly approach me with stories about a new film studio that never materialised. Over the years, I began to realise that there was probably not going to be one. One of our witnesses even said that it had been discussed back in the 1940s, so the matter clearly goes back a long way. You have set up a delivery group. Do you think that you will be the

Government that finally delivers on that long-running issue?

Fiona Hyslop: Yes. I am determined that we will.

10:45

Joan McAlpine: When we spoke to Scottish Enterprise and Creative Scotland last week, they said that the delivery group is a group of civil servants. The film industry is asking that its input drive the process. Would that be possible?

Fiona Hyslop: It is important that we respond to the needs of the industry but, particularly in relation to the process to date, we have had the most comprehensive assessment of what was available and what we could do in terms of film, with the report being published in March 2014. We then had the tender process. It is difficult to engage with individuals who are involved in the tender process in particular, because they should not get directly involved in shaping the Government's view or civil servants' views on something that they are tendering for. That is fairly straightforward.

That tender process is now closed. A new proposal has been received by Scottish Enterprise, which exceeds the development brief that was initially set out last year. Scottish Enterprise is in active discussions and we think that the proposal will both provide good value for the public purse and reflect industry needs. The industry has been quite clear about what it wants; in relation to location, to height in particular and to the facilities that need to be available, the industry has articulated what it requires.

Actual delivery in relation to content and production would be best informed by the industry itself. That is the whole point—it has to be front-facing, but we have to respect that we are dealing with the private sector and we cannot dictate to the private sector about what it will or will not provide. We can set out the development brief, as we did in the March 2014 report, which was informed directly by industry requests. There have also been numerous meetings, which were referred to earlier. I am happy to come back to or write to the committee when we have progress on the proposal, but a lot of the process is in the hands of the private sector. We have to be as responsive as we can when we get a proposal that is suitable.

Joan McAlpine: Do you have any idea about the timescale?

Fiona Hyslop: Scottish Enterprise is currently in discussions about the new proposal that I just talked about. I am not going to give you a timescale—I know that it is frustrating. I told you

that I am determined to deliver, but Government cannot deliver something that is reliant on the private sector. Why do I say that? The important point is that the European Commission is quite clear that public sector investment—if I were to build a public sector Government studio—would breach state-aid rules. In July last year, the Commission issued clear regulations on what can be done. The proposal is therefore being worked on in partnership with the sector. I am happy to write to the committee to make sure that it is informed when progress is made.

Joan McAlpine: We have been given a very useful briefing on the state-aid rules by the Scottish Parliament information centre, which shows just how complex the issue is. Have you obtained detailed advice on how a film studio in Scotland could be delivered within the constraints of state-aid rules?

Fiona Hyslop: The introduction of the new general block exemption regulation—effective from 1 July 2014—particularly informs the position. Article 53 is on aid for culture and heritage conservation. Under that article, “eligible costs”, including construction costs, can be supported

“if at least 80% of either the time or the space capacity ... is used for cultural purposes”;

that is, not for commercial purposes but for indigenous cultural provision. The informal view is that the intended purpose of article 53 is not about construction. The issue of state aid is particularly around construction. Article 54 is on aid schemes for audio-visual works. Under that article,

“Aid for film studio infrastructures shall not be eligible”.

Obviously, there is also the market economy investor principle. In July 2014, there was a case in relation to the film studio in Valencia, which was quite clearly 100 per cent publicly funded. The ruling from the Commission in July 2014 was that the Valencia regional government had breached state-aid rules, which makes our position in relation to state aid fairly clear. That has not been the case in the past.

People ask, “What about Wales and Northern Ireland?” The big difference is that they had state assets that could be converted. As part of the comprehensive assessment informed by industry's needs that has taken place, with the report being published in March 2014, we have been constantly looking for facilities but we do not have any state assets that could be converted. Primarily, there is the height issue, then there is the pillars issue and all the rest of it. That was not the case in Wales or in Northern Ireland.

Joan McAlpine: You said that a studio would have to have a cultural dimension but, as I read the SPICe paper, I was struck by the fact that that would be judged in terms of British culture. I know

that the studio in Valencia failed because it was believed that there was already enough provision in Spain. Would we suffer because there is quite a lot of film production space elsewhere in the UK? Could we argue a specific case as a nation within the UK, or would the European Union not look at the issue in that context?

Fiona Hyslop: I would be happy to be corrected, but my understanding is that if market failure was demonstrated in Scotland, there is a provision whereby we could provide public sector funding. Members will all be aware that there are studio facilities in existence and there are proposed facilities. Given that there are other opportunities for private sector investment, we would be breaching state-aid rules. We could not provide evidence of market failure, because it is clear that there is a market there.

Joan McAlpine: As well as being strongly in favour of a studio, the producers were strongly in favour of a dedicated screen agency. I know that it was the Labour Scottish Executive that took the decision to get rid of Scottish Screen and to form Creative Scotland, but the strong message from the industry is that it would like a dedicated screen agency. Would you look at that idea sympathetically?

Fiona Hyslop: When Creative Scotland was established through the merger of the Scottish Arts Council with Scottish Screen, the new body brought in the creative industries, which had not previously been covered. I have already indicated that, after yesterday's announcement, the spend on film will be three times more than it was under Scottish Screen.

The point that was made was about having a focus for the film industry and helping it to compete, but I do not want the committee to get the idea that somehow the film industry is not being provided with a good service by the dedicated people in Creative Scotland. The committee has had evidence that has articulated the film industry's appreciation of the work that Creative Scotland does. Janet Archer talked about how she has reorganised Creative Scotland to put more focus on three areas—culture, creative industries and film—and I think that that will be helpful. A new director of film was appointed at the end of last year.

I think that we should work with the existing arrangements. The increase in resources to invest will be helpful. The £3 million that is being provided in addition to the existing £8 million represents a significant increase. The element that we need to work on is production. Whether that work was done by a separate screen agency or whether it was done within Creative Scotland, it would still involve work with other agencies such as Scottish Enterprise.

We have attracted film companies that wanted to use Scotland as a location. I want us to do more of that. As I said, we got £40 million of inward investment for "Outlander". That is a very strong proposition. The problem is that everyone has seen "Game of Thrones", but "Outlander" has not been shown in Scotland yet. People might have a stronger appreciation of the scale and impact of that once they see it on their screens.

I am not of the view that we should have a separate agency; we need to give every support to the staff who are operating within Creative Scotland to support the film sector. Shining a spotlight on the issue will help. I know that some of the evidence might have been critical, but it is important that Scotland finds out from its Parliament how important the sector is and what an important role the film professionals in Creative Scotland are performing.

The Convener: Johann Lamont and Patrick Harvie want to come in on the provision of a film studio.

Johann Lamont (Glasgow Pollok) (Lab): I appreciate the fact that the two cabinet secretaries are here, because one of the main messages that came out in the evidence that we received was that the film industry is not just about creativity; it also matters to the economy. We are talking about an industry; people can be creative, but they still require business support. I have spoken about the artist in the garret. Good societies support such creative activity, because it is critical to the economy.

We always have to recognise that people are saying that you and I would be happy to go to 26 meetings because that is what we do for a living, but people who are trying to run a business want meetings to be as few and as productive as possible. We have heard some evidence that people regard it as not being worth the effort to engage with public agencies because of the amount of non-productive time that is taken up.

For me, although the film studio has practical issues, it is a symbol of a broader feeling. I cannot overstate the frustration in the evidence that we heard that the industry is in crisis. We support the creative side and acknowledge that we are talking about business losing out to other parts of the United Kingdom, but the film studio situation is a symbol of our being unable to engage in that increased commercial competition.

My question is for the Deputy First Minister. I am advised that the producers have received no development funding in the past five years. The business development side of the industry, which is so important, is not being supported. Is that why we are losing out in competition with other parts of the United Kingdom?

John Swinney: As I explained in my earlier answer, Scottish Enterprise makes decisions about the degree of support that it gives to companies through the account management process. That essentially determines how support is made available to assist companies to develop and to enhance their propositions. A range of companies are account managed within the creative industry sector and they will receive particular support that depends on their circumstances and aspirations. That will happen during the normal course of judgments that are made by Scottish Enterprise.

Johann Lamont: Is it therefore a reflection of the quality of the companies that no producer has received development funding in the past five years, despite the fact that you have said that there is flexibility? Do you recognise that we are losing out commercially? This is not about how good the ideas are. We are losing out commercially to other parts of the UK where, I presume, people get more support than they do in Scotland.

John Swinney: Scottish Enterprise makes judgments about the companies and business propositions that it is able to support. In response to the producers' requests, we have put in place a mechanism to enable them to access the type of loan financing that was announced yesterday—which has been the subject of discussion for some time—and which will give them the opportunity to access resources to enable them to grow and to strengthen their business propositions.

Johann Lamont: Everybody has said that yesterday's announcement is welcome, but it does not respond to the demands of people who are looking for direct support for a crucial industry that is losing out commercially.

I have another question. I do not think that this is an issue that politicians will fight with each other about—it is not a party-political issue, at all. It is a challenge for Government to get different areas to come together in an industry that does not really fit. One of the things that were highlighted to us was that the remits of Creative Scotland and Scottish Enterprise, in terms of their being able to give support, contradict each other. Are you aware of that challenge and are you willing to see whether it can be sorted? There is a sense that the two remits are not only not complementing each other, but are contradictory to each other and are inhibiting people.

John Swinney: In what respect are the remits contradictory?

Johann Lamont: It was explained to me that companies have to have a certain level of turnover if they are to access Scottish Enterprise support, but there has been no Scottish Enterprise support,

which suggests that that is true. I have also been quoted a figure of £10,000 for the level of funding that a company can access from Creative Scotland for supporting the development of their work.

John Swinney: I am certainly happy to look at any areas of difficulty with the alignment of organisations' remits because there should not be any. If there was, Fiona Hyslop and I would address them immediately. Now, to be honest—

Johann Lamont: That is useful, because at the heart of the issue is that it is creative and it is industry.

The Convener: Let the cabinet secretary answer.

11:00

John Swinney: If I could answer, that would be helpful.

The culture secretary and I have met independent producers on a number of occasions, and I have not heard it argued that there is a problem with remits. If there is, I will happily look at the matter and try to address it.

I have certainly heard the issues about alignment. Johann Lamont accepts that it is a challenge to get organisations in alignment and working cohesively. That is what we have been working to do, on the basis of the model that Creative Scotland is the lead on the creative sector and has a call on other organisations to support and reinforce its activities. I am not aware of any contradictions in remits, but if there are any, we will certainly address them.

Johann Lamont: I recommend that you have a look at the evidence that has been given to us, which is explicit on that point. I return to the issue that, although Creative Scotland is about the cultural heart of Scotland and all the rest of it, we need a fundamental business model that allows us to compete in the commercial world against other parts of the United Kingdom, because that is where we are losing out. That is the challenge.

Finally, on the film studio, I have no doubt that Fiona Hyslop is entirely sincere in her determination to make it happen, but I ask her to give us at least an indication of whether it will happen before 2016.

Fiona Hyslop: It will happen once the agreement is made. I cannot speak on behalf of a private sector company.

Johann Lamont: No, but you are a critical player in encouraging the private sector. The issue is not separate from you. It is something that the industry wants, and from which Scotland could benefit economically. Would it be reasonable to

suggest that, by the time that this session of Parliament ends in May 2016, there will at least be a clear plan and timescale for development of a film studio?

Fiona Hyslop: My response to your second point is that that is a perfectly reasonable request.

On your point about the industry, one thing that the committee has heard about in evidence and of which we are very conscious is the need for film companies to scale up very quickly. There is an issue about scale and the speed at which projects come to fruition. That applies to the games and film industries.

You referred to amounts that have been invested. Creative Scotland has recently increased its maximum production funding for any one film from £300,000 to £500,000. People might ask whether that is enough and say that a greater call should be possible for a big blockbuster investment. However, that would involve support from other agencies. Within Creative Scotland, £500,000 is available for a single project or film, and it has funded some significant films with that amount. Previously, those projects would have been on the £300,000 threshold. I just wanted to correct the point about £10,000 for development by setting out the scale of production funding that Creative Scotland can provide. Obviously, for anything larger than that, a different type of funding would be required. At that point, we would almost be talking about a major inward investment proposition, which would probably put it in a similar territory to propositions relating to life sciences or other areas.

I think that Johann Lamont appreciates my sincerity and determination to have a film studio, but not all the cards are in my hand. I am absolutely clear that, in terms of people's expectations, what you have set out is perfectly reasonable.

The Convener: Before I bring in Patrick Harvie on the film studio, I will just comment that we are more than two thirds of the way through our time and quite a number of members still want to come in and we have other issues to pursue, so it would be helpful if we could tighten up a bit on questions and answers.

Patrick Harvie (Glasgow) (Green): I have a brief question on the film studio point. It relates to Johann Lamont's final question. We appreciate that not all the cards are in your hands, cabinet secretary. However, in answering Joan McAlpine's question about whether this Government will be the one that delivers on that long-standing ambition, you gave an unequivocal yes. How can you give that unequivocal yes but say two minutes later that you cannot put a timescale on it and say 10 minutes later that it is reasonable to ask for a

film studio within the Government's term? What did that unequivocal yes mean, and where will it go?

Fiona Hyslop: On whether we are the Government that will deliver the studio, I think that the answer is yes, we are. Johann Lamont asked whether we can have a plan for delivery in place, so the questions were not mutually exclusive.

Patrick Harvie: You will appreciate the difficulty of answering with an unequivocal yes. I know that ministers sometimes think that their Government will last for ever, but none of them do.

Fiona Hyslop: Exactly. A lot of what I have related today is subject to commercial confidentiality. I am not in a position to make announcements or go further about discussions. I have confidence, but it has not been realised yet. I hope that that can be done and I am fairly confident that it will be, as I said in response to Joan McAlpine. However, I cannot give you information about exactly what will be delivered and when.

The Convener: So it is an optimistic yes.

Fiona Hyslop: Yes—that is another yes.

Patrick Harvie: With crossed fingers, I think.

Chic Brodie: SCIP was established in 2009, and we are now six years down the line. On the dilemma of who owns what, I asked last week, "Where does the buck stop?" After some confusion, we were told that it stops with Creative Scotland. However, Creative Scotland has just produced its own marketing strategy, Scottish Enterprise is producing a strategy on the sector as one of the three emerging sectors and SCIP is creating an overall strategy that it is hoped will be published this month.

There is a dilemma. Who does the buck stop with? Creative Scotland believes that the buck stops with it, but we also have a commercial component that has to be addressed. It is fine to have progress on the cultural side, but who is driving the commercial side?

John Swinney: The question takes us back to debates that we have had in Parliament about whether Creative Scotland should have a business development remit. That is what the issue is about, so I will address that.

Parliament made a determination on the issue when it legislated for Creative Scotland, and it legislated that the business development remit should sit with Scottish Enterprise, as it does for every other sector. When we legislated for Creative Scotland, the Government took the view that, for the sake of the clarity that Chic Brodie seeks, it should be crystal clear that leadership on and responsibility for developing the creative

sector rest with Creative Scotland, but it should have the ability—like VisitScotland, which is undeniably the lead player in the development of tourism in the Scottish economy—to call on Scottish Enterprise for business development and support. VisitScotland does not carry a business development role for the tourism sector in Scotland; it has leadership in the development of our tourism interests.

That is the policy judgment that the Government made. What follows from that is the requirement that I have talked about in response to questions, which is that Creative Scotland must feel that it is part of a partnership with other public bodies that work together collaboratively and in a cohesive way to deliver for that sector of the economy. That is the thinking behind the approach.

To go back to answers that I have already given, it is crystal clear that Creative Scotland is the lead body, but it is entitled to have business development support from Scottish Enterprise.

Chic Brodie: I accept that. That might be clear to us—your clarification reflects my understanding of Scottish Enterprise’s role—but, from the past two evidence-taking sessions that we have had, I would say that it is perhaps not clear to Creative Scotland. Ultimately, it accepted its responsibility, but exactly what outcomes we expect from Creative Scotland might need to be clarified.

John Swinney: We will consider the conclusions of the committee’s inquiry, but I do not think that there could be any dubiety or uncertainty on the part of anyone in Creative Scotland or Scottish Enterprise about where the respective responsibilities lie. That has been spelled out clearly by ministers but, if it needs to be spelled out clearly again, it will be.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I have a question for the Cabinet Secretary for Culture, Europe and External Affairs. You have outlined the opportunities and difficulties that face the independent television production sector in Scotland. The BBC is reviewing its lift and shift policy and Channel 4 has announced new targets for increasing production from the nations. However, given that Mr Swinney just said that it is crystal clear that Creative Scotland is the lead agency, the difficulty that faces the independent production sector, according to the evidence that we have heard, is that Creative Scotland has stated that virtually all its focus is on film and not on television. What support is available to independent television producers to enable them to access the increased commissions that will be coming to Scotland?

Fiona Hyslop: You raise different areas. I come back to the point that I made about broadcasters being commissioners and increasingly

commissioning from independent production companies. That is a positive relationship. My concern, particularly in relation to the BBC, is that budgets are likely to reduce substantially to 2017—the budget is likely to go down to £86 million from a figure that was way over £100 million. Obviously, that limits the pool. We have concerns about that, and the Education and Culture Committee has spoken to the BBC frequently about that.

Channel 4’s commitment is welcome. As I said, STV used to have more substantial long-running dramas that could help the industry; there is an ask of STV. I am sure that, if the committee asks Creative Scotland, it can provide information about its work with STV. MG Alba has been given support for “Bannan”, the new Gaelic drama. Studio space was mentioned—“Bannan” is being filmed in Stornoway, but the studio at Sabhal Mór Ostaig is also being used. That is a small-scale studio, but the idea is to get sustainability for content writers and so on, which is hugely important to the success of productions.

One of the first things that I did was to bring together the broadcasters and the independents. The independents benefit from investments from the broadcasters, as long as the commissioning allows the independents to compete. A continuing criticism—of the BBC in particular—is that people may do productions that lift and shift, which do not necessarily use Scottish talent—technicians or professional actors and so on. That is a genuine criticism. Although the increase in commissioning looks good—the current levels were an ambition that has been realised—the issue is whether that is reaching the independents in Scotland to the extent that it should. That remains a concern.

I said that we are looking at those areas, but this is also about our relationship with the commissioners. We can consider the size and reach of MG Alba, for example, which commissions 20 per cent of the work for independent producers in the whole broadcasting sector and commissions 78 per cent of its production via the independents. That shows what can be done with a successful independent broadcasting station. That is why the Scottish Parliament agreed that an additional channel would be good for the industry, because of its impact on Scottish production. That is still a live discussion.

To follow through our involvement—this relates to the Smith commission proposition on the consultation that should take place about the charter renewal—after the Westminster election we will move quickly on activity on the BBC charter renewal. It would be helpful for the committee to consider what the implications might be. If we could get cross-party support, pushing a

requirement to support the industry in Scotland—particularly in independent production—as part of the charter renewal would be a helpful and constructive proposition.

Gordon MacDonald: I was going to ask about the Smith commission, but you have just covered that point.

Given the difficulty that Scottish independent producers have had in gaining work from commissioners who are based south of the border, many of them are targeting export markets. I know that the committee will look at Scottish exports in the next couple of months. Which of the two agencies would support independent television production companies to access the export markets? Given that Scottish Enterprise does not fund production and Creative Scotland funds only Scottish content, who will assist companies to access the export market, which is a potential growth area?

11:15

Fiona Hyslop: It might be helpful if Creative Scotland responded to aspects of your questions, because I am not sure how accurate some of that was. I should point out that Scottish Development International, too, plays a part in our international reach.

One area of funding that I am keen to look at—Creative Scotland would take the lead on it, working with other agencies—is the creative Europe fund, which is one of the few European budgets that have increased. The requirement for the fund is co-production with other countries—you will have seen that a significant amount of TV productions end with a reference to their being co-produced with this or that country.

We could seek to extend our international reach through co-production with American companies or whatever, but the opportunity to work with, say, Scandinavian and other European countries is also important. I note that we have a cultural agreement with the French, and with Ireland, which would be an ideal co-producer for accessing funding in different areas. I am active in that area and I have asked officials to look closely at possibilities and opportunities that we can pursue under the new 2014 to 2020 creative Europe fund, particularly for digital media and film.

When I was in Poland last year, I had discussions with the Polish culture minister about areas of co-operation and collaboration. However, there has to be content, which has to come from producers and writers, and we cannot dictate any of that. The fact is that co-production is the way that funding is going in the future, and I want to maximise such opportunities.

The Convener: Patrick Harvie has a brief supplementary. Is it on this matter?

Patrick Harvie: It is about independent production, convener.

Yesterday's announcement of extra funding has generated interest; I have had a number of emails about it and I have talked on social media to people who are responding to it. It is not that people do not welcome the extra money that will be available, but they are concerned that it might not benefit the parts of the industry that it needs to benefit—the independent or grass-roots level at which talent is found and developed.

One correspondent cited a number of organisations whose recent applications for regular funding from Creative Scotland have all been unsuccessful, although that was not because of the strength of their applications or the quality of their work. They said:

“the decision not to fund was significantly informed by the fact that Creative Scotland ‘were still to map our sector’. This despite a comprehensive mapping exercise of the sector being undertaken as part of the new Film Strategy for Scotland which was published in October 2014.”

They want me to ask you what arrangements will be in place to ensure that the additional funding goes where it is needed—at the grass-roots level where, as I said, new talent can be identified and nurtured.

Fiona Hyslop: You raise a couple of issues. First, the £1 million development fund that was announced yesterday is absolutely about nurturing and developing the industry—particularly the emerging talent that you referred to. The £2 million loan fund is affected by tax credit rules. There are different rates for productions that are worth more than £20 million, which will obviously be large productions, and for those that are worth less than £20 million.

As for your comments about regular funding, you will know that applications to Creative Scotland far exceeded the funding that it had available; in fact, it increased its funding pot for the period from £90 million to £100 million. Those that did not get regular funding can apply for project funding, which can provide larger amounts of funding ranging from £50,000 to £150,000.

Patrick Harvie: How do you respond to Creative Scotland's explanation that it had still to map the sector? Does that make sense?

Fiona Hyslop: I have not seen anything that would reflect that comment. You would have to speak to Creative Scotland about that.

Patrick Harvie: Would you be worried if that was the picture?

Fiona Hyslop: I do not recognise the explanation. The explanation that was given to all the sectors is that the asks were far bigger than the funding that could be provided. There are organisations that received regular funding, and I am happy to ask Creative Scotland to supply you with their names.

As far as I recall, the film sector had an increase in its profile in Creative Scotland's regular funding announcement at the end of last year. Rather than film not getting funding, my understanding is that it got more funding from that announcement than it had previously. I am happy to arrange for Creative Scotland to provide that information to the committee.

Patrick Harvie: Perhaps I will pursue that in correspondence.

The Convener: Richard Lyle has been very patient, so I will bring him in. If we have time, I will bring in a couple of other members who want to speak.

Richard Lyle (Central Scotland) (SNP): I will ensure that you have time, convener. I have two quick questions and I am sure that I will get two excellent answers from Mr Swinney. Has the Scottish Government had any discussion with the UK Government about possible changes to criteria for tax incentives for the creative industries? For example, has it discussed introducing a requirement to employ local Scotland-based technical talent in order to qualify?

John Swinney: We have not had a specific discussion on that point, but we have been in dialogue with the UK Government about using the tax system to incentivise the development of parts of the sector. A major part of that correspondence has been about the computer games sector. We have been pursuing the UK Government to put in place the mechanisms that would enable the computer games industry in Scotland to thrive much more. There have been exchanges with the UK Government in general, but not on the point that Mr Lyle asked about.

Richard Lyle: My next question is for the Cabinet Secretary for Culture, Europe and External Affairs. Like Patrick Harvie and others, I have received many emails from constituents about what they say is the shambles that Creative Scotland is in—I said that to Creative Scotland last week. Now that you have heard what you have heard, listened to committee members and given the commitments that you have given, do you intend to sit down with Creative Scotland as soon as possible to address the concerns that people say they have about the problem with Creative Scotland?

Fiona Hyslop: I refer you to the meetings that John Swinney and I attended with Independent

Producers Scotland. Creative Scotland colleagues also attended those meetings, so they heard directly what the concerns are.

I would not describe the situation in the way that you have done. I think that we can improve things, but you must remember that Creative Scotland has to say no to more than it says yes to, when it comes to funding. That is uncomfortable and difficult and, as Patrick Harvie said, it is not necessarily because of a lack of talent and capability. Really good applications are made to Creative Scotland, but if there are far more good applications than there are resources, people will be disappointed. That disappointment can be expressed in different ways.

I think that the core of your question is whether the relationship between the organisations is important. Absolutely, it is important. Do they know that it is important? Yes, they do. Part of the issue is born out of frustration. People know that we have really strong opportunities. We have great, talented, skilled people in the film sector and we want to support them. It is a frustration, but that is not because the market is not there or because we are not capable of delivering—we are, and we just need to scale up what we are doing. We are perfectly conscious that that is the requirement and that is what we have to do.

Richard Lyle: Just to clarify, I was not saying that it is a shambles; one of my constituents, who works in the industry, said that it is a shambles. I would like a simple yes or no answer to my question. Do you intend to sit down with Creative Scotland and all the other parties to sort out this supposed shambles?

Fiona Hyslop: I would not describe the situation in those terms, which I do not recognise. I recognise that we need continually to improve relations with not just agencies but the sector, and that is what we will do. I will ensure that the committee's report is discussed by all the agencies. As I said at the start, I welcome the committee shining a spotlight on this sector, because at a political level the sector has not had the attention from the Parliament as a whole that I would have wanted it to have. I will welcome your report.

John Swinney: I have taken part in a number of the meetings and I have not been involved in conversations that could in any way be described in the fashion that Mr Lyle's constituent has suggested. I accept unreservedly that agencies must work effectively together. I am happy to confirm that that is the approach that the Government takes and encourages. We will look carefully at the committee's conclusions on the matter, to ensure that we can fulfil that commitment to Parliament.

The Convener: I bring in Patrick Harvie, on the games sector.

Patrick Harvie: The issues that I was going to ask about came up earlier.

The Convener: In that case, I bring in Dennis Robertson.

Dennis Robertson: In his evidence to the committee, Brian Baglow suggested that there is a distinct lack of knowledge in the computer games industry about marketing and accounting and so on, although the sector has ideas and concepts for games. How can we give people in the industry the information that they need if they are to be successful entrepreneurs?

More broadly, we want to encourage economic growth and retain our talents in Scotland rather than see them go abroad. The gaming sector has ideas; how can we get people to step up and become creative businesses, when they do not have the business knowledge that they need?

John Swinney: That issue is not unique to the games sector. We have universities that are crammed with fantastic researchers and innovators, but I would not ask them to run a business, because that requires different skills—they are fantastic at creating new concepts and products, but running a business is a completely different proposition.

The key thing is that we ensure that the correct and appropriate advice is available to individuals to support them in their journey. We must also ensure that the right collaborations are put together, because the way through the issue might well be collaboration between people who are adept at running businesses and people who are adept at developing computer games—who might be two very different types of individual.

We should not let the question obscure the fact that we have some fantastic computer games companies, which have demonstrated not only good concepts and ideas but phenomenally successful commercial products, of which we should be enormously proud.

Chic Brodie: I agree that there are huge opportunities for industry, but that requires investment and there are opportunities worldwide in that regard. What should Creative Scotland do to promote creative industries abroad? When we talked about crafts, we heard about people going to exhibitions in New York with products in their baggage. That is not the professional image that we want for Scotland.

Fiona Hyslop: It is about working with SDI and appropriate agencies. Part of that is about looking at the network. When I was in San Francisco I met gaming companies, some of which are run by successful Scots who are keen to mentor and

support people elsewhere. In the context of the transfer from film and digital, a director from Pixar is working with Glasgow School of Art. There are new and emerging businesses as a result of that exposure.

We are recognised internationally as a centre for creative industries. When I spoke at an informal meeting of the council of European Union culture ministers in Barcelona, I explained that Rockstar's Grand Theft Auto, which was the fastest selling entertainment product of all time, comes from Scotland. There is recognition of our reach. Minecraft is another fantastic development—I think that the convener has children who are of a similar age to mine. There are educational opportunities in that regard.

We are in a strong place. The international marketing is fine—that is obviously about the industry itself, but our calling card is important in the context of recognition. There is international promotion for the creative industries, as there is with any other sector. It is about working not just with SDS, the Scottish Further and Higher Education Funding Council, Highlands and Islands Enterprise and Scottish Enterprise but with SDI.

Lewis Macdonald: I want to go back briefly to where we started, with the tax credit loan fund and the question of accessing tax credits early in a cash-flow proposition. As Mr Swinney said, that is clearly welcome in itself. One of the points that I have gathered this morning is that producers are already able to access loans against their impending tax credits elsewhere on the market. Will that loan facility have more favourable terms? How will it add to the options that are available to producers who can currently borrow against impending tax credits elsewhere?

John Swinney: The proposition that the producers put to us was that they were unable to access resources—

The Convener: I suspend the meeting, as there is a problem with the sound.

11:30

Meeting suspended.

11:31

On resuming—

The Convener: We are back in session. If Mr Swinney can remember where he was, he can pick up mid-sentence.

John Swinney: The proposition that the independent producers put to us was about accessing sums of money that would give them sufficient scale to increase the size of the projects that they are able to take on. The availability of

resources and the investment sums that they could access kept them in a rut, essentially. They could not get up to a different level; they were stuck with a particular size of film proposition.

I hope that the financial transactions that we have made available will enable companies to increase the size and scope of their projects. If the theory works correctly, that will increase their returns, which will enable them to feed the growth in which they are involved.

Mr Macdonald's question started with the premise that such funds are already available. I contest that. That was certainly not the evidence that the independent producers put to me. That is why we have taken action to put in place financial transactions that are designed to support companies on that journey to undertake larger projects.

Lewis Macdonald: That is helpful. Thank you very much.

The Convener: We are out of time. I apologise for the interruption with the loss of sound.

I thank John Swinney and Fiona Hyslop for coming to the meeting. The session has been very interesting, and I am grateful to them for helping the committee with its deliberations.

There will now be a short suspension.

11:33

Meeting suspended.

11:36

On resuming—

Small Business, Enterprise and Employment Bill

The Convener: We reconvene the meeting. Under agenda item 2, the committee will take evidence on legislative consent memorandum LCM (S4) 31.2, on the Small Business, Enterprise and Employment Bill, which is United Kingdom Parliament legislation. I welcome the Minister for Business, Energy and Tourism, Fergus Ewing, and Ricky Verrall, who is head of structure and capacity of Government at the Scottish Government.

Minister, would you like to introduce the LCM, please?

The Minister for Business, Energy and Tourism (Fergus Ewing): Yes. Thank you, convener. I am grateful for the chance to address the committee on the supplementary memorandum that the Deputy First Minister lodged on 13 January.

The committee considered the wider devolved aspects of the UK Government's Small Business, Enterprise and Employment Bill in its meeting on 8 October last year and noted that a supplementary LCM on the provisions on public sector exit payments might be brought forward, subject to the Scottish and UK Governments reaching agreement on the policy.

Following the committee's earlier consideration, the two Governments reached agreement that, in the interests of securing value for taxpayers' money and of public sector labour market mobility, the exit payment provisions should apply to senior staff movements within similar parts of the public sector across the UK. The Deputy First Minister agreed with the Chief Secretary to the Treasury to progress a supplementary LCM on the understanding that the original provisions in the bill would be amended to confer powers on the Scottish ministers in relation to relevant devolved bodies. The Chief Secretary to the Treasury agreed to that on 5 November 2014. Appropriate amendments to the bill were tabled on 7 January for consideration by a House of Lords Grand Committee. Those amendments were agreed on 26 January. The bill, as amended, is expected to go to report stage in the House of Lords in March.

The supplementary memorandum outlined the relevant amendments to the bill, which cover four related substantive measures and one minor consequential change. In essence, the bill, as amended, provides for the Scottish ministers, rather than the Treasury, to make regulations on qualifying exit payments that are made by

devolved public bodies with devolved workforces. Those regulations will be able to include certain provisions—for example, on exemptions from a repayment and on duties to ensure that repayments are made.

The bill also provides for the Scottish ministers, not the Treasury, to waive or give consent to waive repayments of exit payments made by devolved bodies. It provides for regulations, whether made by the Treasury or the Scottish ministers, to be made by negative procedure. That is on the ground that the regulations are likely to need frequent updating and will not be used to amend primary legislation or create offences.

While the memorandum covered the amendments as tabled and subsequently passed in the Lords, the committee will wish to know that the Treasury has just notified us that it expects to introduce further clarifying amendments at report stage. They will make it explicit that the purpose of the provisions is to recover qualifying exit payments from individuals who return to work within a year of leaving. That reflects the underlying policy position and therefore has the Scottish Government's support.

The amendments to the bill and the further clarifications that are proposed will give effect to the agreement reached between Scottish and UK ministers in a way that allows the Scottish Government and the Parliament to determine the detail of future Scottish regulations, including which devolved bodies to include within the bill's scope.

The Scottish Government is rigorous in its pursuit of value for money across the public sector. Audit Scotland and the Accounts Commission produced a report in 2013 into early departures from the public sector, including local government, and recommended controls over the re-employment, within the same body, of individuals who receive early departure deals. That approach was supported by the Public Audit Committee. The measures provided for in the bill more than respond to that recommendation, extending as they do to re-employment within a similar part of the public sector.

I therefore ask the committee to support the draft legislative consent motion.

The Convener: Thank you, minister. I know that members have one or two points. I will start by asking about a general policy point. We have all been familiar over the years with situations in which highly paid people in the public sector—this applies only to people earning more than £100,000 a year—have left but have found themselves re-engaged, not as employees but as consultants, earning large sums of public money on a contract basis. Will the measures apply only

to those directly employed or will they impact on those who are contractors?

Fergus Ewing: Generally, those individuals who receive exit payments from the public sector and then return, off payroll, to the same or a similar role, for example as a contractor, are included in the scope of the proposals. However, I accept that in some instances individuals who leave may continue to have a limited form of engagement with the public sector, for example where an individual is employed by a large consultancy firm. In those instances, it would be an unfair restriction of trade and probably impose a disproportionate level of complexity and costs to recover exit payments. Under the relevant provisions of the bill, the regulations therefore seek to differentiate between those two groups and there would be further consultation on a proposed definition as part of the regulations.

In the meantime, the relevant clauses of the bill make a general provision that the future regulations may provide for exit payments to be repaid within a prescribed period where an individual in receipt of such a payment becomes an employee or a contractor of a prescribed public sector authority or a holder of a prescribed public sector office.

The Convener: Thank you for clarifying that.

Chic Brodie: I question why a public sector authority would release someone or allow them to go in the first place if they knew that they might have to bring that person back. I realise, of course, that there are different conditions.

I refer to paper 4, paragraphs 8 and 9 on the salary limitation. We know that some public sector jobs are attached to the Treasury in London. Surely, though, because there are salary differentials and the general gradation of salaries in London and here is different, there is a case for creating a separate Scottish level to ensure that we capture as many people as possible who leave. Should the £100,000 limit be reduced?

Fergus Ewing: We wanted to ensure consistency of approach and fair treatment of relevant individuals in the public sector not only in Scotland but across the border. A salary of £100,000 is fairly handsome, wherever one is based. No doubt there are different standards and costs of living in different parts of the country, although in London the difference is perhaps most marked. We do not want to make the measure too complicated, and we think that the principle of having regulation over exit payments is correct. Audit Scotland, the Audit Commission and the Parliament's Public Audit Committee all recommended that regulations are necessary, particularly in the light of some well-publicised

individual cases, which I do not propose to rehash here.

Broadly speaking, the policy approach is that, when one retires, one retires and does not immediately come back the next day and carry on as is, having received a large exit payment. Regulation is necessary to deal with that. No policy or legal approach will be perfect in this regard, but we feel that consistency of approach and treatment is, broadly speaking, the correct approach.

11:45

Obviously, there are salary differentials for commensurate senior public sector jobs north and south of the border. However, a number of individual posts in Scotland attract salaries above the proposed £100,000 threshold. As an example, for members' interest, those include more than 60 directors and chief executives in the national health service in Scotland, five chief executives of devolved Scottish public corporations, 14 chief executives of devolved Scottish non-departmental public bodies and more than 100 senior level posts across Scottish local authorities. A great many people in leadership roles in the public sector in Scotland earn more than £100,000, which is a pretty handsome salary by anyone's reckoning.

Patrick Harvie: I do not claim to have a great deal of sympathy for those who might lose out as a result of the mechanism—very few people would—but the purpose or policy objective, with which you say the Scottish Government agrees, is clearly not to tackle unequal pay and the problem of high pay in our society. If it was, I would say that it is long overdue, but that is clearly not the objective. Is there a reason in principle why the arrangements for compensating people for loss of employment should be different in the public and private sectors?

Fergus Ewing: The policy intention behind the regulation of exit payments is narrowly defined. As Mr Harvie rightly says, it is not really about addressing equality. It addresses the particular cases in which those who are in leadership roles retire and then the next day carry on as is but in a different arrangement, having received a very large pay-out. The public are concerned about that. The approach to the issue on both sides of the border is principled but proportionate.

Mr Harvie raises the somewhat different policy matter of whether public and private sector compensation payments should be treated differently. The public and private sectors are in essence somewhat different, for a large number of reasons, so it would be difficult to equiparate the treatment of compensation payments in those

sectors. For example, conditions in relation to security of tenure in the public sector are different from those in the private sector. We are perhaps straying off piste here but, in general, the public sector has defined benefit pension arrangements, whereas increasingly in the private sector that is a *rara avis*. It is impossible to equiparate the public and private sectors. Therefore, interesting and perfectly legitimate though Mr Harvie's question is, it is perhaps one for consideration on another day.

Patrick Harvie: I enjoyed that term.

The point is that the mechanism is intended to deal with one specific kind of abuse, and we know that the same kind of abuse happens in the private sector, in many cases with much greater sums of money. Why is that not a problem?

Fergus Ewing: In law, we tend to deal with specific situations and principles and turn to other matters that might require legislation at a later date. If it is of any consolation to Mr Harvie, I share his concern about the size of bonus payments, for example, that some bankers have received. I have said so in the chamber and on many other occasions. The power in relation to the matters we are discussing rests with the UK Government and it has, for reasons that it can explain, declined to deal with that particular issue.

All that is beyond scope; we are away off piste. Perhaps the best thing to do when one is away off piste is to return to base, which I now do.

The Convener: We need to steer back on to the piste.

Patrick Harvie: I am happy to leave it with a wee criticism of the UK Government. I am sure that we can all agree on that.

The Convener: I am sure that, in his heart of hearts, even the minister does not share that view.

Johann Lamont: There is an interesting debate to be had about the level of pay in the public sector. People might be surprised at the number of people who are paid more than £100,000. There is a general concern about why public bodies are taking someone off the payroll and then bringing them back in. It must be because they are under pressure on funding and they find a way that makes sense.

What is a graver concern to us is the number of low-paid people working in the public sector who find themselves externalised and do not get the living wage, even though their post might be funded by the Government or the public sector. However, that is for another day.

Minister, following the convener's question, you said that you would look at the issue of an individual coming back as a consultant and being penalised, but if they were part of a consultancy

firm, they would not be. That would be an incentive for all such people to get together in one big group, define themselves as a company, with equal shares, and none of them would have to pay the money back. They could even lob in a wee bit of the money that they do not have to pay back to support the creation of such a company. Do you have firm proposals for dealing with such a situation? If the message to people and public bodies is that they should stop playing about with public funding because the public is offended by it, how will you address the possibility I have described?

Fergus Ewing: As I understand Johann Lamont's question, it asks how we will regulate to prevent mechanisms that are set up to avoid triggering the repayment of the exit payment, such as consultancy firms. That is a perfectly fair and reasonable point to make and I will reflect upon it when we come to the stage of making the regulations. The regulations are intended to deal with a particular mischief, as legislation often is, so it is incumbent on us to think of the steps that might be taken by clever individuals with smart advisers to circumvent them. It is a perfectly fair point and it is one that I undertake to consider while the regulations are being drafted, particularly since the convener and a member of the committee have made the same or similar point.

The Convener: One would hope that anybody who is earning more than £100,000 a year in the public sector would be clever.

Fergus Ewing: Well, they can afford clever advisers or lawyers.

The Convener: I hope that the two are not mutually exclusive.

Richard Lyle: You said that more than 100 people in Scottish local authorities are earning such a salary. We do not have an exact figure but I would say that the figure approaches 150 to 200. Perhaps I missed it when you said it, but will the powers that are to be conferred on the Scottish ministers apply to the Scottish Parliamentary Corporate Body and officeholders such as the Auditor General and those in Audit Scotland and so on?

Fergus Ewing: Yes, the provisions will apply to the SPCB and its office-holders. We are in discussion with the Treasury and the Department for Business, Innovation and Skills about possible further amendments to the bill, if necessary, to make that absolutely clear. The Deputy First Minister wrote to the Presiding Officer on the inclusion of the SPCB in the bill's provisions on 18 December 2014. The Presiding Officer replied on 22 December raising no objection to that. Therefore, this will apply to the SPCB as well.

Chic Brodie: That was my question as well.

The Convener: If no one else has other points to make, I have one technical question. In its report to this committee, the Delegated Powers and Law Reform Committee was unclear why the powers conferred on the Scottish ministers should be subject to negative rather than affirmative procedure. Will you explain why the Scottish Government took the view that it should be negative procedure?

Fergus Ewing: We gave a lot of thought to that, and we noted the views of some members, including John Mason, that this merited the affirmative procedure. On the other hand, other members, such as Stewart Stevenson, expressed the view that, since the regulations would not involve principles of primary legislation or creation of offences, negative procedure would be appropriate. In addition, it is likely that there will be several regulations—there will be a deal of regulations, many of them dealing with specific public bodies—and we anticipate that they will be of a largely technical nature. We believe that it would be unduly cumbersome and inappropriate to use affirmative procedure in those circumstances.

Therefore, it having been given careful thought, including by me, the Government decided that negative procedure would be appropriate in the circumstances.

The Convener: If no one has any other questions to put to the minister, is the committee content to recommend to the Parliament that it give consent to the relevant provisions of the Small Business, Enterprise and Employment bill as set out in the supplementary LCM?

Members indicated agreement.

The Convener: Is the committee content to delegate to the convener and clerk the production and publication of a short, factual report detailing the committee's considerations?

Members indicated agreement.

The Convener: Thank you, and thank you, minister. We will now suspend to allow a changeover of officials.

11:57

Meeting suspended.

11:57

On resuming—

Subordinate Legislation

Scottish Regulators' Strategic Code of Practice (SG 2015/10)

The Convener: Under item 3, the committee will take evidence on the Scottish Regulators' Strategic Code of Practice. I welcome back the minister, who is joined by Sandra Reid, the better regulation policy manager, and Marion McCormack, the head of enterprise sponsorship and better regulation, from the Scottish Government. Minister, would you like to introduce the item?

Fergus Ewing: Thank you, convener. I am pleased to return to the committee to discuss the Scottish Regulators' Strategic Code of Practice. When I appeared in front of you to speak about the code in December, I gave a commitment to revisit the code in the light of concerns that had been raised by the Delegated Powers and Law Reform Committee—particularly the comments regarding a potential inconsistency between the Parliament's intentions for the code and the wording of the code itself.

It is critical that the code accurately reflect the intentions of the Regulatory Reform (Scotland) Act 2014 and the Parliament's expectations, which is why I withdrew the original code. Careful consideration has been given to the comments that were raised, and the wording has been reviewed and revised accordingly. During that process, we also took the opportunity to consider the concerns that the Scottish Council for Development and Industry raised in its letter to the committee in November, and we have made a further reference to innovation in the code. We consulted members of the short-term working group that developed the code on the proposed changes, and they are broadly content. As a result, I consider that the code that is before you more accurately reflects the true intentions of the 2014 act. ""

As I explained in December, the code of practice sets out to encourage and support regulators in applying regulatory principles and building good practice in order to contribute to achieving sustainable economic growth while concurrently delivering other core functions. Many regulators already contribute to sustainable economic growth in their day-to-day activities and continue to make progress, moving towards an enabling, outcomes-based approach to drive further performance improvements and carrying out regulatory activities in a way that helps business. The code builds on the existing good practice, providing greater transparency, clarifying for regulators what is expected of them and

clarifying for businesses what they can expect from regulators.

12:00

The code enhances and strengthens our better regulation toolkit to deliver better and effective regulation. It provides a clear framework for regulators to ensure that their regulatory functions are transparent, proportionate, accountable, consistent and targeted. Alongside the duty to contribute to achieving sustainable economic growth, it will play an important role in making Scotland a more successful country with an attractive business environment that provides opportunities for all.

Before I move the motion recommending that the committee approve the code of practice, I would be happy to answer any questions that the committee has.

The Convener: Thank you, minister. Does anyone have any questions that they wish to raise?

Patrick Harvie: Some of the responses to the original consultation on the first draft of the code expressed concern that the definition of sustainable economic growth should be tightened, and some specific suggestions were made as to how that could be done. One aspect of the code that was welcomed was in paragraph 9, which made it clear that the regulators to which the code applies must take the code into account in developing policies or principles but not in the exercise of

"any specified regulatory function in individual cases".

The new version of the code—I am switching between the two versions—seems to have ignored both of those comments. It has done nothing to improve or tighten up the definition of sustainable economic growth, which has been a long-standing concern, and it has gone in the opposite direction on paragraph 9, which now says:

"(a) in determining any general policy or principles"

and

"(b) in exercising any such regulatory functions."

That implies a significant change in relation to the question of individual cases. Is that the intention of those changes?

Fergus Ewing: Considerable attention and scrutiny was given to the definition of sustainable economic growth, as Mr Harvie knows. For the record, convener, the introduction and background to the code includes the following definition of sustainable economic growth:

“Sustainable economic growth means building a dynamic and growing economy that will provide prosperity and opportunities for all, while ensuring that future generations can enjoy a better quality of life too.”

The majority of respondents were supportive of the purpose and intent of the code, and adjustments were made to reflect comments that were received during the consultation process.

It is fair to point out that the adjustments that we are considering today were made at the specific behest of the Delegated Powers and Law Reform Committee, which, quite rightly, drew attention to what appeared to be an inadvertent contradiction between the code and the legislation. It would have served no one to have had a code that contained an inherent contradiction of the terms of the act that was passed by Parliament. Therefore, it is right that the code has been amended.

Mr Harvie and I may still disagree on some of the larger policy questions, but we are not here to re-debate the terms of the 2014 act, which is now law; we are here to implement the act and to deliver a code that allows it to be put into practice.

In practice, regulators generally have a very positive approach. The Scottish Environment Protection Agency, for example, has a positive approach to the discharge of its functions that is being recognised increasingly by many businesses that I deal with. It was recognised most recently by the Civil Engineers Contractors Association, which singled out SEPA as a regulator that appears to work with members of the CECA in the discharge of their duties.

There are many examples of regulators that already espouse good practice, but it is entirely right that, in principle and in practice, the legislation should be implemented as Parliament intended. I believe that the amended code—which, as I have said, deals with the Delegated Powers and Law Reform Committee’s specific points—does precisely that.

Patrick Harvie: We certainly disagree on the legislation and the question whether “sustainable economic growth” actually means anything. However, I am not seeking to explore that again; I am just trying to get a specific answer with regard to the change in paragraph 9. The earlier draft clearly and explicitly did not apply the exercise of “regulatory functions” in individual cases, but the new paragraph 9 seems to reverse that. Is that interpretation correct?

Fergus Ewing: The original code did not reflect the meaning and intent that was agreed by Parliament; the new code does. In that respect, I believe that the amended code is correct in the sense that it will apply to the way in which the regulators carry out all their functions. We deliberately went back to the working group to

raise the matter afresh with its members, and I understand that they are broadly content with it.

Patrick Harvie: I think that that is about as clear as it is going to get.

The Convener: Members have no further questions. I simply note that, on the issue that was raised with us by the Scottish Council for Development and Industry about the lack of any reference to innovation, which we discussed when you came before the committee in December, there is now such a reference. I am pleased to see that positive move. I also note that certain stakeholders who commented on the previous version of the draft code and were alerted when the revised code was laid have raised no points in relation to it.

We move to agenda item 4, which is the debate on the motion. I invite Fergus Ewing to move motion S4M-12158.

Motion moved,

That the Economy, Energy and Tourism Committee recommends that the Scottish Regulators’ Strategic Code of Practice be approved.—[*Fergus Ewing*].

The Convener: Does any member wish to speak in the debate?

Patrick Harvie: I simply refer to the arguments that were advanced during the consideration of the legislation and in the discussion with the minister a few minutes ago. I will be opposing the motion on the code.

The Convener: Do you wish to respond, minister?

Fergus Ewing: I repeat that I believe that the amended code reflects the terms of the legislation. If I may say so, this is a very good example of how valuable parliamentary scrutiny can be. Because of the efforts and diligence of Nigel Don and the members of the Delegated Powers and Law Reform Committee, we were able to detect and correct a manifest error in the code. As I have said, it is a good example of parliamentary scrutiny and of the efficacy and diligence of committee members in the Parliament.

Patrick Harvie: That is a great use of vocabulary.

The Convener: Thank you, minister. The question is, that motion S4M-12158 be agreed to. Are we agreed?

Patrick Harvie: No.

The Convener: There will be a division.

For

Fraser, Murdo (Mid Scotland and Fife) (Con)
Robertson, Dennis (Aberdeenshire West) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Brodie, Chic (South Scotland) (SNP)

McAlpine, Joan (South Scotland) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 MacDonald, Lewis (North East Scotland) (Lab)

Against

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 8, Against 1, Abstentions 0.

Motion agreed to.

The Convener: I thank the minister and his officials for their attendance. We will have a very short suspension to allow them to leave.

12:08

Meeting suspended.

12:09

On resuming—

European Union Priorities

The Convener: I reconvene the meeting with a reminder to members that we are still in public session.

Agenda item 5 is consideration of a paper on our European priorities for 2015, which members will all have had a chance to look at. Chic Brodie is our European reporter, and I ask him whether he wishes to add anything to his paper.

Chic Brodie: Nothing major, convener. I thank the clerks for the discussion that we had in preparing the paper. The European and External Relations Committee is looking for input to establish the Parliament's European priorities, and in that respect I recommend three areas. First, the transatlantic trade and investment partnership proposals are gathering pace, heat or whatever—

Patrick Harvie: The wheels are coming off. [*Laughter.*]

The Convener: Hold on. Carry on, Mr Brodie.

Chic Brodie: The European and External Relations Committee is looking at the issue, but I think that, as I have proposed, we should keep a watching brief on it from an economic point of view. At some stage—as long as the wheels do not come off—we might want to get more information and investigate the implications for the Scottish economy.

The second area relates to fuel poverty and energy efficiency—after all, Mr Norman Kerr seems to be at the committee more often than some members. The European Union energy strategy, which will be tabled next month, covers energy security, carbon emissions and decarbonisation. Given the investigations that we have carried out and the issues that we will no doubt return to, that is an important area for us.

The third area is the tourism industry. The Cabinet Secretary for Culture, Europe and External Affairs mentioned the meeting that she attended, and the European tourism industry has agreed to look at how we can connect and communicate with the cultural and creative sectors. That is very appropriate, given the discussions that we have had over the past few weeks and the fact that we are looking at the support, training and skills that are required in that area.

Those are my three recommendations for the European and External Relations Committee, and I would welcome the committee's support for them.

The Convener: Thank you, Mr Brodie. Three priorities have been identified: TTIP, the EU energy strategy and the European tourism industry. Does anyone wish to comment, or are we happy just to agree the paper?

Lewis Macdonald: I agree with the proposition. TTIP is clearly a major concern at the moment and, given that previous EU interest in energy has caused some issues in the past, it makes sense to keep an eye on that area, too.

Patrick Harvie: I agree with the three themes that have been set out. The concerns about TTIP continue to grow and, given the substantial growth in political opposition to some of its most dangerous aspects, we need to keep an eye on the matter. However, if we are going to look at the issue at all, we should go beyond the three areas—competition, technical barriers to trade, and small to medium-sized enterprises—that are mentioned in the paper. A lot of the concerns about the implications of TTIP go way beyond those areas and into a host of the Scottish Government's economic priorities. Whether we agree or disagree with the way in which those priorities are framed, a great many of them—including, for example, the social solidarity targets in the national performance framework—are threatened by some of TTIP's implications, and I would want to broaden the scope out beyond those three themes.

Chic Brodie: That is a very good point.

The Convener: As no one else wishes to comment, I take it that we agree with the thrust of the paper.

Members *indicated agreement.*

The Convener: Thank you, Mr Brodie. We will take that work forward in 2015.

12:14

Meeting continued in private until 12:27.

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