



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 10 February 2016

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ECONOMY, ENERGY AND TOURISM COMMITTEE

6th Meeting 2016, 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:

Janet Archer (Creative Scotland)

Fergus Ewing (Minister for Business, Energy and Tourism)

Iain Hamilton (Highlands and Islands Enterprise)

Alex Reid (Accountant in Bankruptcy)

David Smith (Scottish Enterprise)

Natalie Usher (Creative Scotland)

CLERK TO THE COMMITTEE

Douglas Wands

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 10 February 2016

[The Convener opened the meeting at 10:00]

Decisions on Taking Business in Private

The Convener (Murdo Fraser): Good morning, ladies and gentlemen, and welcome to the sixth meeting in 2016 of the Economy, Energy and Tourism Committee. I welcome members and witnesses, whom I will introduce in a moment, as well as guests in the public gallery.

I remind everyone to turn off, or at least turn to silent, mobile phones and other electronic devices, so that they do not interfere with the sound equipment. We have a full house this morning, but Patrick Harvie has indicated that he needs to leave in about half an hour to move amendments elsewhere.

Under agenda item 1, I ask members whether they are content to take in private at today's meeting item 7, a discussion of evidence heard.

Members indicated agreement.

The Convener: Is the committee content to take consideration of our draft annual report in private at future meetings?

Members indicated agreement.

Creative Industries (Economic Impact)

10:00

The Convener: Under agenda item 2, we will take evidence on the economic impact of the creative industries. I welcome our panel of witnesses. We are joined by Janet Archer, chief executive of Creative Scotland, and Natalie Usher, its director of film and media. We are also joined by David Smith, director of creative industries at Scottish Enterprise, and Iain Hamilton, head of creative industries at Highlands and Islands Enterprise. Welcome to you all.

We have about an hour for this session, as there is other business that we have to attend to. In it, we want to do some follow-up work on the report that the committee produced in March 2015, nearly a year ago. The report had a list of recommendations around creative industries, in particular the fields of film, television and computer games. At the time, we had responses from various Scottish Government agencies, and I want to see whether the landscape has changed and whether any of our recommendations have been progressed in the interim.

Before we get into questions, I think that Janet Archer wanted to set the scene, so please take a couple of minutes to do that.

Janet Archer (Creative Scotland): We are very pleased to have the opportunity to report to the committee today alongside colleagues from HIE and Scottish Enterprise. Members will be aware that Creative Scotland refreshed its approach to planning in 2014. We produced a 10-year plan and, underneath that, we made a commitment to produce individual strategies for arts, screen and creative industries. We published our screen strategy in October 2014, and I am very pleased with how we have been able to take up the drivers of change. We hope today to have the opportunity to tell you in more detail about what exactly has been achieved against the strategy. We will be publishing a more fulsome report, which we will make available, that illustrates the extraordinary number of new productions, the amount of new talent and the amount of work that we are doing on film education and to market Scotland as a location for the world to come to. There is a very positive story to tell.

We treat creative industries separately, covering the 16 industry areas that we are tasked with supporting. We have been working very hard in partnership with all our partner public sector bodies, including HIE, Scottish Enterprise, and the Scottish Further and Higher Education Funding

Council. Jointly, they fund our director of creative industries post. Shortly, we will publish our creative industries strategy, and the arts strategy will sit alongside that. It deals with all of those organisations that are very much part of the creative industries but which will always require a level of public subsidy in order to exist—a big example is the Edinburgh International Festival, which is our largest client.

The connection across culture and the creative industries is increasingly recognised, and increasingly Creative Scotland is recognised both within and outside Scotland for being ground-breaking in bringing those two sides together.

The Convener: Thank you very much for that introduction. There were three areas we covered: film, television and computer games. To provide focus, let us start off with film and we will then move on to the other areas.

If I recall correctly the report that we produced in March 2015, the biggest concern in the film sector when we took evidence was the lack of a film studio in Scotland. In advance of this session, we have had a number of recent submissions to the committee, which have reinforced the message that among producers the lack of a film studio continues to be a concern. A year on from our report, we do not seem to be any clearer about what is happening on the delivery of a film studio, which so many people believe is vital for the industry to develop. Are you able to give us an update today on where exactly we are on a film studio for Scotland?

Janet Archer: To an extent we are. I will hand over to David Smith, who will talk about that.

David Smith (Scottish Enterprise): First, a huge amount of work is going on behind the scenes that we would love to share, but we cannot share a lot of the detail for reasons of commercial confidentiality. We are absolutely committed, along with Creative Scotland and the Scottish Government through the film studio delivery group work, to ensuring that additional screen infrastructure is developed and put in place in Scotland.

As we have touched on before, due to state aid rules, we are very dependent on the private sector leading investment in studio infrastructure. There has been progress and we are continuing to negotiate with a private sector developer on a live proposal. We at Scottish Enterprise bring our knowledge and expertise in infrastructure, commercial matters and negotiation to those talks. Natalie Usher, Janet Archer and their colleagues from Creative Scotland bring their considerable sectoral knowledge and expertise to help with the negotiations, acting as advocates for the sector and working considerably on developing the

ecosystem, funding, production skills and so on, all of which is helping.

We appreciate the sector's patience in this matter. We have been working with this developer for some time and there have been a number of iterations of the proposal to ensure that it meets both European Union state aid rules and public and private sector interests and requirements. I emphasise to the committee that we are navigating terribly complex and shifting terrain with this proposal. As we have said before, studios are notoriously difficult to make work commercially, which is why we are taking the time to get this absolutely right.

Meanwhile, a great deal of progress has been made in the film sector more generally. I am sure that Janet and Natalie will want to touch on that. If I recall rightly, over a period of six or seven years, film production spend in Scotland has pretty much doubled. We are coming towards the completion of series 2 of "Outlander", which has been terrific and has generated a lot of economic benefit and employment. It is definitely one of our successful productions. Recently, we have seen really exciting announcements, such as the announcement that "Robot Wars" will start filming here, which will bring additional cutting-edge technologies to Scotland. Janet and Natalie may want to comment further on that.

Janet Archer: The point that David Smith makes in relation to the acceleration of production spend in Scotland tells a powerful story. In the main, that is due to "Outlander", which has created a new confidence. The number of new productions that are coming to us very clearly signals that the world sees Scotland as being open for business in a very proactive way, and we are very pleased about that. At Creative Scotland, we have a location service, with a team who proactively work to sell Scotland as a place to make movies. Natalie, do you want to embellish that in any way?

Natalie Usher (Creative Scotland): I support what Janet has said. We have always said that one of our priorities is to deliver studio facilities infrastructure for Scotland, and we are working to do that. There are already a number of studio facilities available in Scotland. We have a really large US production, "Outlander", in a facility that has been developed by the property owner, and we market convertible studio space, which is something that US studios want. At the end of 2015, we surveyed them and said, "If you were offered a fantastic studio with a brand new spec at one price or a big barn that you could convert at another price, which would you prefer?" What they choose will depend on their budget, but we are able to offer US producers a good number of options for studio space.

We are seeing the benefit of the new £1.75 million production growth fund that we announced last October, which provides a non-recoverable grant for producers who come here and spend their budget in Scotland, and we have seen increased US interest as a result of that.

US producers are looking at the United Kingdom anyway because of the UK tax credits. They say what the production is and what build they need, and ask, "What can Scotland do for us?" We can then say that we have many spaces that they could use and that they could convert. Conversion has an impact on the budget for facilities, but potentially producers will choose them—for example, those on the "Outlander" production did.

We want to be able to offer greater choice, and we are working really hard to do that, but it is not as if we are having to turn people away because we do not have a shiny new studio. I emphasise that we see that as something that we do want to deliver—we have said that and we are working towards it. However, it is one of a number of things that Creative Scotland, alongside our partners in the film studio delivery group, are working hard on. It is not the only answer to how to have a growing sector in Scotland, but it is one of the things that we are focusing on.

The Convener: Okay. I come back to your original comments, Mr Smith. I think that the committee understands the issue of commercial confidentiality; nevertheless, you will appreciate that a real sense of frustration comes out of the written submissions that we have received. We are now more than a year on from the evidence that we took for our report last year, but people do not see anything happening. There are press reports about planning applications for the Pentland studio, but it is all confidential and nobody can talk about it, so nobody really understands whether we are making any progress at all.

I will read out something from the written submission of the Association of Film and Television Practitioners in Scotland that makes the point about film studios very clearly:

"Wales has two major studios with six stages, and Northern Ireland ... has two major studios with six stages and ... plans for more studios in development".

The point is that those small UK nations, whose population and land mass are both substantially smaller than Scotland's, have four studios with 12 stages. Scotland currently has no matching facilities. Is there anything that you can say today that will give reassurance to people in the industry, who are deeply frustrated because they just do not see anything happening? We have been hearing about the need for a film studio in Scotland for 50 years. Are we any closer to having one today than we were even a year ago?

David Smith: The first thing that I would say is that, as Natalie Usher just touched on, we do have an active operating studio infrastructure today in Scotland, and we have seen a very substantial increase in production spend in that area, in particular over the past two years. In relation to the current proposal, the challenges have been many and complex in nature. We cannot circumvent them, but we have been working through them. We are being as creative as we can be and are taking very innovative approaches in order to address the challenges. I assure the committee that we continue to have encouraging and productive negotiations with the developer. I hope that members will appreciate that, because of commercial confidentiality, I cannot go into the detail of those challenges and some of the issues, but the progress is encouraging.

The Convener: I understand that, Mr Smith, but I think that what we and the stakeholders are looking for is reassurance that we will get a resolution of the problem and some understanding of the likely timescale for that. Can you give us any reassurance in that regard?

David Smith: I can point to the fact that on the part of the developer there is great interest in and appetite for trying to put all of the elements in place to secure a positive outcome. We are of a similar mind and are providing every support.

Chic Brodie (South Scotland) (SNP): When is it going to happen?

David Smith: As I said earlier, we are very dependent on the developer, whom we are helping and supporting to put the final proposals in place.

Chic Brodie: If it is at an advanced stage, can you say when it is going to happen?

David Smith: It would be inappropriate for me to put a timescale on something that the developer will determine.

Chic Brodie: So you are not in control of it.

David Smith: As I mentioned earlier, we are very dependent on the private sector developer taking forward investment proposals around the studio infrastructure. The convener pointed earlier to the examples in Wales and Northern Ireland, but in all those locations, private sector developers played a leading role in taking forward development of the infrastructure.

As I mentioned at a previous committee meeting, across Europe there have been instances of state-led developments having to be unwound. The Ciudad de la Luz film studio in Spain is the obvious example. In a highly publicised European Union ruling a couple of years ago, the whole state aid investment had to be paid back.

We are absolutely determined to develop studio infrastructure here in Scotland, but we are determined to get it right and to do it very much in conjunction with the private sector.

10:15

The Convener: A number of other members want to come in. I will start with Johann Lamont.

Johann Lamont (Glasgow Pollok) (Lab): The witnesses will understand our frustration. Basically, since time immemorial we have been told by the Government that it is absolutely determined to do this and will do it, but—to repeat the point—there does not seem to have been any progress.

The concern of the industry and my concern today is that you are explaining that away. On the one hand, you say that you are determined but, on the other hand, you say that you are doing all these other things anyway, that there are spaces available and that people do not need to worry.

The sense that I get from that—you can tell me whether this is fair—is that although you think that the studio might be a good thing, you do not think that it is absolutely critical.

David Smith: Please do not misunderstand—our determination is unwavering to work with the private sector to put in place additional studio infrastructure here in Scotland. It is not a case of one or the other approach; it is very much both. It is a case of continuing our efforts to secure even more investment in studio infrastructure as well as continuing with some of the work that Janet Archer and Natalie Usher have outlined to develop the overall ecosystem—the conditions within which more productions and more private sector investment will be attracted to Scotland.

Johann Lamont: Might I suggest that if it was a different industry, there would be a different approach? The fact of the matter is that the industry is critical to the economy and that, according to the figures that we were shown, we are falling behind all the other parts of the United Kingdom. If you appreciated the importance of the sector economically as well as creatively, surely you would be giving more of a priority to dealing with the main ask of the film industry, which is a studio that is fit for purpose and placed somewhere that will draw people in?

David Smith: We absolutely do appreciate the importance of the industry. As Natalie Usher has commented—and she may want to comment further—substantial progress has been made, with new investment in production incentive funds and skills funds and the development of other activities that are helping to grow and develop the

ecosystem of support around the film and screen sector.

We recognise that there is a real opportunity for the private sector to come in and lead investment in additional studio infrastructure; we have been saying that for a long time. However, the approach is not really any different from our approach in other sectors; we always look to get alongside private sector-led investment.

Johann Lamont: Would it be reasonable to put an end date on this? I presume that when people develop projects, they say, “By this stage, we will have got to this point, and by that stage, we would expect there to be a studio,” and then work back. Do you have an end date at all?

David Smith: It is difficult for us to impose a specific date on a private sector developer.

Chic Brodie: Why?

Johann Lamont: With respect, I think that you could simply say, “This is when the project has to be finished. If you can’t do it by then—if we can’t get agreement by then—we will go somewhere else.” The sector is important economically. I cannot imagine that there are no other people out there who would want to and would be able to drive through such a project. In my experience, when the Government negotiates with anyone, it sets a timetable. If one developer cannot meet the timetable, the expectation would move to another developer.

David Smith: We feel that we are close to concluding this. We continue to have productive conversations and negotiations with the developer. The developer will be working through a couple of important commercial considerations in the next month or two. I hope that as the outcomes of those commercial considerations become clear, we will move to closing the investment.

In the meantime, as we have said, we continue to remain open to other expressions of interest. It is not as though we are placing all our bets on this one set of negotiations.

Johann Lamont: So are there other negotiations going on?

David Smith: No. We remain open to other expressions of interest.

The Convener: Okay. I need to bring other members in. Joan McAlpine is next.

Joan McAlpine (South Scotland) (SNP): Who is on the film studio delivery group and when did it last meet?

David Smith: The film studio delivery group working group last met for a discussion earlier this week. We have an executive group meeting once a month and a working group meeting every

fortnight. The members of the working group are representatives from our three key organisations: Scottish Enterprise, Creative Scotland and the Scottish Government. The members of the executive group are senior members of the Scottish Government culture division, myself, Janet Archer, Natalie Usher and Allan McQuade, the director of business infrastructure at Scottish Enterprise.

Joan McAlpine: What action points came out of the last meeting?

David Smith: It is difficult for me to go into detail, but we discussed the progress of the negotiations and the further work that needs to be done to help the developer to finalise the business plan that it is working on. We also discussed other actions and opportunities that we can take to encourage more expressions of interest in the studio infrastructure. Natalie Usher and her colleagues update us on what is happening more generally in terms of demand for studio space, for infrastructure and what is going on in the sector. Those are the kind of topics that we discuss.

Joan McAlpine: The convener mentioned that we have received a lot of submissions on the topic from people who are in the industry. One of the things that comes up repeatedly is the Pentland proposal. I am aware that there is a planning issue around that. How much can you say about Creative Scotland's involvement in that project?

David Smith: I am happy to say that we remain in regular contact with the developers, but the Scottish Government has called in the planning application. As I understand it, the outcome of that is due to be determined in early spring. I cannot say much more until the outcome of the application has been determined.

Joan McAlpine: There is obviously a lot of frustration out there at the call-in and its timing. It is clear that people feel very frustrated by it.

Janet Archer: I add—for clarity—that Iain Munro, our deputy chief executive, represents Creative Scotland on that group and I see all the minutes and listen in to the meetings whenever I can.

We have met the Pentlands team three times during the development of the proposition. As a commercial developer, it clearly has to be able to develop the proposal at its own pace. Creative Scotland's role in the process—as it is in all of the studio proposals—is to scrutinise what is being proposed by any developer and make sure that it is fit for purpose to meet industry needs. That is where we focus our intelligence and expertise when it comes to a studio proposition. We obviously work as closely as we can to encourage an acceleration in how things are being responded to.

Joan McAlpine: Is the Pentland project a good one in your view?

Janet Archer: It is a mixed-use development, so it is not focused only on film. Film is one aspect of it and it looks as if it is coming together. As all such projects do, it is shifting and changing as the developer builds the business model. At this point, it would be wrong of me to comment on the specifics of whether the proposal will meet industry requirements. It would also be wrong of me to talk about the detail, as that would compromise the commerciality of the proposition. I think that we can say that the developer has a good team that we respect.

Natalie Usher: Willy Wands from the AFTPS has put in some questions to the committee. He is one of the people who has been in to speak to the developers about the proposition. The feedback from the sector is that the AFTPS has scrutinised the plans and, as representatives of the sector who would be working in that environment, it thinks that the proposition is fantastic. It is important to note that the proposition does not currently involve any public sector investment; it is a private development.

Joan McAlpine: All our discussions over time have been about you guys working closely together. Correct me if I am wrong, but I get the sense that you at Creative Scotland seem to know quite a bit about the project but David Smith, who is working on a different film studio project at Scottish Enterprise, does not seem to have much to say about the Pentland proposal at all. Given that you have established the film studio delivery group, are you talking about that proposal?

David Smith: Yes.

Joan McAlpine: Do you think it is a good proposal?

David Smith: It looks very exciting and ambitious—in addition to the comments that Natalie Usher has made. As we have indicated, however, it would not be appropriate for us to comment further until we get the outcome of the planning determination.

Joan McAlpine: Natalie Usher and Janet Archer have mentioned some figures, with the production spend doubling from £12 million. In the UK, production spend is £1.47 billion. It has been pointed out that our share of that is 3 per cent, a large part of which is for "Outlander". There is a sense that we are very much behind. We should have a population share at the very least, and probably more, given our landmass, which is much greater than 10 per cent of the UK landmass.

Natalie Usher: The £1.6 billion figure is for the screen sector. Production spend refers to people across film, television and commercials who have

come to Scotland and actually spent money in it. The value of the screen sector is a slightly different figure.

On your summary showing a comparison with the other nations in the UK and the comments that we do not have stages or studio space, I reiterate that we have four stages. That includes a US production company, Sony. We want to build on that, but we do have something.

The Convener: Other members wish to come in on the same subject, but I ask you to be brief, as we cannot spend the whole hour talking about the one issue.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I have two quick questions.

Scotland was recently voted the world's best cinematic destination by the readers of an American newspaper. We know that we can attract film companies for outdoor locations. The film studio delivery group was set up in May 2013, which is almost three years ago. What steps has the delivery group taken to address the problem of the lack of indoor studio facilities and editing and finishing space, so that we can get the benefit of the £1.5 billion, as Joan McAlpine mentioned? Our share should be £126 million; we are currently getting £46 million of spend in this country, so we are missing out on £80 million of spend in Scotland. What is being done to do that?

Secondly, are we missing out on European regional development funding? I am looking at Screen Yorkshire's state aid agreement to support filming in Yorkshire, which highlights that:

"The funding for this scheme is from the European Regional Development Fund."

Are we missing out on European funding to attract a studio because we have been dragging our feet for so long?

Janet Archer: I will start on that, and I will then hand over to colleagues to follow through.

The film studio delivery group began the process of endeavouring to find a private sector developer by putting the project out to tender. The end result of that tender was that none of the propositions that came through was appropriate or fundable in the context of state aid. At that point, the group opened up to other propositions. Perhaps David Smith can embellish that in more detail.

David Smith: I think that we have covered it.

Janet Archer: The tender process took some time.

There are opportunities to explore ERDF funding and we have been proactive in examining what they might be. Natalie Usher can tell you

about some of the work that we have been doing. It is not straightforward within the context of how ERDF currently works in Scotland, but we hope that we can begin a conversation, and we are working with Scottish Government colleagues to consider how we might be able to engineer an environment in which more ERDF funding benefits Scotland in the way that it does other parts of the UK.

10:30

The Convener: Ms Usher, do you want to add to that?

Natalie Usher: Yes, I will pick up on the spending point. We need to be clear that we are using the same figures and that we are not missing out on £86 million of spend or whatever because the figures are different.

Gordon MacDonald: We are missing out on tens of millions of pounds of spend.

Natalie Usher: Yes, but I just want to be clear about that.

Gordon MacDonald: You kept saying that we have four studios, but, according to some of the emails that we have received, one of them might not be available for much longer. Bearing in mind that Wales and Northern Ireland have large studio complexes and that, as you have mentioned, we have four, how do our four studios compare with those in Wales and Northern Ireland in terms of square footage? Do we have 10 or 20 per cent of the floor space that they have in those other two nations of the UK?

Natalie Usher: I am afraid that I have not got those figures, but we can certainly provide them.

We agree about the ERDF funding. The funding that you mention is from the previous ERDF funding round; the one that we are looking at is the 2014 to 2020 round. The earlier round finished in December, and I am sure that Wales and Northern Ireland will be looking to access the new funding in the same way as we are. We commissioned a scoping report into how we might fashion a content production fund for film, television, animation, games and other digital content. We hope to have that report this week, after which we will discuss it with the Government. For us, that will be the key to unlocking an awful lot of funding to bring further production here.

Lewis Macdonald (North East Scotland) (Lab): I have two brief questions that I hope require short answers. Scottish Government agencies are negotiating with one private developer about one studio proposal, and Scottish Government reporters are determining a planning issue around another proposal from a different developer. Is the negotiation with the first

developer in any way contingent on the outcome of the decision on the second?

David Smith: Not at this point in time.

Lewis Macdonald: Mr Smith mentioned early spring. I am sure that you are aware that, because of purdah, decisions that might have a bearing on the election cannot be announced between 24 March and 5 May. Do you therefore accept that nothing is going to move on this before 5 May? I presume that you accept that purdah applies. Is there any prospect of something happening before then?

David Smith: I accept the point about purdah applying, but you will appreciate that that does not mean that nothing will happen in the meetings. We will continue to progress the negotiations to the maximum extent that we can over the coming period.

Richard Lyle (Central Scotland) (SNP): The picture that has been painted this morning is getting very fuzzy. I can feel the anger in the room, and it feels as though you guys are passing the parcel. I will read you an email that I got from someone who works in the industry. They write:

"We really are dragging our heels on delivering the infrastructure our industry needs to move forward and to show our full worth to the country's economy. We could be giving so much more."

They add that

"those working within the industry are becoming frustrated at the lack of action in developing the necessary studio facilities to support our work".

The issue has been a matter of commercial confidence for more than nine months. Now, with no confirmation of it or details being released, people are beginning to wonder whether it is a smokescreen and whether the deal actually exists.

I agree with Johann Lamont that, if you are working through a project, you set an end date and work back from that. I know that from my experience as a councillor. If you get this deal agreed even this month, you will then have to get planning permission, and you will be sitting for months in some wee cooncil office trying to get it.

Chic Brodie: In Lanarkshire.

Richard Lyle: Well, I hope that it will be in Lanarkshire. If it is in Lanarkshire, I will make sure that things move on. I am getting angry, and I know that Mr Brodie is getting angry.

Chic Brodie: He is not getting angry; he is angry.

Richard Lyle: What is happening? It is not funny, Mr Smith.

David Smith: I am not suggesting for a moment that it is.

Richard Lyle: I feel as though you guys are just passing the parcel, coming here and telling the committee all this but then going away and forgetting about it for another year.

David Smith: Absolutely not. The discussions and negotiations are very real. I understand your frustration, but we have been very clear about our approach for a considerable length of time. You will appreciate that we are dependent on the private sector leading the investment approach. We have been working through a series of complex and challenging issues in relation to the current proposal, which—as you have pointed out—has been under negotiation for nine months or so. We continue to work with the developer to finalise the plans and proposals. I feel that we are very close. Challenges have come up along the way, and we have had to work through those challenges with the developer to bolster the proposal and the business plan even further.

We have to reach a point at which the developer is absolutely comfortable about moving forward, given the constraints and complex challenges around the operation of a home studio. I assure you that we feel very comfortable and confident that, once we have reached that point with the developer, and it is ready to commit to progressing the business plan that it has been developing, we will be able to act very quickly.

Richard Lyle: Where does the developer want to develop? Glasgow? Lanarkshire? South Uist? East Kilbride? Auchtermuchty?

David Smith: For reasons of commercial confidentiality, I cannot reveal the precise location. However, I can say that—as we indicated following the study that was undertaken in 2014—it is in a central belt location. It has to be in the central belt. That makes commercial sense, because of the availability of talent and infrastructure.

Richard Lyle: So it is within a 50 or 100-mile radius of Edinburgh. [*Laughter.*]

David Smith: It is in a central belt location.

The Convener: We appreciate that you cannot be more precise.

Richard Lyle: That is the point. That is where the frustration comes from. You cannot tell us the location and, with the greatest respect to both of your organisations, the people who write to us do not believe that the development is happening. We will wait and see. Thank you.

Chic Brodie: I will consume my anger.

We heard that there has been no application for European funding, so European state aid rules do not come into this. There is no displacement and, in fact, we are adding jobs. There is no impact on

competition; the BBC talked about the growth in production. There is no direct public sector involvement in the construction. My first point is therefore that I want to know what state aid rules are hindering progress.

Secondly, given that the discussions were at an advanced stage in November, I assume that you have a timeline and a project chart or a Gantt chart—whatever you want to call it—of activities showing the risk factors going through the project. If you have that, I would like to see a copy of it.

Finally, how much have you spent on this project to date?

David Smith: I will take those points in order.

The timeline and the project development plan rest with the developers.

Chic Brodie: Forgive my interruption. We are the procurer. In any project of this nature, there should be an agreed timeline, because the parties involved are joined. Presumably—as I am sure most managers do—you have a project chart on your wall of the things that have to happen, when they have to happen and what the risk factors are. There is no commercial confidentiality issue because we are not asking for commercial details. Where is the chart? Where are we on that chart? What do you mean by “advanced stage”?

David Smith: We have a project team in place.

Chic Brodie: Where is the timeline?

David Smith: We have indicative timelines. The main risk factors or dependencies relate to the private sector.

Chic Brodie: Presumably the risk factors are built into the timeline.

David Smith: They are incorporated into our indicative timelines.

Chic Brodie: Where are the timeline and the chart?

David Smith: They are part of the project team. Our project manager, David Jack, owns that. It is overseen by our internal senior responsible owner for the project on behalf of the film studio delivery group, Allan McQuade.

Chic Brodie: Where is the chart?

David Smith: We have a chart. We have a project plan, which incorporates some timetable assumptions.

Chic Brodie: Can we see it?

David Smith: I would need to take advice but I am happy to come back to the committee on that. There will be aspects of commercial confidentiality.

Chic Brodie: That does not come into it.

David Smith: We can look at that and come back to the committee.

Chic Brodie: How much have we spent on this to date?

David Smith: We would need to get back to you with an exact figure for research and planning. I do not have the precise number in my head but it is north of about £60,000 for consultancy, research and formal external advice such as commercial advice, legal opinion and some due diligence.

Chic Brodie: Just £60,000.

David Smith: That is direct spend on the project. I will come back with the precise figure.

I apologise—I did not answer your first question. The principal point that we have to address is that we have to act in accordance with market economy investor principles. We have taken extensive advice from the Government and we have also taken external legal counsel. In essence, what lies behind that is that we have to ensure that any public sector support is within EU state aid limits. We also have to ensure that any support that we provide does not distort—

Chic Brodie: But there is no displacement and no imputation for competition law. We are not asking for European state aid funding and a large part of the investment is from the private sector.

David Smith: However, given the scale and nature of the facility, we would be competing at a UK and European level to attract productions and production funding. We have to take that into consideration.

Natalie Usher: EU state aid legislation applies to the UK, so it is not about applying for EU money. We have to comply with the aid intensity levels or the proportion of public investment compared to private. That is what we have to work within.

Chic Brodie: Thank you.

The Convener: We probably need to move on to a different topic. I will bring in Dennis Robertson.

Dennis Robertson (Aberdeenshire West) (SNP): Natalie Usher’s comments lead me on to my question. We have heard about the 10-year plan, which is the strategy for moving forward. However, the Scottish Affairs Committee at Westminster recently came up with 12 recommendations, including

“a robust assessment of the creative industries in Scotland”.

Are you working with the UK Government according to the recommendations of the Scottish

Affairs Committee? Does that impact on your 10-year plan?

Janet Archer: You will have noticed that one of the Scottish Affairs Committee's other recommendations is that Creative Scotland be given a place on the UK creative industries council—

Dennis Robertson: It is, as you have said, a recommendation.

Janet Archer: Prior to that, I had negotiated observer status for two meetings of the CIC and we are in regular dialogue with that wider UK body. We have a relationship with the British Film Institute and, via the Scottish Government and independently, we talk to our Department for Culture, Media and Sport colleagues. We talk to the British Council and all the UK arts councils about arts and the creative industries. There are a number of avenues where we connect with the broader context.

Dennis Robertson: Have you looked again at your 10-year plan with a view to incorporating the Scottish Affairs Committee's recommendations, or are you confident that the plan already covers them?

Janet Archer: We are confident that the 10-year plan takes into account Scotland's connecting with the world; after all, being "international" is one of our five ambitions in the plan. We have divided that up into three-year blocks of time. The strategies look independently at the arts, screen and creative industries; the creative industries strategy is about to be published and absolutely takes into account the recommendations from the Scottish Affairs Committee.

Dennis Robertson: Reference has been made to public spend, and there are recommendations on tax relief, too. Do you feel that Scotland is getting its appropriate share of BBC content and production, or are we lagging behind?

10:45

Janet Archer: You will see in the evidence that I gave to the Education and Culture Committee just after Christmas that we have made a clear case that Scotland should proactively negotiate with the BBC on increased production spend in Scotland, and we are in dialogue with the BBC about how to do that. In that evidence, we also made it clear that we felt strongly about seeing more content from Scotland represented on the wider BBC, and we are also having proactive conversations and dialogue with the BBC about that.

Dennis Robertson: I wonder whether you can give the committee some reassurance. We have heard a lot about dialogue and, indeed, proactive

dialogue but with respect, what we are not hearing—and what we are looking for—is an assurance that you are confident that that dialogue will benefit Scotland. We want the dialogue to happen but we are looking for an outcome that means that Scotland will get its fair share of production spend and that there will be more opportunities for all the people working in the creative industries to benefit from that.

Janet Archer: I am confident that the BBC is assertively connecting with us in an accelerated way. I met Tony Hall during the week of the Education and Culture Committee meeting that I have mentioned, and I am meeting him again in a couple of weeks' time. We are also meeting colleagues from other parts of the BBC both in and beyond Scotland, and our director of arts engagements is involved in a working group with colleagues from the BBC. There are therefore a number of avenues where we are looking at how we might generate new opportunities, building from the clear evidence of a strong feeling in Scotland that the BBC needs to increase its energy in a Scottish context. I am confident that the BBC is positively engaging in that dialogue; I am sure that we will have an opportunity to build on that, and we are looking at a number of ways of doing that.

Natalie Usher might want to say more about that.

Natalie Usher: The key things are that we get more spend and have more commissioning power in Scotland, and that is what we are working on. We have a good relationship with BBC Scotland.

Dennis Robertson: I am glad that someone does.

Natalie Usher: We are having discussions with the BBC, and its representatives sit alongside us on the TV working group. The head of business development sits on that group with us, and we are also in discussion with the BBC about specific talent development initiatives. As Janet Archer has outlined, there is a bigger context with regard to control, budgets and commissioning power, and we are also working with the BBC on the ground. After all, it has a huge contribution to make; indeed, it is already making a huge contribution to talent development, and we need it to carry on doing that and to commit to working with us on that.

Iain Hamilton (Highlands and Islands Enterprise): Although we are not necessarily involved in all the discussions about how much stuff will come to Scotland as a whole from the BBC, what we have found over the past few years is that the BBC has been a good supporter of a lot of the activity that has been happening in the Highlands and Islands. We have found through

our industry networks that we have been able to get commissions and to engage with businesses that previously did not have the ability or opportunity to pick up on network commissions but which have been able to come in as part of our wider networks.

The BBC has also been very good about providing access to its facilities and staff to come and talk to people to help them to take projects through. The most recent of those was a radio project called HI wireless—Highlands and Islands wireless—in which a series of radio dramas was developed by developing radio producers and more experienced writers, all of which were commissioned and broadcast by the BBC. That series has just finished, so I am sure that members will be able to find all the dramas online. It is well worth a listen—not that I am pushing it, of course. The BBC has been a great support to us over the past few years.

Dennis Robertson: You anticipated my question, Mr Hamilton. Thank you very much.

Is Scottish Enterprise doing any proactive work on tax relief benefits that would assist people in the industry?

David Smith: Our Creative Scotland colleagues lead for the sector on the area of tax relief benefits for screen, although we are encouraging companies that we work with, particularly account-managed ones, to look at taking up those potential benefits. More broadly, as Iain Hamilton has mentioned, we are working with organisations such as the BBC to try to unlock further opportunities to strengthen the capabilities within some of the screen and television companies in the sector.

The Convener: Natalie, do you want to say something about the tax issue?

Natalie Usher: I reiterate that, in the screen sector, high-end TV animation and film tax credits are crucial to us in selling Scotland internationally as well as for those companies that work here. If there was some scope for those to be increased or for there to be a specific Scotland side to that, we would be keen to bring that about. The tax credits are extremely important for us.

The Convener: Gordon MacDonald has a question about television.

Gordon MacDonald: I actually have three questions about television that relate to the committee's March 2015 report, in which we highlighted that the separate and distinct remits of Scottish Enterprise and Creative Scotland, with one focused on supporting growth companies and the other on cultural activities,

"inhibited them from working collaboratively to support the TV sector."

What change has there been since March 2015 in order to support the TV sector?

Natalie Usher: One of the important things is communication and making it clear who is responsible for which bit. Creative Scotland is the lead organisation for screen; we have a role as a funder, as an advocate and as a development agency.

With regard to the screen sector, Creative Scotland has invested more than £1 million in TV drama over the past two years, and we have invested £70,000 in a formatted factual initiative alongside the BBC. We can fund high-end TV drama through our lottery fund, but we are—

Gordon MacDonald: My question was not about funding—it was about providing leadership, support and a focus for the TV sector. What change has there been to enable us to grow a sustainable industry in this country? I am not asking about one-off funding projects. I want to know what is being done to support indigenous TV companies to grow in Scotland.

Natalie Usher: I was merely illustrating that we have been able to invest in TV drama even though we are, mainly as a result of the lottery fund, focused on film.

Gordon MacDonald: But, with respect, £1 million out of a total UK spend on TV of £2.4 billion is nothing.

Natalie Usher: The £1 million is Creative Scotland's investment in TV drama.

Since March 2015, the terms of reference of the TV working group have been updated, and its work has been focused on developing a strategy for growth and internationalisation. Towards the end of last year, a sub-group was set up to work on that, and a tender is about to go out to engage a consultant to work specifically on a strategy for growth.

We support the findings of the Producers Alliance for Cinema and Television's report, which was published at the end of last year, and we believe that the TV working group will work alongside that; the chair of the TV working group is director of PACT Scotland. We see those two initiatives working alongside each other to develop that growth.

Janet Archer: I would add to that by saying that although £1 million might not sound like very much it is 25 per cent of our lottery production fund, so to us it is a significant level of investment. As Natalie Usher says, we play the role of funder, but we have a finite amount of public resources to distribute, so we also have to act proactively as a development agency and an influencer to encourage others to invest within and into Scotland.

Iain Hamilton: I would highlight our relationship with Scottish Development International. It has been productive over the past few years, and there is now a joint post between SDI and HIE.

Because of the wider support that that has allowed, we have been able to talk directly to the industry and have identified particular events where the best opportunities are likely to occur. We have also been able to develop a wider range of international partners who can give us more detailed information on what those markets are looking for, and we have put in place support to encourage greater collaboration between the small businesses in the area, their peers in other countries and commissioners and broadcasters, with an eye to giving them access to buyers, additional funds and commissions. We are also looking at supporting the bringing in of international buyers and commissioners to the Celtic media festival, and they will be across for the XpoNorth festival, too. The approach has involved collaboration and an examination of more effective ways of making these links, bringing in investment and making partnerships with other countries.

Gordon MacDonald: I know that Scottish Enterprise and Highlands and Islands Enterprise run a system of account-managed companies in order to help those companies to grow. For the past nine years, the BBC has operated a lift-and-shift policy that, although it has helped to grow expertise in the television industry in Scotland, has left us needing local Scottish companies that can provide jobs to and support the people who have gained experience in the TV industry. Given the existence of the account-managed companies, what has been the focus of your two organisations with regard to supporting new and emerging television companies?

David Smith: We have 20 managed accounts in the TV sector. As Iain Hamilton has just said, a great deal of our focus is on helping them to grow internationally. For a number of years, we have in conjunction with PACT been taking companies to international events such as MIPCOM and have been undertaking targeted trade missions to countries such as Australia and Brazil.

Gordon MacDonald: What has been the growth in employment or turnover for those 20 account-managed companies since you got involved with them?

David Smith: I cannot tell you that off the top of my head, but I am happy to come back to you with a specific answer to that question. On the broader point, as the recent PACT report noted, there has been a roughly 9 per cent year-on-year growth in the sector as a whole.

One of the challenges that we face—and this, too, was highlighted in the PACT report—is that we have a long tail of smallish companies. A joint or ecosystem approach needs to be taken by the private and public sectors to attract more investment into Scotland, and we need to encourage as many companies as we can to look to international market opportunities and take advantage of the support on offer. Since we last met the committee, we have in partnership with business gateway, local authorities, HIE and Creative Scotland undertaken an extensive mapping exercise of all the support available to screen companies across Scotland. Just before Christmas, we shared the results with industry representatives and Independent Producers Scotland specifically, and we await their feedback.

11:00

Coming back to an earlier question, our intention is to do further user research early in the year. Based on the industry feedback, we will develop additional signposting portal activity on the Creative Scotland website to help more of the companies understand the support on offer and to encourage them to access it.

Gordon MacDonald: I know that you are still doing a bit of development on this, but what is the nature of the support? In Northern Ireland, individual projects can receive up to £40,000 for script development and, to take something on to the next stage, there is project development funding, through which projects with budgets of up to £200,000 can receive up to 50 per cent of their costs. Do we offer something similar? If not, is it our intention to do so?

Natalie Usher: Creative Scotland's £4 million film fund is where companies would access that—

Gordon MacDonald: Is that for TV rather than film?

Natalie Usher: It is for film and TV. We have three sources of funding. We have single project development, where film or television drama projects can come to us for funding for the development of a script. Companies can also come to us for slate development funding, which is a larger sum of money that a company can use across a number of projects that it wants to develop. For that, a company does not come to us and say, "This is the project that I want to develop—can you give us money for that?" We would see that it has a number of projects on its slate and we would give it an amount of money. I suppose that that is core funding that allows companies to be flexible in their operations.

In 2015-16, we gave slate funding to five companies amounting to £345,000 and we spent £370,000 on single project development. To date,

we have made awards of £2.4 million for production funding for film and TV drama. That is how our £4 million fund is used, in addition to some other areas.

David Smith: In addition to that, we have a number of grants and offer support to help grow and develop the 20 account managed companies that we have described, as well as for other companies more broadly to develop their interest in pursuing opportunities in international markets. You will probably not be surprised to hear that the focus of that support is on areas such as leadership, development and the availability of innovation support to help companies to grow their capacity to compete more successfully.

We have great examples of companies here in Scotland, such as Jane Muirhead's Raise the Roof Productions, which has been working on successful productions for many years, including "Location, Location, Location". The company has sold that format to close to 30 countries around the world. There are great examples of companies that are achieving and succeeding in international markets with our combined supports.

Iain Hamilton: I will answer an earlier question, as we were included in it. We have about 70 creative businesses on our account management list. However, we found that account management was not always the most appropriate way to deal with small businesses in our area, so we developed a network system that could provide support. Over the past year, we have worked in the creative industries sector with about 700 businesses rather than just the 70 on the account management list.

The results have been pretty good. About a quarter of those businesses are in the screen sector. To give a flavour of the set-up, I will give one small example of how that works. A small film production company in South Uist was looking to develop a project that it would film there using local staff. We provided training support. Through our screen fund, which is available for folk to develop ideas and look for new collaborations, we were able to support the company and introduce it to contacts in Scandinavia. Those contacts have come in on the project, and funding has come from Scandinavia, as well as a broadcast guarantee in Scandinavian territories.

To develop that further and to look at additional ways of bringing in revenues other than through the film in its own right, we have supported the company to attend training on cross-platform working and developing online content. To follow that up, we are working through a partnership between Glasgow School of Art and our youth development side—I use the term "youth" quite generously; perhaps "young people's development" would be better—on how apps and

online content can be developed, how that can be monetised and other revenue streams that will help during the process. By bringing together a range of partners with co-ordination through our networks, we can provide support and services ranging from cash—on occasion—to partners, people to work with and advice and support.

By and large, that has been pretty successful. We are about to finish the evaluation of the model but, to give you an idea, we believe that it has created about 350 new jobs over the past three years and we are looking at a return on investment of about 9.8 to 1. I am happy with how that has gone. When the evaluation comes in, we will see the exact figures but, without a doubt, they will be in that region and, given the current developments, that will increase in future.

The Convener: I am conscious that we have run over the time that I said that I would allow, but there is one other area that Chic Brodie and Lewis Macdonald are keen to pursue, which is the role of the enterprise agencies. If they are brief, we can squeeze that in.

Chic Brodie: Last year, we ended up talking to the cabinet secretary about the relationship between Scottish Enterprise and Creative Scotland. You now have a partnership agreement, but it has not been finalised yet, because you still have an addendum. Our conversation started in March last year. Why is that not complete yet?

Janet Archer: It is complete. There is indeed an addendum, which we have agreed. The agreement was signed off in early December last year and we are now looking at how we can translate that into an operational plan in order to begin to deliver it.

Chic Brodie: Who has control over decisions on expenditure with regard to creative activities in Scotland? Is it Scottish Enterprise or Creative Scotland?

David Smith: I guess that the answer is that each of us has control over spending decisions for our respective areas of focus. For the economic—

Chic Brodie: And that is co-ordinated, is it?

David Smith: Yes. Decisions on areas of economic development activity clearly rest with us, Highlands and Islands Enterprise and the business gateway for the target—

Chic Brodie: So if we ask what Scottish Enterprise has spent and what Creative Scotland has spent, there will be no overlap.

David Smith: There should not be any. We have a level of collaborative working in areas where that makes sense, such as trying to harness and get more economic growth from our cultural assets. We undertake some activity where

we work together with partners, for example on the Edinburgh festivals forum, where we come together and look at combining some of our activities to strengthen the value proposition that the festivals offer. However, our particular interest is in trying to engage as many businesses as possible in the opportunities that exist around the festivals.

We also undertake activity in the area of cultural tourism. We have funded and will continue to fund with investment of quite a few millions of pounds the development of our major destinations, and some of that spend is focused on encouraging businesses to take advantage of our strong cultural heritage—things such as Edinburgh's status as United Nations Organization for Education, Science and Culture city of culture, Dundee's status as UNESCO city of design and Glasgow's status as UNESCO city of music. We encourage as many businesses as possible to take advantage of those cultural assets and to use them to develop new products and services, whether that is from a tourism perspective or a digital perspective, including the development of new applications and innovations around those areas.

Janet Archer: The spend on creativity in Scotland from the public sector comes from a wide range of places. It comes through Scottish Government spend—Creative Scotland's share of that is about 0.2 per cent of the total, and culture as a whole represents about 0.5 per cent.

As powerful is the spend that comes through local authorities, through Scotland's creative industries partnership partners—Scottish Enterprise, HIE and the Scottish funding council, which jointly fund our creative industries post—through universities and colleges, through Skills Development Scotland and so on. There are a number of different drivers in the public sector that will spend on the creative industries and creativity in different ways.

Chic Brodie: That is my concern—that there is financial leakage because so many people are involved. As I said when we discussed the issue previously, one group or one person has to have the message on their desk, "The buck stops here." I am not sure where it is.

The Convener: I think that Lewis Macdonald has a question. I ask you to be brief, please.

Lewis Macdonald: I have two, but I will ask them together, for the sake of time. They are both for Iain Hamilton, although others may wish to comment.

By now, you should be approaching the end of phase 1 of the Highlands and Islands creative industries strategy for 2014 to 2019. I think that that was scheduled for next month. My general

question is: are you satisfied with progress? Do you feel that you are on course to reach the milestones that you set for the end of phase 1?

My other question, which relates a little bit to Chic Brodie's line of questioning, is whether, having reached this phase in your roll-out of a strategy for the sector, you are happy and satisfied that the interfaces that you have with other agencies are well understood and work in a practical way?

Iain Hamilton: To answer the first part of that, yes, we are under way with all the elements of our strategy. In some ways, we are ahead of where we expected to be; other parts are certainly happening at the moment. There is always room for improvement, particularly around the metrics of how we measure the results of success. That is even more of a challenge as the agency considers cultural activity as well as commercial activity. That is about ensuring that we fully understand the benefits across all the activity and that we measure them properly. We are certainly moving on with that.

We have had to change some elements slightly as we have gone through. For example, there was one recommendation to have an office in London. We have not set up a specific office in London, but we have partners across the globe, so we now have access to facilities and resources. There did not seem to be much point in having a specific building there. There have been tweaks, but the basic stuff is certainly in place.

On the relationship with everybody else, we have a very good working relationship with Creative Scotland, and we work closely with Skills Development Scotland and SDI. Creative Scotland has come in on quite a number of projects that we are involved in. I do not think that there is money going into things mistakenly, because we talk regularly with individual members of staff through Creative Scotland. Our time with Scottish Enterprise is not quite as great as it is with Creative Scotland, simply because Scottish Enterprise looks at a different part of the country, but we talk to each other when that is appropriate—when something is going to be a national programme.

On our wider process, Creative Scotland has contributed, and looks like it will continue to contribute. I see no reason to have any concerns about where that is going.

Janet Archer: Through Scotland's creative industries partnership, we have now agreed to map exactly who does what where, and to account for spend in relation to different aspects of the creative industries and different geographies across Scotland. We have now committed to producing a shared plan out of that to better align

and make better use of public resource. I am confident in saying that all of us are absolutely committed to that.

David Smith: One reason why the completion of the partnership agreement took a little bit longer than we hoped is that we recognised the importance of working through and carrying out a comprehensive review of all the activities that we and Creative Scotland were engaged in. More detail is incorporated and covered in the partnership agreement addendum, which I am more than happy to share—I do not see any reason why we cannot do that.

One of the really good things about working together with Janet Archer and her colleagues under the partnership agreement is that it has given an even greater impetus and added focus on some of the areas where we want to undertake joint work in the year ahead. We have a workshop set up for later in this quarter to work with SCIP partners around those areas of focus that are outlined in the partnership agreement. We will keep the committee regularly updated on progress, particularly in the areas that we have agreed to focus on together in partnership.

Iain Hamilton: We have a short outline document, which I would be happy to supply to anybody who is interested, showing how the different elements of our activity fit together and interrelate and where partners fit into the overall activity. Within that, we have an outline showing how we monitor ourselves not only against our strategy but against the SDI operating plan and Skills Development Scotland's skills investment plan. When the new creative industries strategy from Creative Scotland is there, we will also have monitoring against that, to ensure that we are working collaboratively and that the activity is crossing all those themes.

Janet Archer: To give one final assurance, although Creative Scotland is producing its own creative industries strategy, we have produced it very much in collaboration with colleagues who have been involved in each stage of its development and have discussed, checked and challenged it. The end result will be something that all of us, rather than just Creative Scotland as an agency, subscribe to.

The Convener: We need to draw the session to a close. I thank all the witnesses for coming. This has been an interesting evidence session. There are a number of areas on which you have indicated that you will come back to us in writing. If you could do so, that would be helpful.

11:16

Meeting suspended.

11:24

On resuming—

Subordinate Legislation

Bankruptcy and Debt Advice (Scotland) Act 2014 (Consequential Provisions) Order 2016 [Draft]

Public Services Reform (Insolvency) (Scotland) Order 2016 [Draft]

The Convener: Item 3 on the agenda is evidence on the draft Bankruptcy and Debt Advice (Scotland) Act 2014 (Consequential Provisions) Order 2016 and the draft Public Services Reform (Insolvency) (Scotland) Order 2016.

I welcome Fergus Ewing, Minister for Business, Energy and Tourism, who will give evidence on the orders. He will be joined shortly—I hope—by Scottish Government officials Alex Reid, head of policy development at the Accountant in Bankruptcy, and Graham Fisher, head of branch 1 in the constitutional and civil law division.

Minister, do you want to introduce this item?

The Minister for Business, Energy and Tourism (Fergus Ewing): Yes. Thank you, convener, and good morning, all. I am very pleased to have the chance to address the committee today and to bring forward two orders of a different nature. They might seek to achieve different outcomes, but what they both have in common is that they are intended to make life a wee bit easier for some of the people of Scotland.

The first order is the Bankruptcy and Debt Advice (Scotland) Act 2014 (Consequential Provisions) Order 2016. As members are aware, the Bankruptcy (Scotland) Bill, which is a consolidation bill, is making its way through the parliamentary process, and I am pleased to note that it recently passed stage 1. The bill will put Scotland's bankruptcy legislation in one place—in one document—aiding the accessibility and understanding of bankruptcy law for practitioners and those who are affected by it.

In order for the consolidation bill to have full effect, we require to make two minor consequential amendments to the Bankruptcy (Scotland) Act 1985. They clarify cross-references in provisions on when the apparent insolvency of a debtor is constituted and provisions that, for the avoidance of doubt, the fact that limited liability partnerships cannot be sequestrated does not affect their apparent insolvency.

In the view of my officials—and in my view—the consolidation bill could properly pick up those missed changes. However, we have taken on

board the feedback from the Delegated Powers and Law Reform Committee, which has called for the amendments to be made in order that it is clear that the bill accurately consolidates the current law in that respect. I am confident that the minor amendments that are proposed in the order will allow a pure consolidation of the existing law on bankruptcy. However, I am happy to address any questions that the committee might have.

The next order is the Public Services Reform (Insolvency) (Scotland) Order 2016. Members will be aware that, in some respects, current Scottish corporate insolvency legislation, particularly on devolved elements of corporate insolvency such as the process of winding up, is out of step with legislation and associated practices elsewhere in the UK and with some reserved areas. The order was laid in the Scottish Parliament on 18 January following extensive consultation under the super-affirmative procedure. It is the necessary first step in making changes to devolved areas of the Insolvency Act 1986 as they relate to corporate insolvency procedures in Scotland.

The legislative landscape in the area of corporate insolvency administration is complex, and that is partly due to the mix of reserved and devolved competence. Administration and the legal effect of company winding-up procedures are reserved to Westminster, but receivership and the process of winding up are devolved. There is a mismatch between some of the actions that an insolvency practitioner takes in relation to a company that is registered in Scotland and the equivalent process for a company that is registered in England.

Examples include the convening of an annual meeting of creditors and members in Scotland compared with the simpler process of the sending of a progress report in England and Wales, and the fact that websites and electronic means of reporting and correspondence can be used in England and Wales but that is excluded in Scotland. The fact that we are taking forward a plan to redress the situation is warmly welcomed by insolvency stakeholders.

As a precursor to the preparation of modernised insolvency rules for Scotland, it is appropriate first to bring the position for devolved areas of corporate insolvency in Scotland into line with the position for England and Wales. That follows amendments that have already been made to the Insolvency Act 1986 by the Legislative Reform (Insolvency) (Advertising Requirements) Order 2009, but principally the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2010. Reforms that were introduced by the Small Business, Enterprise and Employment Act 2015 have also been taken into consideration.

11:30

The order will allow us to set about modernising and streamlining the secondary legislation—the insolvency rules. The Accountant in Bankruptcy is establishing a Scottish rules working group, which will work with the UK Insolvency Service to inform the drafting of new Scottish rules. The focus will be on making the rules useable for end users and consistent with the modernised rules that are being developed in England and Wales.

I know that the insolvency profession in Scotland welcomes the changes. The processes will be more efficient and effective and they will save the profession and creditors both time and money.

The Convener: Thank you, minister. I want to pick up on a couple of points in the submission from the Institute of Chartered Accountants of Scotland. It suggests some amendments—which you referred to in passing—on areas that it feels should be covered but which are not. Can you tell us how the Scottish Government intends to deal with those suggestions?

Fergus Ewing: We work closely with ICAS. A number of important issues were raised by ICAS and other stakeholders including R3—the Association of Business Recovery Professionals—and the Law Society of Scotland. I stress that the suggestions were all carefully considered, as you would expect, and they were incorporated where that was feasible. The reasons for not incorporating certain items were fed back to stakeholders and I am advised that they confirmed that they were agreeable to the suggested contents of the Public Services Reform (Insolvency) (Scotland) Order 2016.

It might be helpful, for the sake of getting them on the record, if I mention several areas that stakeholders suggested could have been included. One was the introduction of a specific power for a liquidator in a court winding-up to seek the direction of the court. It was thought that that suggestion had merit but that it would have wide-ranging consequences that were too detailed and technical to be considered in the time available before purdah.

Other suggestions were to add the ability for the appointment of receivers to be authenticated electronically, for the provisions on the prosecution of delinquent directors in liquidations to be extended to appointments other than liquidation, and for an additional filing requirement to include the Accountant in Bankruptcy. There was also a suggestion about the liquidator's powers to disclaim onerous property, which I know from my involvement is a tremendously complex area.

Essentially, our position is that there is merit in some or all of those proposals and we need to

work on taking them forward. That is not in dispute, and we are working with ICAS—with the insolvency practitioners. I think that they have accepted that the items that we are progressing are appropriate and they are content for us to take a little bit more time to work with them to get all the other matters right. It is good to have the opportunity to explain that for the benefit of any insolvency practitioners who might read the *Official Report* later.

I think that it has also been agreed—my officials, who are now here, will tell me whether I am going on a trip on my own or whether I am correct—that it is not envisaged that the insolvency rules will be in force for some considerable time. I think that the briefing mentions 2017. That gives us some more time to make sure that we get all those matters right, which we intend to do.

The Convener: Thank you. I welcome Mr Fisher and Mr Reid. I was just about to ask you about timescales. I note that the ICAS submission states:

“The timescale to introduce new corporate insolvency rules in Scotland on 1 October 2016 is very challenging”.

Is that still the target date for the introduction of the new rules?

Alex Reid (Accountant in Bankruptcy, Scottish Government): April 2017 is now the most likely date for the Scottish rules to come into force. There is an issue to be dealt with related to transfer of competence, as we need to deal with the Scottish rules in relation to areas of cross-competence. That will be done in due course, and it makes it look like April 2017 will be the date. That has been welcomed by R3 and ICAS.

The Convener: Okay. Thank you. Do other members wish to come in on any points?

Chic Brodie: I thank the minister for being clear. Will all cross-border implications or situations be covered by the deliberations of the working group?

Fergus Ewing: We are working with the UK Government on these matters, and that is the primary way in which we will make sure that what we do is appropriate and correct. However, I am sure that the working group that is to be formed will consider that as well. Perhaps Mr Reid can clarify that further.

Alex Reid: The UK Insolvency Service will be part and parcel of the working group. It will develop rules for Scotland covering the strictly reserved areas. The working group has an important role to play in that, as well as in relation to the rules that will be developed for the devolved areas and the areas with cross-competence, so the cross-border issues are key to that group.

The Convener: As there are no other questions, we will move on to agenda item 4, which is consideration of motion S4M-15253.

Motion moved,

That the Economy, Energy and Tourism Committee recommends that the Bankruptcy and Debt Advice (Scotland) Act 2014 (Consequential Provisions) Order 2016 [draft] be approved.—[*Fergus Ewing.*]

Motion agreed to.

The Convener: We now move to item 5, which is consideration of motion S4M-15461.

Motion moved,

That the Economy, Energy and Tourism Committee recommends that the Public Services Reform (Insolvency) (Scotland) Order 2016 [draft] be approved.—[*Fergus Ewing.*]

Motion agreed to.

The Convener: I thank the minister and the officials for their attendance.

Fireworks (Scotland) Amendment Regulations 2016 (SSI 2016/18)

The Convener: Item 6 is consideration of a negative instrument. As members have no issues to raise, are we content for the regulations to come into force?

Members indicated agreement.

The Convener: At this point, we will move into private session.

11:37

Meeting continued in private until 12:01.

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