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A Hollywood Update: Changes and Transformations in Hollywood Since the Passage of the 2014 California Filmed Production Incentive

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INTRODUCTION

Since the passage of the expansion of California's Film and Television Production Credit in 2014, the global competition for attracting movie and television production has continued to heat up, even as a number of previously strong competitors have diminished. The global box office continued to grow in 2017, reaching just short of $40 billion in theatrical ticket sales.[1] Movies continue to expand their reach, as does television both in broadcast and streaming format. And as the entertainment industry grows, so do ongoing efforts to attract productions from countries such as China, Canada, and Great Britain, as well as from states such as New York and Georgia.

California's film credit has demonstrated the fact that the state's comparative advantages as a globally recognized center of filmed production gives it an inherent advantage in attracting and retaining both productions and employees. Consequently, California has seen a consistent rise in local employment in the filmed entertainment sector, even though the state's incentives are not as aggressive as rivals like Canada, New York, or Georgia. Since the publication of the 2014 Milken Institute report "A Hollywood Exit,"[2] California's filmed entertainment industry has continued to stay competitive, but the most significant rivals still remain and, in some cases, have become stronger.

As the data in this report demonstrates, the 2014 expansion of the filmed production credit has been highly successful, not only in significantly increasing filming days, but also for impacting the state's entertainment production employment. The transition from a lottery-based system to a merit-based system has provided increased levels of predictability and stability, especially in regards to television production—whether on network, cable, or streaming. That being said, because of the choices made in the 2014 revision

[1] http://deadline.com/2017/12/worldwide-box-office-record-2017-39-92-billion-comscore-1202234008/.

[2] See Kevin Klowden, Priscilla Hamilton, and Kristen Keough, "A Hollywood Exit: What California Must Do to Remain Competitive in Entertainment - and Keep Jobs," Milken Institute, February 2014.

to the production credit, those benefits disproportionately were concentrated in television, often to the neglect of motion picture production.

The findings and recommendations of this report are intended to function as an update and supplement to the 2014 “A Hollywood Exit” report, focusing primarily on employment data, as well as some key production figures. Because the most recent revision to the California filmed production credit was not fully implemented until 2016, there is a limit to the amount of analysis available of the revised program. That being said, there are clear trends demonstrated in the data, as well as anecdotally, and several key challenges that should be addressed in any extension or revision of the filmed production credit. In addition to the operational nature of the credit, this report also examines the key ongoing issue of the need to increase diversity in Hollywood, particularly from a hiring and decision-making standpoint.

ENTERTAINMENT EMPLOYMENT

There are a number of conclusions that can be drawn from the overall trends in entertainment employment. After showing a clear decline in employment in the aftermath of the 2007-2008 Writer's Strike, California's overall picture in filmed production employment has shown signs of improvement, along with the rest of the United States, with a large upsurge in 2016 as detailed in Table 1.

Table 1. Employment Numbers for Motion Picture and Video Industries Employment (SA)

Motion Picture and Video Industries Employment (SA)											
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
USA	354,677	359,590	351,699	339,436	352,537	344,990	345,465	354,072	364,441	382,898	410,026
CAN	36,705	40,100	43,660	44,460	41,265	41,895	44,160	46,150	45,790	46,880	48,815
CA	143,427	146,003	149,984	137,777	140,945	139,922	136,470	140,596	141,677	148,649	169,512
FL	14,543	14,299	12,623	11,708	10,993	10,906	11,504	11,678	12,717	13,279	14,393
GA	6,611	6,634	6,468	7,143	6,601	6,620	7,236	8,262	9,113	13,110	15,102
LA	3,730	4,616	5,455	3,311	4,441	4,028	5,620	7,405	7,175	8,084	5,988
NV	2,289	2,752	2,609	2,248	2,271	2,377	2,733	2,653	3,119	3,059	3,495
NM	2,543	3,209	3,334	2,897	3,106	2,530	3,120	2,698	2,500	2,792	3,395
NY	46,849	46,897	49,456	50,295	51,372	52,430	53,593	56,410	55,732	55,205	55,120
NC	5,509	4,998	4,672	4,827	4,467	4,007	4,089	4,235	4,217	4,666	5,403
TN	7,015	6,975	7,112	6,468	6,606	5,913	6,022	6,022	5,770	6,267	7,881
TX	19,202	17,757	16,983	17,466	17,079	16,181	17,721	19,861	21,015	21,776	22,854
TOTAL	15,327,9756	15,465,492	15,305,175	14,440,942	14,285,425	14,439,992	14,764,317	15,153,225	15,577,383	16,051,417	16,478,517

Source: U.S. Bureau of Labor Statistics (BLS): Current Employment Statistics (CES), Quarterly Census of Employment and Wages (QCEW); Moody's Analytics Estimates; CANSIM.

California's overall employment picture continues to grow, showing year-over-year increases in the Motion Picture and Video Industries Employment category (5121) consistently from 2012 when it stood at 139,922 through 2016 where it stood at 168,829. The largest year-over-year growth was from 2015 to 2016, an increase of 20,005 jobs—in large part due to the surge in television production as the revised 2014 incentives took full effect. At the same time, there was a clear uptick in U.S. employment in the same category from 345,447 in 2012 to 403,443 in 2016. It is worth noting that in the single greatest year of growth, 2015 to 2016, California was responsible for 20,005 of the 20,531 jobs added—over 97 percent. That being said, the initial figures for 2017 do not look as promising for employment growth in the state, a fact that is borne out by the reduced on location filming days noted in both film and television by FilmL.A., which are remarked upon later in the report.

Job growth in rival states and Canada has been more mixed. Georgia has been growing dramatically, more than doubling local production employment from 7,237 in 2012 to 15,593 in 2016. New York has plateaued, going from 53,588 in 2012 to 54,834 in 2016. Canada, meanwhile, has continued to grow, from 44,160 to 48,815. This includes all Canadian locations, especially British Columbia and Ontario. Louisiana, which grew from 2012 to 2015, saw a drop of nearly a quarter in employment from 2015 to 2016 as its own incentives came under doubt, and Georgia drew away more productions.

According to FilmL.A., aggregate filming days for television has continued to grow, from 11,570 in 2012 to 16,463 in 2016.[3] However, feature filming days have not grown as quickly—jumping from 4,251 to 4,687 from 2012 to 2013, but only rising slightly further to 4,865 in 2016 and with initial numbers for 2017 projecting a slight decrease. The largest gain came from TV dramas, which rose from 2,453 filming days in 2012 to 4,442 filming days in 2016.

California continues to lag in terms of its overall share of movie production, even as television continues to surge. According to Studio System data, California's share of overall U.S. film production has declined from 39.72 percent in 2007 to 33.05 percent in 2012, to a dramatically lower 26.05 percent in 2017.[4] While New York held mostly steady with 26.24 percent in 2007, 25.42 percent in 2012, to 23.73 percent in 2017, Georgia soared dramatically from 2.13 percent in 2007, to 6.78 percent in 2012, to 15.25 percent in 2017.

[3] "2017 Year End On Location Report," FilmL.A.

[4] www.studiosystem.com. Accessed February 2018.

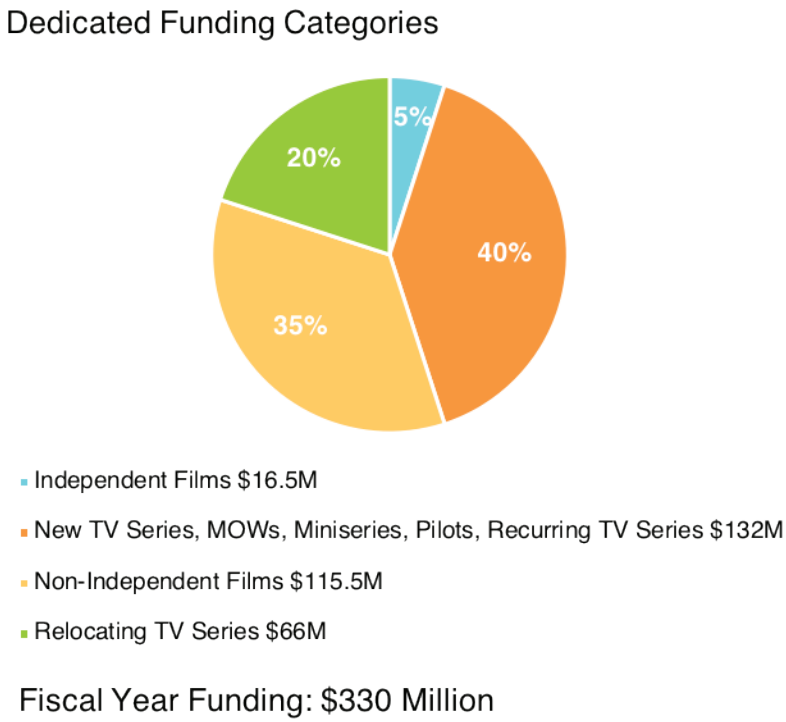
The most dramatic declines for California have come from the loss of movies with budgets over $100 million and smaller independent productions with budgets under $15 million. In 2007, California had ten such large budget movies but by 2012 it was down to two. Even though there was a recovery in 2013 to eight movies, the number collapsed to one such film in 2017.[5] A significant reason for this drop has been the increasing trend of filming such movies in multiple locations. No other location captured more than three films of this caliber in 2017—with the note that London has become the primary location for principal soundstage filming for such productions.

[5] www.studiosystem.com. Accessed February 2018.

Although there have been some clear recent examples of successful larger budget movies filming in California, the requirement that movie productions spend either 75 percent of their principal production days in state, or 75 percent of the overall production budget in state fundamentally limits the ability of the state to attract significant portions of filming for productions that split their locations.

One of the advantages of the U.K. in attracting larger budget movies has been the fact that its minimum spend and production day requirements are dramatically lower. Not only does this attract productions to the numerous dedicated soundstages around London, but it also provides a significant hike for supporting visual effects and post-production services. A similar boost has also occurred in Vancouver. While a dedicated visual effects credit or line item remains unlikely, providing a lower filming or production spend threshold for larger budget movies appears to be an effective mechanism for both attracting portions of larger budget movies as well as the consequent post-production and visual effects potential.

Figure 1. Film and Television Tax Credit Program 2.0



Source: Amy Lemisch, "Film and Television Tax Credit Program Progress Report," California Film Commission, September 2017.

The revised film and television tax credit program that was passed in 2014 provided a significant opportunity to not only retain a number of productions such as television dramas that had been leaving the state, but also to provide incentives to specifically lure productions back to California that either had left, or were intending to leave.

California's production incentives are structured to be as or more cost effective than other competing states but have lower total credits available than some competing states. This has resulted in California's program having a neutral to slightly positive revenue impact at the state and local level, a result that would be harder to produce in states with either a lower local employment base or higher percentage of rebates.[6]

New York currently issues $420 million in production credits each year, well above California's current level, but offers a higher 30

[6] https://laedc.org/wp-content/uploads/2014/03/SCAGFilmReport_FINAL.pdf. Accessed April 2018.

percent credit compared to California's base of 20 percent in Los Angeles and 25 percent outside the thirty-mile zone of Los Angeles. Louisiana has established a cap of $150 million on their credit, which has caused some productions to leave, but its base credit is higher than California at 25 percent and can jump to 40 percent based on factors such as a Louisiana screenplay, filming location, and hiring local workers. Georgia's credit is a base 20 percent but jumps to 30 percent if the Georgia logo is displayed in the film credits, something virtually every production made there does. In addition Georgia and Louisiana cover both above and below the line workers, meaning they partially pay for salaries of stars and directors, which California does not. Georgia's credit is not capped, meaning they currently issue unlimited credits, leading to the issuing of over $600 million in production credits for 2016.

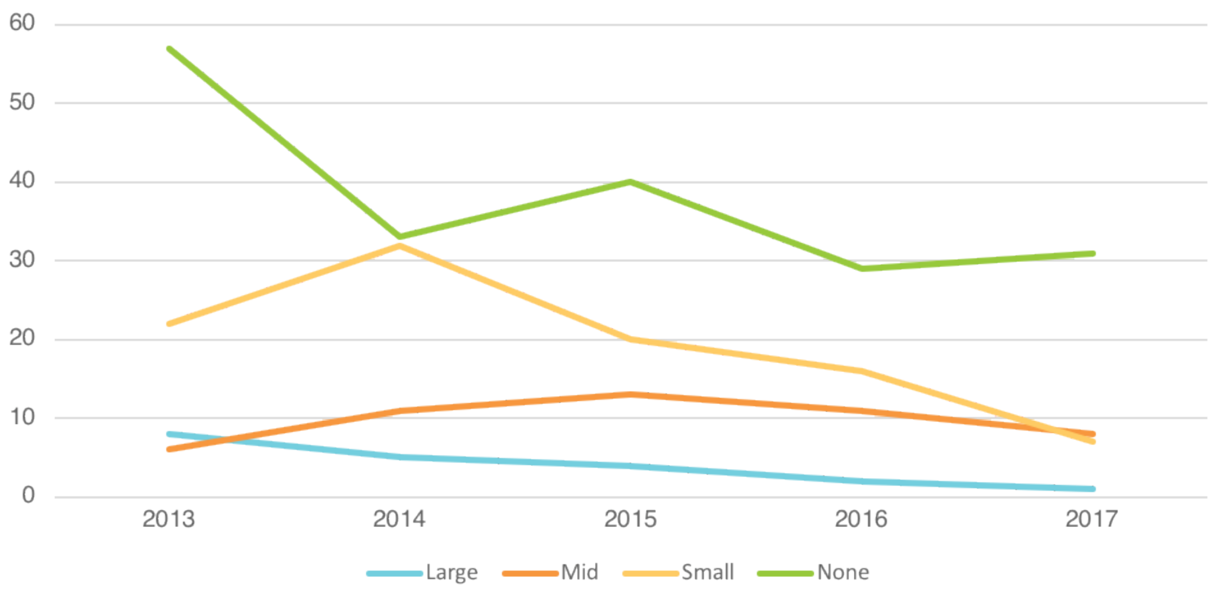
The most significant issues for the credits as they are being considered for renewal are whether or not their effectiveness can be increased by targeting specific production types that did not receive as much attention in the 2.0 program, how to make the existing provisions more effective, and whether or not to increase the overall capacity of the program per year. The one area that does not need to be considered is an actual increase in the percentage credits being offered for each kind of program.

THEATRICAL MOVIES

Since the introduction of the first version of the Film and Television Tax Credit Program in 2009, California has consistently faced a dilemma on how to most effectively retain motion picture production, given the incredibly mobile nature of modern films and the importance of balancing the needs of the creative ecosystem through independent films and the needs of larger movie productions that produce more jobs over a longer period of time.

In addition, in both versions 1.0 and 2.0 of the program, films have been a distant second to television in the total amount of credits being allocated, in part because the production environment in California has increasingly shifted to television, and because it is consistently easier to lure a one-off production such as a movie with a fixed shooting schedule than to develop the infrastructure needed to support ongoing television. That being said, movies have a significant advantage in being able to attract productions to other parts of California that do not normally see as much filming, and to provide a significant tourism boost to such locations and other locations throughout the state.

Figure 2. Number of California Films in Each Budget Category[7]



Source: Studio System Online Database, accessed April 2018.

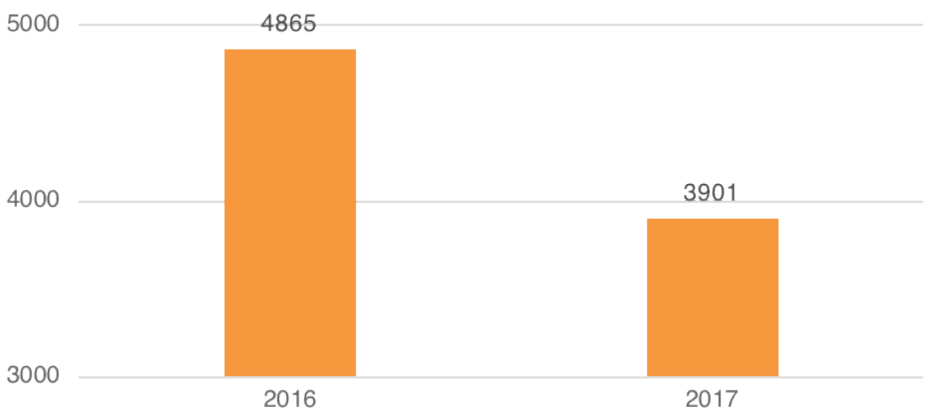
[7] Please note that the category for "Large" budget films includes films with budgets of $100,000,000 and higher, the category for "Mid" budget films includes films with budgets from $15,000,000 up to $100,000,000, and the category for "Small" budget films includes budgets less than $15,000,000. The "None" category is for films with no recorded budget in Studio System.

THEATRICAL MOVIES

In examining the Studio System data in regards to overall filming over the period from 2013 to 2017, there are certain clear trends. There is a decline of larger budget movies filming in California, as well as a broader overall downward trend in small budget movies and movies not declaring a budget, which also tend to fit into the smaller category. As seen in Figure 3, 2016 was a very strong year for the total number of feature days filmed in the Los Angeles metro, but there are clear signs of a fall-off for 2017. While television shoot days have tended to remain fairly strong, the continued levels of competition from places such as the U.K., Canada, and Georgia for theatrical productions remains.

[5] Et qui con prorrovit and itas pellaborerum simodit acerro coresto et, soloreh enetur et as sentibuscil ea voluptati repratemos experum que quo quia il int as etur, cus as esto maiorit odi berum volorru ptatem explici ducillo ditae pliqui ipis nulparum sime quam ut optaturita enduciae ex eat.

Figure 3. Features Shoot Days, 2016-2017



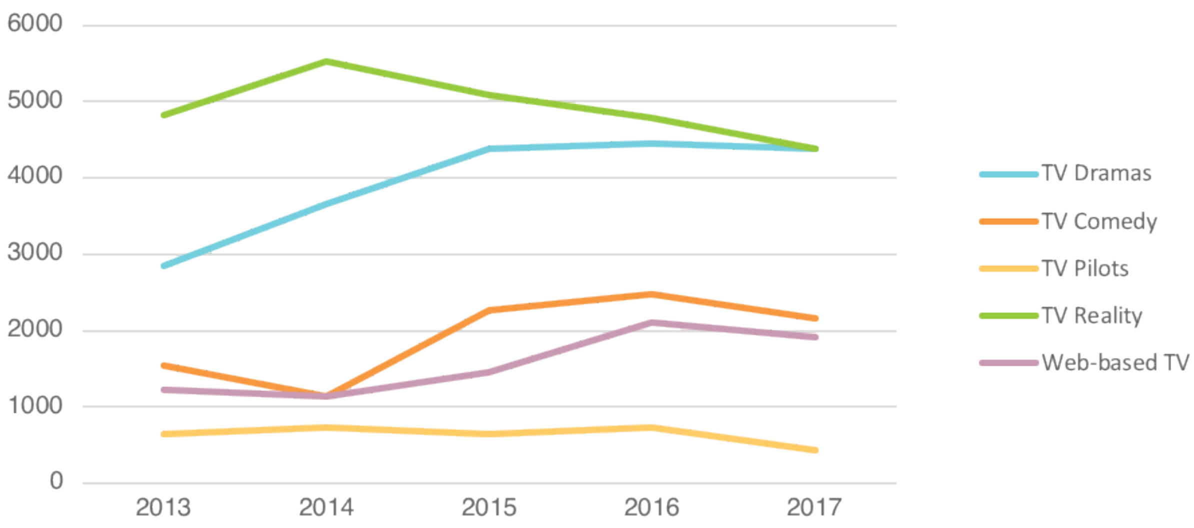
Source: "2017 Year End On Location Report," FilmL.A.

THE DOMINANCE OF TELEVISION

As theatrical productions have become increasingly mobile, California has increasingly relied on television productions to bolster the overall production and employment base for the state. This has been reflected in the overall structure of both the first and second versions of the film production credits in the state. While the dominance of television in the first version of the program was not by design, the percentages allocated in version 2.0 quite clearly targeted television productions. This reflected both the concerns about recent declines in the hour-long dramas leaving the state, as well as a recognition that such programs were providing the strongest ongoing employment base for the industry. As noted in the FilmL.A. tracking data, the number of on location filming days in the LA metro for television was more than triple those for motion pictures in both 2016 and 2017.[8]

[8] "2017 Year End On Location Report," FilmL.A.

Figure 4. Television Shoot Days by Category, 2013-2017



Source: "2017 Year End On Location Report," FilmL.A

According to FilmL.A., aggregate filming days for television has continued to grow, from 11,570 in 2012 to 16,463 in 2016. However, feature filming days have not grown as quickly—jumping from 4,251 to 4,687 from 2012 to 2013, but only rising slightly further to 4,865 in

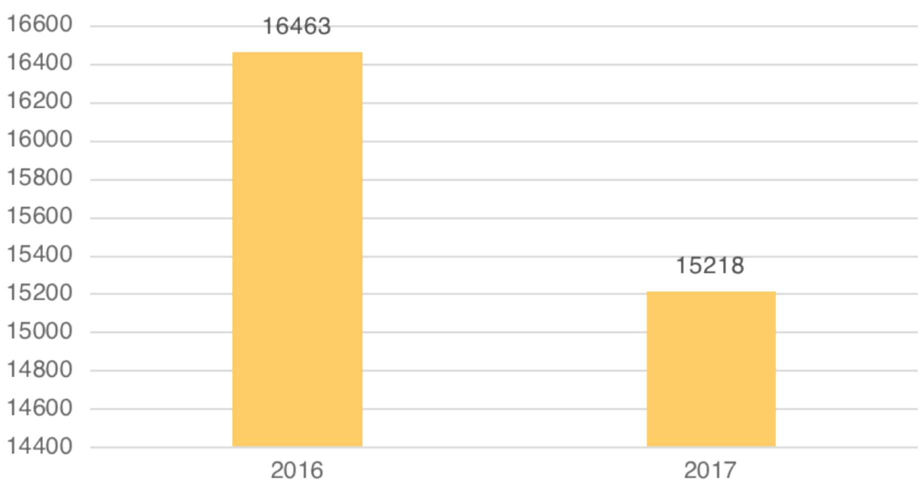
2016. The largest gain came from TV dramas, which rose from 2,453 filming days in 2012 to 4,442 filming days in 2016.[9]

[9] "2017 Year End On Location Report," FilmL.A.

However, data for 2017 is actually showing a slight decrease in television filming days, from 16,463 to 15,218, a decline of roughly 7 percent. One of the key issues that needs to be examined is the ongoing competitive pressure on where television pilots are being filmed, as well as the decline in preference for filming reality television locally. Reality TV filming days have dropped from a peak of over 5,500 in 2014 to below 4,500 in 2017.

In the case of both reality television and pilots, there are competitive pressures to film in other parts of the United States, both due to incentives that lend themselves better to non-recurring productions, and the lack of a need for a strong local filmmaking infrastructure to support such projects. Although the overall impact of these drops will be limited, and do not appear to be tied to main categories covered by the production incentive, their decline shows ongoing competition in aspects of the television space, even as the rise of streaming has helped to push forward the hour long dramas within California.

Figure 5. Television (Aggregate) Shoot Days, 2016-2017



Source: "2017 Year End On Location Report," FilmL.A

THE BUDGET PROBLEM OF RECURRING TV SERIES

One of the most significant concerns that developed over the course of the first version of California's filmed production credit was the fact that recurring television series had a tendency to increasingly eat up all available funds in the program. As noted by the California Film Commission: "By the 7th Program Year, recurring television series, which were all non-independent productions (owned wholly or partially by publicly traded companies), required nearly 90% of the available tax credits. This was due to the statutory requirement that the program reserve tax credits for recurring television series for the life of the series as long as credits were available."[10] When the program was revised and renewed, initially recurring and relocating television series were the only shows allowed to apply for the first two application periods due to the fact that funds had to be reserved for recurring television series.

Although there is not yet enough data for an in-depth analysis of television shows under the fully realized 2.0 credit, initial circumstantial evidence is showing that within the television categories a similar pattern is already unfolding. In order to free up money on an ongoing basis to both attract and retain new television shows, it is essential to consider the concept of gradually reducing or phasing out credit allocations to individual productions. While productions do spend less over time as principal sets and props are built, the ongoing spending for a recurring show continues to eat at the available credits in the program. Any proposed remedy to this should also acknowledge that one of the most important factors for a recurring show is that it provides consistent, steady, and local employment to its crew. Any effort to provide balance to the program needs to address this fact.

In order to free up money for new productions, the main options are to gradually reduce either the total credit available to a recurring production in terms of absolute dollar values or to reduce the available credit from a percentage basis. Given that the current system places the burden of the requested credit on the show productino company

[10] http://film.ca.gov/wp-content/uploads/CA-Tax-Credit-Progress-Report-09-2017-FINAL.pdf. Accessed May 2018.

and not the state, any effort to place an absolute cap would come across as arbitrary, as well as require additional work for the California Film Commission. In order to provide the greatest economic impact while still incentivizing shows to stay, it is important that any reduction in credit occurs at a time where additional investment in sets and props is in decline, but after the show is in a stable position for renewal—such as after the completion of a third season or later.

An additional possibility is to have a set amount of credit be guaranteed with renewal, such as a base 15 percent versus 20 percent, but have shows apply for an additional credit at a higher percentage for any reinvestment in production such as sets or other more durable aspects of the show. The one risk for this is that it would inject additional uncertainty and work into the process both for the production companies and the film commission. Otherwise, the remaining option is to mandate a maximum number of seasons or years a show could be eligible for the credit. However, a move this severe would be more likely to spur show relocation than a phased credit reduction.

DIVERSITY IN HOLLYWOOD

Though the 2017 and 2018 Oscar nominations were decidedly more inclusive of women and non-white creatives than ever before, women and minority groups are still greatly underrepresented in both above the line and below the line positions in Hollywood. In a three-year pooled 3 percent sample from the American Community Survey (ACS), the Los Angeles population is only 61 percent white, but the creative sector[11] in Los Angeles is 74 percent white, washing out the entertainment industry of much of the area's culture.[12] ACS data also show that women make up only 35 percent of the Los Angeles creative sector. The shift in recognition of women and minorities' work does not equate to an improvement in diversity.

More than overall representation, there is a lack of women and minorities in decision-making roles. For example, in a list of men's most common occupations within the Los Angeles creative sector, "top executives" makes the cut. This occupation does not make the list for women, while "secretaries and administrative assistants" are among the list of the most common occupations for women in the creative sector."[13] The negative effects of Hollywood's culture characterized by a lack of women in decision-making positions can be seen in the #MeToo movement and Time's Up initiative, which brought the reality of the rumored "casting couch" to light.[14]

Many have cited monetary reasons for why women and minorities are not given more leading roles or hired as above-the-line creative decision-makers, particularly in big-budget films.[15,16] The 2017 blockbuster hit, *Wonder Woman* shattered that misconception. Directed by Patty Jenkins and starring Gal Gadot, the female duo's movie far exceeded box office expectations with an opening weekend taking in more than $200 million worldwide.[17]

The proven success of a female superhero movie paved the way for Marvel Studios' upcoming film *Captain Marvel* starring Brie Larson. This time California will benefit from a female powered film as the

[11] See Jessica Jackson, Kevin Klowden, Joe Lee, Rebecca Simon, and Perry Wong with Mike Bernick, "New Skills at Work: Keeping Los Angeles at the Cutting Edge in an Evolving Industry," Milken Institute, April 2017.

[12] See Jessica Jackson, "Hollywood's Diversity Problem: It's Not Just Actors," Milken Institute, March 2017.

[13] Ibid.

[14] Cara Buckley, "Powerful Hollywood Women Unveil Anti-Harassment Action Plan," *The New York Times*, January 1, 2018. Accessed January 24, 2018, https://www.nytimes.com/2018/01/01/movies/times-up-hollywood-women-sexual-harassment.html.

[15] Rebecca Keegan, "Female film directors are on outside looking in, but will ACLU flip the script?" *Los Angeles Times*, May 13, 2015,. Accessed January 24, 2018, http://www.latimes.com/entertainment/movies/la-et-mn-aclu-gender-discrimination-hollywood-20150513-story.html.

[16] Drew Harwell, "Diverse movies are a huge business. Why doesn't Hollywood make more?" *The Washington Post,* December 15, 2015. Accessed January 24, 2018, https://www.washingtonpost.com/business/economy/diverse-movies-are-a-huge-business-why-doesnt-hollywood-make-more/2015/12/15/ec002564-9774-11e5-b499-76cbec161973_story.html?utm_term=.fa1d3697e691.

[17] Mark Hughes, "'Wonder Woman' Shatters Records With $200+ Million Worldwide Opening," *Forbes*, June 3, 2017. Accessed January 24, 2018, https://www.forbes.com/sites/markhughes/2017/06/03/wonder-woman-shatters-records-with-200-million-worldwide-opening/#1cc6b3661641.

future blockbuster received a tax credit after eligibility was made possible by the most recent updates to the California tax credit program.[18] *Captain Marvel* is filming in Los Angeles, marking the return of Marvel Studios to California's entertainment mecca since 2011 after shooting much of Marvel's principal photography in other locations, Georgia in particular.

Released in late 2017, *Jumanji: Welcome to the Jungle* featured a diverse cast anchored by stars Kevin Hart and Dwayne Johnson. The movie's success, along with *Spider-Man: Homecoming*, came as a great relief to Sony Pictures, as many of its big-budget movies in the last two years underperformed at the box office, i.e., *Ghostbusters, Inferno, Passengers, and Blade Runner 2049*.[19,20] Sony capitalized on the talent and stardom of Johnson and Hart to create a box office hit, while in the past top executives may have opted for white male stars instead, which likely would have diminished the revenue of this film. With the outdated reason for gender and racial exclusivity in film consistently being proven wrong, what revenues could Hollywood be missing out on when discounting women and minorities?

Sony's *Jumanji: Welcome to the Jungle* was shot in Hawaii and Georgia with a $90 million budget and was distributed under the company's flagship studio name, Sony Pictures. Just a couple of years before the 2017 hit, Hart starred in California-filmed movie, *The Wedding Ringer*, which flipped a relatively small $23 million budget into a sizable profit margin for Sony's subsidiary distributor, Screen Gems. Sony's Screen Gems focuses on low- to mid-budget projects and shoots many of its films in California, while Sony Pictures is responsible for, among others, all of the company's big-budget projects, which rarely film in California.[21]

Though Georgia attracted several feature film projects to shoot in the state, it stands to lose ground following a new anti-LGBT bill passed by the state's senate allowing the denial of same-sex couples for adoption and foster care applications.[22] Many top-talent actors and producers are speaking out against the bill and urging film companies

[18] Bob Strauss, "It took Captain Marvel's help, but LA feature filming jumps 11.7 in the 1st quarter of 2018," *Los Angeles Daily News*, April 18, 2018. Accessed May 14, 2018, https://www.dailynews.com/2018/04/18/it-took-captain-marvels-help-but-la-feature-filming-jumps-11-7-in-the-1st-quarter-of-2018/.

[19] Scott Mendelson, "The Big Reasons 'Blade Runner 2049' And 'Ghostbusters' Both Bombed," *Forbes*, November 8, 2017. Accessed January 29, 2018, https://www.forbes.com/sites/scottmendelson/2017/11/08/box-office-yes-blade-runner-2049-was-this-years-ghostbusters/#24ecc29c1ba2.

[20] Ryan Faughnder, "Sony Pictures gets a $1-billion 'wake-up call' amid a slump at the box office and in DVD sales," *Los Angeles Times*, January 30, 2017. Accessed February 9, 2018, http://www.latimes.com/business/hollywood/la-fi-ct-sony-billion-write-down-20170130-story.html.

[21] The last Sony Pictures film with a budget $75,000,000 or greater to film in California was *The Amazing Spider-Man 2* (released 2014), which filmed mostly in New York but filmed some scenes at Ironhead Studio in Los Angeles, according to IMDb. Before that, Studio Source shows that the first of that same movie series, *The Amazing Spider-Man* (released 2012), was the last Sony Pictures film in that budget category to film in California.

[22] Kurt Bardella, "There's Nothing 'Pro-Life' About Georgia's Anti-Gay Adoption Bill," *Huffington Post*, March 02, 2018. Accessed May 16, 2018, https://www.huffingtonpost.com/entry/opinion-bardella-georgia-adoption_us_5a971cb7e4b07dffeb6f5acf. explici ducillo ditae pliqui ipis nulparum sime quam ut optaturita enduciae ex eat.

to leave Georgia should the bill pass.[23] California, Los Angeles in particular, is generally considered to be supportive of the LGBT community, which will be an asset as entertainment companies start fleeing Georgia and other states that have passed or proposed bills discriminative of the LGBT community.

Illinois currently is the only state with legislation addressing the diversity issue in the entertainment industry, as it requires all film tax credit applicants to submit a diversity plan that explains the method that the applicant will follow to ensure employment of minorities not only for cast, but also crew members.[24] The applicant must also agree to track the progress of the execution of this plan, though execution only requires a "good faith effort."[25]

Cognizant of inequities in TV production hiring practices, lawmakers in New York recognized the opportunity to invest in attracting some of the untapped revenues drawn by diverse talent and proposed a tax credit bill directly addressing the issue in the summer of 2017. Though vetoed by New York Governor Andrew Cuomo the following December, the bill would have provided credits for TV shows hiring female and minority writers and directors.[26] Cuomo cited a handful of reasons including budget concerns, lack of specificity, and above-the-line incentive, but he ultimately claimed that there was no statistical evidence proving the existence of race-based discrimination against people in the professions targeted by the bill, rendering the bill unconstitutional.[27]

To address this, Cuomo directed the Empire State Development Corporation to work with bill sponsors to create a study to determine if there is a statistically significant disparity between the number of minority and female writers in the industry's labor force and the share of writing work currently performed by that demography.[28] In essence, he's asking them to find out if there a significant number of unemployed minority and women writers. The trouble with this request is that unemployment in a gig economy is notoriously difficult to track, let alone within a single occupation.

[23] Lou Chibbaro Jr., "Ga. Governor signs LGBT 'neutral' adoption bill," *Washington Blad*e, March 8, 2018. Accessed May 16. 2018, http://www.washingtonblade.com/2018/03/08/ga-governor-signs-lgbt-neutral-adoption-bill/.

[24] "Diversity Documents," *Illinois Department of Commerce & Economic Opportunity*. Accessed February 5, 2018, https://www.illinois.gov/dceo/whyillinois/Film/FilmTaxCredit/Pages/DiversityDocuments.aspx.

[25] Ibid.

[26] David Robb, "New York Governor Vetoes TV Diversity Tax Credit Bill; Program Is 'Oversubscribed,' Andrew Cuomo Says – Update," December 19, 2017. Accessed January 31, 2017, http://deadline.com/2017/12/new-york-veto-tv-diversity-tax-credit-bill-andrew-cuomo-1202229947/.

[27] Ibid.

[28] Ibid.

KEY CONCLUSIONS

Competition has increasingly shifted to locations that are considered to have more flexible and uncapped (or very high) incentives, which show stability. Incentives have come under attack or been more clearly limited in states ranging from New Mexico to Louisiana to North Carolina to Texas. Meanwhile, New York has held steady and Canada, the U.K., and Georgia have all grown—the latter two dramatically. Georgia's main limitations appear to be the lack of a large enough local employment base, and concern that the nature of the incentives, including above the line stars and directors and no cap, may come under increasing political scrutiny. As yet, though, Georgia production continues to grow and poses a significant overall threat to not only television, but especially larger budget movies.

The current structure of the $330 million incentive is hitting its limit, particularly for movies. The current incentive devotes 60 percent of all credits to either new or relocating television productions, compared to 35 percent for non-independent films and 5 percent for independent films. As such, California's share of movie productions has dropped even as television productions have grown. Furthermore, television production under the current incentive appears to be reaching capacity.

The current mandate that 75 percent of a movie production be spent in the state is clearly inhibiting California's ability to attract and retain larger budget movies. As films increasingly spread out production to multiple locations, this continues to not only harm film crews, but also subcontractors in visual effects and post-production. Attracting a set number of higher budget, higher profile films to be at least partially made in California has the ability to not only attract productions to more locations around the state, but also to allow film crews to stay working closer to home, in addition to the clear tourism impact component.

KEY CONCLUSIONS

Even under the revised incentive format, long-running television shows run the risk of blocking newer productions from receiving the production credit. Under the original production credit, television shows, especially ongoing productions, took up 90 percent of the incentive by the 7th year. Even though the new program is still fairly young, a similar trend of renewed dramas taking up most of the available credit also is a risk. In order to attract newer productions, it is essential to start reducing the percentage credit available for a show after five years unless a clear reinvestment is taking place that produces new jobs.

Diversity has proven incredibly important in the entertainment industry—but efforts to legislate a solution have proven difficult. As the Milken Institute documented in multiple publications this past year, the lack of minority and women decision-makers remains a key inhibitor to greater diversity both in the kinds of productions made, and the actors and crews who are employed in them. California has an inherent advantage over a number of other filming locations in the United States, as it is considered a more tolerant environment for minorities, especially the LGBT community. But those inherent advantages are matched by states such as Illinois and New York, which have already made efforts to explore means of promoting and protecting minority and women filmmakers.

New York's effort to legislate additional incentives for minority productions was vetoed primarily due a difficulty in statistically demonstrating overt racism—which made any legislated diversity measure unlikely to stand up to a court challenge. In addition, New York was not willing to allocate a separate fund beyond their $430 million to be dedicated to such efforts. Currently the only state to legislate any such effort is Illinois, which simply requires a submission of diversity plans and good faith efforts to execute them.

Diversity clearly paid off at the box office in 2017 and so far in 2018. The incredible performance of films such as *Wonder Woman, Get Out,* and *Black Panther* along with the high margins of African-American cast comedies such as those produced by Sony Screen Gems shows that finding a clear economic and structural rationale for more diverse productions will pay off. That being said, as noted above, any effort to promote diversity needs to happen in collaboration with Hollywood so as to withstand legal challenges and be more broadly effective.

RECOMMENDATIONS FOR CALIFORNIA

Increase the level of the current incentive to a higher number—ideally matching or exceeding New York's $420 million per year. The growth in employment is a highly positive indicator, and it is increasingly clear the incentive is reaching capacity—including in the number of television shows and movie productions it can support. Any effort to further bolster and continue to grow the levels of employment in the state will require an increase in funds dedicated to productions.

Devote a significant portion of the new money to larger budget movies and independents. One of the main reasons for the decline in the state's share of overall movie production is due to the flight of independent films to locations with less competition for incentives. In addition, the current level of funding for larger movies is clearly not enough to keep luring in films with higher budgets.

Adjust the amount of spend a movie production needs to have in California to qualify, particularly for movies with budgets over $100 million. By requiring a minimum spend for a larger budget movie of $40 million in the state, potentially with a capped maximum available credit per production of $20 or $25 million (when applied to a $100 million spend), the state can then make the production eligible to only need to spend perhaps 35 or 40 percent of its budget in the state. This would directly benefit on location filming and visual effects, particularly in locations outside of Los Angeles.

Develop a structure for gradually reducing the amount of credit available to ongoing television productions in order to ensure funds are available for new television productions as well as existing ones. After the fourth year of a show receiving a production credit, the base credit should be reduced by 5 percent (from 20 percent to 15 percent) over the next two years of the show (for years five and six), and further reduced by 10 percent for future years. The intent of such a recommendation would be to incentivize the show to find the cost of remaining local to be better than any effort at relocating, while also making additional funds available to attract and retain newer shows.

RECOMMENDATIONS FOR CALIFORNIA

Develop a strategy for boosting women and minority employment, in collaboration with Hollywood, that factors in a strategy for women and minority participation as part of the bid process. As audiences for films and television are increasingly located outside of the United States, and the audience inside the U.S. continues to diversify, hiring more women and minorities is not only imperative for public relations, but also economics. It is essential develop a means for inclusion to be part of the evaluation process for awarding production credits. This mechanism should promote diversity in leadership and in hiring in filmed productions. Any effort can and must be able to pass legal scrutiny, and be structured in such a way to achieve a highest level of compliance within the entertainment industry.

ABOUT US

ABOUT THE AUTHORS

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