

# FILM LONDON MICROWAVE

## MICROWAVE 2010/11 Frequently Asked Questions

1. Do films made through the Film London Microwave scheme have to be shot entirely in London?

Projects do not need to be stories set in or representative of life in the capital, but they must be mainly filmed and post-produced in London, by a London-based company.

2. Can films with a total budget of over £120,000 qualify for funding?

The £120k figure has been chosen deliberately to develop and challenge film-makers entrepreneurial skills. Microwave is designed to stimulate low budget film-making activity and encourage creative, technical and financial ingenuity. Applications that positively respond to the challenge of making a micro-budgeted film are more likely to be successful. Projects which have been under-budgeted in order to fit under the £120k ceiling are unlikely to be selected.

3. In your guidelines you mention that the budget should go up to the stage of fine cut. My question is: will Film London at that stage consider additional funding (both in cash and/or in-kind) and/or allow the film-makers to raise additional funding for completion and delivery elsewhere.

It is Film London's intention to facilitate the theatrical release of all of the films and work with film-makers to secure distribution.

Film-makers should not seek to raise additional funding for completion and delivery without the participation of Film London.

4. I am particularly keen to clarify the issue of the recoupment position and split should film-makers manage to attract additional funding as it would be expected and customary for the additional funding to take a similar recoupment position to Film London.

All income received in respect of the distribution and similar rights in the film (other than those subject to Film London's agreement with the BBC) will be paid to a third party collection agent appointed by Film London, partnership funders (if any) and the producer, who will then allocate the income (net of its commission and expenses) as follows:

**1. Sales agent/distributor's agreed commission and expenses will be deducted**

**2. The remaining monies will be split:**

(a) 60% to Film London and third party/equity financiers (if any)

(b) 40% to be shared between film-makers (including the film production company or its parent), cast and crew

(c) The % payable to the film production company may be increased to accommodate “in-kind” deals

(d) All participation in revenue/profits granted by the producer to other film-makers may only be in the form of % corridors which can vary between participants but must remain constant in perpetuity.

Please note (c) and (d) do not need to be fixed before applications are made.

### **3. Film London will expect to receive the full benefit of the tax credit relating to the film in order that the credit can be re-invested in future film projects.**

The 40% corridor from “first dollar” accorded to the film-makers (2b above) reflects this.

At this stage, Film London envisages that each Microwave film’s entitlement to a tax credit will be discounted and an amount advanced to the film-maker to help meet the core production expenditure of the film. Applicants should not anticipate the discounted tax credit in their finance plans and budgets as Film London will make a final adjustment to reduce the level of its award by the amount to be advanced.

The detailed legislative requirements of HMRC in respect of the new relief were only recently published as part of the 2006 Finance Act. These requirements, together with the criteria for satisfying the DCMS's cultural test, are currently being examined to determine the optimum structure for the Microwave scheme. Film London will update its website and write to all applicants as soon as it can confirm the detailed arrangements that will be put in place to secure the tax credit. Until then, Film London must reserve the right to adjust the terms and conditions on which applications are received and processed and awards are made in order to secure the benefit of the tax credit. A necessary condition of all applications is that the applicant agrees to Film London reserving this right.

### **5. Why limit in-kind sponsorship to an additional £25k, and not allow for teams raising further equity for the film, when established film-making teams are likely to have support networks and backers within the industry who can aid in making these films of a high specification?**

The spirit and ethos of the scheme is that the budgets cannot exceed £120,000 (See FAQ 2).

Film London will welcome incidental support (including free support) from film-maker’s patrons, friends or family, in terms of encouragement and advice or in practical support such as loaning props or making available locations for filming. However, in-kind support of any significance must be valued and included in the budget. All in-kind goods and services supplied to each production must be dealt with professionally with suitable written agreements being obtained. Please do not confuse ‘free’ with ‘in-kind’.

### **6. How do we attach values for in-kind support?**

During production all supplies of any significance must be documented. In the documentation there will normally be some reference to the value of the goods, services or rights supplied in

kind. (HM Customs and Revenue will usually require this). If there is no reference to the value of supplies made in-kind, then a written statement from the supplier of the notional value and the terms of supply should be sought. If no statement is forthcoming, then the producer should e-mail, fax or mail a suitable statement to the supplier confirming the terms on which the supplies are accepted. It is vital to ensure there is a written basis for the supply of all goods, services and rights to prevent disputes, ensure the chain of title is complete, allow licensees to exploit their distribution rights without hindrance and, if necessary, to provide an adequate basis for insurance to be claimed.

#### 7. How will in-kind supplies be accounted for?

The production accountant will charge the value of the in-kind support to the appropriate budget heading and establish an equivalent creditor.

Provided that Film London is satisfied with the valuation of the in-kind support, it will agree to its recoupment from Revenues reserved for itself and other equity investors (if any). Payments by production companies or persons connected to them to secure in-kind support must be disclosed and included in production costs. Film London will require producers to warrant that all such payments have been disclosed and will take audit rights to check this is the case.

#### 8. What if the supplies are made "gratis"

Supplies which are genuinely free of charge may be valued at 'nil', however any associated product placement or similar barter deals must be fully disclosed to and approved by Film London in advance.

#### 9. How should product placement be treated?

The fair value of the supplies should be used to "gross up" the income and expenditure and invoices exchanged between the production company and the supplier.

#### 10. Can the producer allocate part of its 40% revenue share to pay for in-kind support?

Film London will not permit the 40% corridor reserved for the film-makers to share in revenues to be used for any equity or in-kind investor. However, Film London may increase the percentage corridor afforded to the film-maker to accommodate in-kind deals.

#### 11. Does this mean an applicant has to close all deals for in-kind support before they can apply?

For the purpose of making an application, reasonable estimates of in-kind support and anticipated terms of supply will be accepted, though written correspondence with the supplier should be provided to support all significant items of in-kind support. In-kind support which is made on the basis of receiving some form of payment, even if it is payable out of Film London and any other investors' profits, must be included in the production budget at the maximum amount recoverable/payable.

#### 12. Is the UK Film Council putting up the entire Microwave budget?

No. Film London's investment will be made with Lottery funds provided to it by the UK Film Council and licence fee income provided by BBC Films. However the investment will be administered by, and the producers will contract with, Film London.

13. Regarding co-investors, many film-makers know that it's possible to make a film for £120,000 and under, but investors may not believe a film can be made at this micro-budget level, consider it too risky and therefore not invest their equity. How crucial to an application is the inclusion of secure co-investors?

Film London will welcome co-investors who provide in-kind support or hard cash and will view it positively as evidence of entrepreneurship on the part of producers. However, there is no obligation on the part of applicants to obtain co-investors and their application will not be penalised if it does not include co-investors.

14. Is there a minimum budget?

There is no minimum budget. However Microwave films will be feature length, not shorts, and need to impress audiences with fresh ideas, distinctive stories and bold film-making.

15. Will Microwave sponsors provide equipment, services and technical crew?

- Should this be factored into the budget as an in-kind contribution?
- If yes, at what rate should this be charged?

Technical crew will not be provided by our sponsors. At the application stage, please submit a full budget. Film London will advise on its sponsorship support during the selection process and will adjust budgets according to particular needs.

16. What other kind of support will Film London contribute to the Microwave films?

Film London is currently negotiating deals with several companies. There will also be an in-house accountant, locations advice from Film London's location department, mentoring, bespoke training with experienced industry professionals at stages during the production process, as well as ongoing support from the Film London production department.

17. How are mentors accounted for? Will they have to be 'paid' out of the budget, or given a share of the film?

The costs of the production accountant will be recharged together with any similar services provided by Film London, however, these costs will be funded by Film London and the award adjusted to reflect this. Applicants do not have to anticipate these costs in their initial budget.

Any advice or support, including mentoring, provided by Film London will be "gratis" to the production. Mentors are paid for by Film London from a separate training budget. Mentors are not given shares in the film.

18. Deferred payments for crew are frowned upon, but do you expect budgets to include PACT/Equity minimums for cast and BECTU minimums for the crew?

You should give us as much detail as possible. It helps us to assess the viability of the project during production. You will need signed agreements from all members of crew and cast re: payments made to them. Given that there will be a revenue share position on any film sales from first pound in, you will probably be negotiating with cast and crew members re: revenue/profit shares (see FAQ 4).

If you are working with actors who chose to work under the PACT/Equity Low Budget Agreement they would not normally participate in profit once the film receives revenues from sales as they have already been paid an appropriate fee for their work as per the PACT/EQUITY low budget agreement.

#### 19. What form does Film London's investment take?

Film London is offering a unique and we believe, unbeatable 40% "1<sup>st</sup> dollar" participation for the film-makers, with Film London and other financiers sharing the remaining 60%. We feel this is extremely generous. In addition, Film London will work with the producers to optimise the returns, in terms of both exposure and finance, which accrue to the films. We believe the participation of the BBC will be beneficial on both counts.

#### 20. Who owns the rights?

Film London and any equity or third party financier will take a share of copyright in the film and associated rights until they have recouped their investment. Thereafter, Film London will assign its rights to the production company. However, Film London will continue to be entitled to its 60% share of net profits from the film on an ongoing basis. Film London will appoint a collection agent for the slate of Microwave productions.

#### 21. Will Film London allow producers to take advantage of the Tax Credit system that came into effect from April 2006?

Yes, Film London is hoping to ensure there is a cost-effective mechanism for each Microwave film to benefit from the new legislation (see FAQ 4).

#### 22. How soon will Film London actually start awarding funds?

We anticipate that the first awards will be made in early 2012 after the development period following the application deadline (May 2011), but this is dependent on the quantity and complexity of applications received.

#### 23. Where I am sourcing/commissioning original music, can I own the rights to the soundtrack/organise a deal with a record company (also could a deal like this equal some sort of in-kind support)?

It is intended that revenues derived from soundtracks will, like those from the film itself, be divided 60/40 between the investors and the film-makers. However Film London will look at each film's circumstances, in particular the possibility of in-kind participation by musicians and music publishers. Film London will welcome proposals from film-makers to distribute soundtracks.

#### 24. What is the distribution agreement? Is this simply for broadcast?

The BBC's participation will ensure that Microwave films are broadcast, and will ensure that at least 30% of the budgets are covered. Film London will work with producers to optimise the returns from the remaining rights.

## 25. How do we go about selling the film to other territories?

Film London will work with producers to optimise the returns from the international rights. However, applications which include an outline marketing strategy (for both the UK and international sales) will advantage themselves since one of the aims of the Microwave scheme is to demonstrate the commercial potential of film-making and film-makers at the micro-budget level.

## 26. Will you publicise the names of the partners (in-kind support)? Can film-makers bring their own partners on board?

We will not be publicising the details of Film London's sponsorship arrangements at this stage. Film-makers can bring their own in-kind support, but Film London will require written assurances of their contributions.

BBC Films and Microwave sponsors are key strategic partners working with Film London to provide an opportunity for film-makers to make the Microwave films. If film-makers use Film London's partners, they will be asked to comply with standard terms agreed between Film London and its partners. Successful applicants will be issued with detailed terms and conditions.

Film London will have a right of approval over all credits. However, in principle all providers of in-kind support will receive full credit for their support.

## 27. Do we need accountancy and legal costs in the budget, or is that service going to be provided?

Film London will supply a standard form contracts package including dealing with the production finance and the acquisition of television rights by the BBC. Film London will also provide the services of a production accountant across the slate of films. These will be provided free of charge to the production companies. Film London will provide further advice and support throughout the film-making, but each production company will need to demonstrate it is capable of performing the administration of the production (e.g. contracting with cast and crew, securing locations etc.). Applicants' corporate overheads, including any legal advice obtained on the contracts with Film London, or the preparation of the production company's statutory accounts and VAT returns, will not be funded by Film London and should not be included in the budget. Legal documentation must be complete before a project is greenlit, but applications may be submitted before full completion of documentation provided negotiations are substantially complete.

## 28. How is the budget to be broken down and what percentage of the budget is to be set aside for distribution/marketing?

Applicants will not be required to budget for distribution costs or marketing expenditure. Film London will, however, encourage all applicants to consider and document a proposed marketing strategy.

## 29. What kind of production scheduling do you envisage?

Making low budget films inevitably requires highly efficient scheduling at all stages of the production process. However, Film London will not accept compromises on professionalism, in particular on health and safety. Applications which appear to be unachievable without risking the

health and safety of cast, crew or bystanders, or carry a high risk of overspend, will be unsuccessful.

### 30. How hands-on will Film London be?

The Film London Microwave team will be involved with the production at all stages of the process, from selection to final delivery. Throughout the production process there will be editorial meetings and the Microwave team will work with the film-makers to realise the director's vision.

Film London staff will provide advice and help and the Microwave mentors will make their experience and expertise available to productions, as required. Film London will not 'produce' the Microwave films, but it will take appropriate safeguards to steward its investment. Successful applicants will demonstrate an ability to take full responsibility for the production of their film.

### 31. What legal documentation will you need to see before greenlighting?

We do not anticipate that all initial submissions will have finalised contractual arrangements with key cast and crew. However, applicants must demonstrate an ability to complete the development and preparation of their projects by providing letters of intent and any other appropriate evidence. All paperwork must be in place before the project goes into production (see FAQ 28).

### 32. Are the costs of the Microschool separate to the budgets of the Microwave feature films?

Yes. The Microwave Microschool training days are provided and funded separately by Film London, to help prepare applicants for their productions. Sessions will cover key aspects of the relationship between Film London and the Microwave film-makers, including advice on what should be included and excluded from budgets, how changes to the screenplay should be managed and how progress on the production should be reported. There will also be masterclasses on topics including sales, marketing, distribution and how to pitch.

Microschool will be run over a four-day period with each team being assigned mentors. Fees for participating teams for Microschool (£200 per team) will cover the costs of catering. All other costs are funded by Film London and Skillset.