

# Producing in New Zealand

A guide to New Zealand film,  
television and interactive digital  
media incentive programs

# Foreword

During these unprecedented times, the landscape of television and film production in New Zealand and the rest of the world is changing as the industry tries to adapt to the new dynamic. In this framework, both the government and private sector players in New Zealand (i.e. associations, digital platforms, unions etc.) are making an effort to support the continuation of production with adequate health and safety measures.

## Production considerations in the age of COVID-19

Since the situation is changing and evolving on an almost daily basis, we recommend reviewing the rules applicable to the jurisdiction you will be producing in.

You can find more information at the following website for New Zealand, on the New Zealand Film Commission's response to COVID-19: <https://www.nzfilm.co.nz/covid-19-response>. This website also contains links to other useful sites for further information, including:

1. **Information about the New Zealand Government's response to COVID-19**
2. **Information about the Screen Industry COVID-19 Action Group**
3. **Information about undertaking production safely and for the ScreenSafe COVID-19 Health and Safety Production Toolkit**

Additional information can be found at Dentons' COVID-19 (Coronavirus) **hub** for legal resources relating to COVID-19.

This publication has been prepared to provide a general overview of some of the incentives available for and other considerations related to, audio-visual production in New Zealand. The material is not meant to be an exhaustive analysis of the law and should not be relied on with respect to any particular transaction or other proceeding. We highly recommend that all persons seek professional legal advice before undertaking a transaction.

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# Introduction

New Zealand is renowned as one of the most idyllic filming landscapes and is a recognised leader in screen production. The latest figures from Statistics New Zealand show the New Zealand screen industry as a multi-billion dollar contributor to the economy. Since the explosion of Peter Jackson's *Lord of the Rings*, New Zealand has been an epicentre for international excellence where some of the world's most talented directors, producers, directors and creators work.

From *The Jungle Book* to *Mission Impossible 6: Fallout*, New Zealand has provided a superb production environment with a myriad of benefits for international productions beyond its beautiful backdrop.

New Zealand's onshore film makers are supported and encouraged to keep production in the country with a range of incentives for New Zealand based screen content. While the limelight is often dominated by the blockbuster titles produced here, the New Zealand Film Commission is dedicated to the development of the careers of New Zealand producers and crew and to the production of great films.

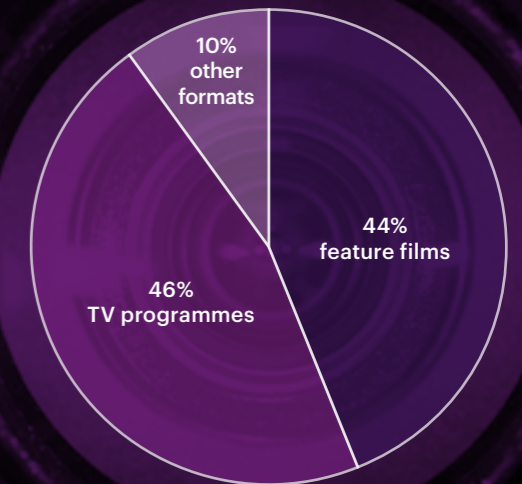
The growth and opportunities that flow from the international production sector are beneficial for the New Zealand economy and for expanding opportunities to our homegrown talents. Applicants for the New Zealand Screen Production Grant for International Productions can receive a rebate of 20% of their qualifying New Zealand expenditure, and may also be invited to apply for a 5% uplift on that rebate for eligible productions which provide significant economic benefits to New Zealand.

This publication aims to provide a general overview of some of the incentives available for both international and local producers and other considerations related to audio-visual production in New Zealand.

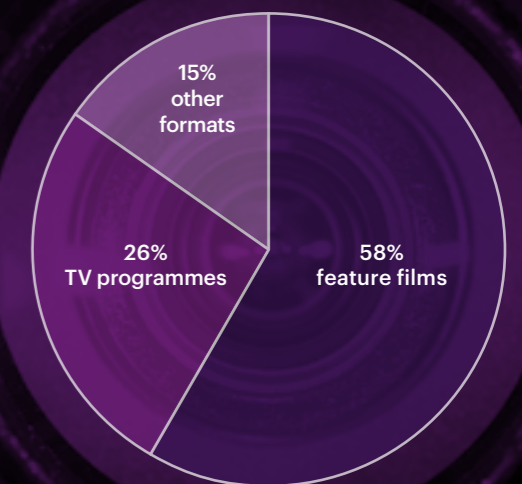


**In 2018 the New Zealand Government's funding for producing was \$227 million (a 9% increase from 2017).**

**Producing revenue that year was \$710 million<sup>1</sup>**



**Contracting revenue was \$1,042 million<sup>2</sup>**



**25** New Zealand feature films premiered that year<sup>3</sup>.

<sup>1</sup> All dollar amounts referred to in this guide are in New Zealand dollars unless stated otherwise.  
<sup>2</sup> Source: <https://www.stats.govt.nz/information-releases/screen-industry-201718>  
<sup>3</sup> Source: <https://rm.coe.int/focus-2019/1680994a74>

# New Zealand Film Commission

The New Zealand Film Commission ('NZFC') is an integral part of the screen industry in New Zealand. This government agency is responsible for administering international screen grants and

for funding some of New Zealand's feature film and television productions. There are a broad range of incentive schemes to support both international and domestic production.

## New Zealand Screen Production Grant for International Productions ('International Grant')<sup>1</sup>

The purpose of the International Grant is to provide economic and industry development benefits to New Zealand by incentivising screen production in New Zealand by international production firms. These grants are administered by the NZFC on behalf of the Ministry of Business, Innovation and Employment ('MBIE'). This grant recognises that large budget screen productions and the post-filming production that occurs after filming contributes to New Zealand's economic development by providing employment, skill development and economic opportunities. These incentives include:

- Cash rebate of 20% on Qualifying New Zealand Production Expenditure ('**QNZPE International**')
- 5% uplift on that rebate for eligible productions

The baseline International Grant is 20% of QNZPE International up to \$25 million<sup>2</sup>, and thereafter 18% of QNZPE International of \$25 million and above.

Since the International Grant was introduced in 2003 (formerly the Large Budget Screen Production Grant) the government has provided the rebate to almost 150 productions, including:

- Game of Thrones, Season 8 – with QNZPE International of \$15.5 million and government rebate of \$3.1 million
- Avengers: Infinity War and Avengers: End Game – with QNZPE International of almost \$78.1 million and government rebate of \$15.6 million
- Mortal Engines – with QNZPE International of \$86.5 million and gaining the 5% uplift, receiving a \$27.8 million government rebate

On top of the practical benefits of producing in New Zealand (such as reverse seasons, diverse nationalities, small population and varying landscapes) this is a considerable rebate.

## QNZPE

The rebate offered by the International Grant can only be claimed on QNZPE International. This is defined as expenditure that is incurred or attributable to:

- Goods purchased, hired or leased in New Zealand where they are sourced from New Zealand, or, when that good is sourced from overseas, the NZSPG considers that good would otherwise be unavailable to the production in New Zealand. In that case, the good must be located in New Zealand at the time the good is utilised in the production. The good must also be purchased, leased or hired from a New Zealand resident that habitually supplies those goods in New Zealand; or
- Services provided in New Zealand; or
- The use of land in New Zealand.

There are a number of specific inclusions that are outlined for QNZPE International, such as New Zealand copyright acquisition, costs incurred for audio visual content, and travel to New Zealand by cast, non-cast personnel who are New Zealand residents and non-cast personnel if undertaken for the purpose of the production. By the same token, there are specific exclusions as to what will not qualify as QNZPE International, such as:

- Remuneration (including travel costs) for non-cast personnel who have not worked on the production in New Zealand for 14 days or more in total.
- Acquisition or licensing of copyright if the owner is/was not a New Zealand Resident or if the work was not created in New Zealand.
- The costs of archive footage above 20% of QNZPE International or \$500,000 (whichever is less) unless there is an exceptional circumstance, as determined by the NZSPG panel.

- No publicity and promotional costs after completion of the production or any additional audio-visual after completion of production.

Further exclusions include:

- Advances
- Financing expenditure
- Business overheads cap
- Guaranteed deferrals, participation payments, residuals
- Acquisition of depreciating assets (except from included copyright acquisition)
- Unspent contingency
- Production insurance
- Completion bond fees
- Freight
- Above the line costs
- Guild payment
- Overseas taxes
- Application fees in relation to the International Grant
- Cast and crew perks, gifts, fines, entertainment and gratuities and any historical costs
- Costs involved in taking the production over

If there is any conflict between the specific inclusions and exclusions, the exclusion will always take priority.

<sup>1</sup> For the full criteria and application forms, please see this link [NZ Film International Grant](#).

<sup>2</sup> All amounts referred to in this guide are in New Zealand dollars.

## Specific eligibility criteria for the International Grant

### Feature Films

Productions must have a minimum QNZPE International spend of \$15 million and be a feature film. To be considered an eligible feature film, it must not be less than 60 minutes, or in the case of a large format (IMAX) film not less than 40 minutes. The film must be commonly screened as the main attraction in commercial cinemas. It must also be shot and processed to commercial release standards primarily for the exhibition in cinemas to the public.

There are several categories of production that are specifically excluded from eligibility if they fit or substantially fit into one of the following categories:

- An advertising programme or commercial
- A discussion programme, current affairs programme, news programme, panel programme, or a programme of a like nature
- Pornography
- A training programme
- An interactive digital game; or
- A production of a public event, including sports event

For the purposes of the International Grant, in certain circumstances applicants can seek approval to treat more than one feature film as a single production. In order to have this approved, all aspects of the production (pre-shoot-post) are to be treated by the producers as a single production and there is to be no separation of resources between the multiple feature films. The feature films must be budgeted as

a single production and reported as such. Among the grouped feature films there must be the same or substantially similar setting/characters and an overarching narrative. For example, prequels, sequels and trilogies. Each film is required to meet the eligibility with the average QNZPE International per film being used to determine the expenditure threshold. These requests are to be made in writing to the NZFC stating how the films meet the criteria and will be considered on a case-by-case basis.

### Television and other non-feature films

Productions falling into this category must have a minimum QNZPE International of \$4 million. There is no requirement for this to be per episode or per hour. To be considered an eligible television or non-feature film, the production can be a single episode programme. This is inclusive of feature length or telefeature content as long as it is not primarily intended for exhibition in cinemas to the public.

The production can be scripted or unscripted and includes but is not limited to drama, documentary, animation, reality, factual, and children. A series or season of a series comes under this eligibility criteria, whether scripted or unscripted, and is inclusive of the same genres as above.

There must be a common theme or themes and at least two episodes that are intended to be released together in a national market(s) and with individual episodes that have completed principal photography within 24 months from the start of principal photography.



It must also be shot and processed to commercial technical distribution and intended to be released on a distribution platform other than cinema. Other platforms include DVD/Blu-ray, mobile phone, all forms of television, or any other mass public distribution medium device.

Similarly to feature film criteria there are specific categories that are excluded if the production falls wholly or substantially into one of the following categories:

- An advertising programme or commercial
- A discussion programme, current affairs programme, news programme, panel programme, or a programme of a like nature
- Pornography
- A training programme
- An interactive digital game
- A production of a public event, including sports event; or
- A production principally made for the New Zealand market

### Post, Digital and Visual Effects productions ('PDV')

The PDV production must be in one of the prescribed formats of feature films or television and other non-feature films.

The production must have QNZPE International of \$500,000 or more, which is spent directly on or is necessarily related to PDV activity. This includes but is not limited to:

- Expenses and fees of people working on the PDV;
- Studio and office space hire for PDV activity;
- Hire and purchase of equipment used to PDV activity; and
- Depreciation of assets used for PDV.

## General eligibility criteria

### Special Purpose Vehicle

The applicant must be a special purpose vehicle ('SPV') with its principal establishment being in relation to the production and have its own GST and payroll registration numbers and its own bank account.

There are some exceptions to this rule. These include when the production is a series or season – an SPV is not required for each series or season of the production provided that there is no overlap in QNZPE International being claimed on each season or series. An SPV can be repurposed if all QNZPE International to be claimed from a previous production has been incurred. In the case of bundling, a separate SPV is not required for each production in the bundle provided that separate tax locations and separate bank accounts are used for each production. Further, there is a PDV grant exception. The requirement for an SPV will be waived if certain characteristics set out in the criteria are applicable.

### Residency status

The applicant must be a New Zealand company, resident partnership, or a foreign corporation that operates with a fixed establishment in New Zealand for the purpose of lodging an income tax return. For this application, a New Zealand company means a company incorporated in New Zealand or a company that has central management control, or its voting power controlled by New Zealand residents.

### Responsible entity

Only one entity per production for the International Grant is permitted and the applicant entity must be the entity responsible for all activities.

## Application process

### Registration

To be eligible for the International Grant, all applicants must register within the prescribed time frame. For live action production this is before principal photography begins in New Zealand.

In the case of PDV productions registration must take place within 20 working days of a qualifying bid being accepted by the applicant. A qualifying bid is a supplier bid to carry out PDV activity that results in the production exceeding the QNZPE International \$500,000 threshold. If the PDV does not initially meet this threshold the production may still be registered if the QNZPE rises above the required amount.

### Changes in estimate QNZPE International

NZFC must be informed in writing by the applicant as soon as practicable if the estimated QNZPE International changes by \$10 million or more.

### Provisional certification

Applicants have the option of applying for a provisional certificate which provides a non-binding view as to the eligibility of a production for both the General Eligibility Criteria and the Specific Eligibility Criteria. This is not a guarantee that the production will receive final certification for an International Grant. The provisional application process takes around 6-8 weeks.

The certificate will lapse 6 months from the date of issue unless principal photography has commenced within that time period.

## Application requirements

Applications must be made on the prescribed forms and all contracts forming part of the application must be fully executed. The application must also contain:

- Audited expenditure statement;
- Credit list, proof of distribution, sample footage;
- Statutory declaration; and
- Any further information as requested by NZFC.

### Final certification

A final application can be made once all QNZPE International on the production is paid, or each time the QNZPE International reaches \$50 million (interim application). The final application must be made 6 months from the date production is completed.

## Assessment process

The NZSPG Panel is responsible for assessing applications for the International Grant to see if the applicant has satisfied the criteria. This panel is made up of representatives from MBIE, NZFC and industry practitioners. The Inland Revenue Department ('IRD') and the Ministry of Culture and Heritage are also invited to attend the NZSPG Panel meetings. Once a decision has been made by the NZSPG, the decision is final and cannot be appealed. During the application assessment period, the applicant will have the chance to respond to an independent consultant who may be assessing the application and comment on any adjustments to the QNZPE International.

Once the final application has been approved an approval letter and invoice will be sent to the applicant. The MIBE will need to receive an invoice and formally verified New Zealand bank account in the name of the applicant. The Grant will then be deposited within 10 business days of the MIBE receiving the relevant information.

## 5% Uplift

Some international productions will be eligible to receive a further 5% uplift, making the grant equivalent to 25% of QNZPE International. This uplift is in recognition that screen productions can elevate New Zealand's profile internationally, provide high value tourism, and provide opportunities for career development for our innovative and creative technologies and people. Simply put, this grant is aimed at productions that are well placed to market, showcase and promote New Zealand.

This grant is by invitation only, and for an applicant to be considered it must meet or exceed two thresholds:

- The current production must have QNZPE International of at least \$30 million; and
- In the five years prior to the invitation, the applicant must have incurred QNZPE of at least \$100 million.

An applicant can obtain a certification of eligibility for the 5% uplift, provided it has met the QNZPE International thresholds, has been invited to apply, has applied for the uplift and met the requirements of the criteria, and must provide value to New Zealand that the Significant Economic Benefits Verification Panel ('SEB Panel') considers, meets or exceeds the value of the 5% uplift.

### Invitation

The NZFC and MBIE can invite applicants that have reached the minimum thresholds to apply for the 5% uplift. This is at the MBIE and NZFC's sole discretion and they are under no obligation to issue an invitation to applicants who reach the thresholds. By the same token, applicants that are invited are not obliged to apply. Invitation does not automatically mean the applicant will qualify for the uplift. Potential applicants are able to discuss the possibility of an invitation with the Head of Incentives at the NZFC.



# Official co-productions

## Initial assessment

If invited to apply, an applicant wishing to proceed with an application must submit to the SEB Panel an initial application. The SEB Panel will determine whether the applicant and production pass the Significant Economic Benefits Points Test. This is an exhaustive test that allocates points for things such as the use of New Zealand personnel, expenditure on the current production (additional points per \$10 million), wider economic benefits and the percentage of production activity conducted in New Zealand. There is a minimum requirement of 20 points out of 35, with some categories requiring a mandatory number of points. (See [exhaustive criteria here](#)).

The SEB Verification Panel will also determine whether the value that the production is delivering

to New Zealand (including industry development and economic benefit) meets or exceeds the value of the 5% uplift applied for. They do this by estimating the benefits of the activities that will be undertaken by the applicant and the production and then comparing the estimated value to the 5% uplift the production would receive.

A Memorandum of Understanding for the 5% uplift is entered into with the NZFC and any other relevant New Zealand government agencies once the SEB Panel has given a non-binding initial assessment of eligibility. The MOU is legally binding and contains deliverables which establish the basis upon which the applicant will satisfy the Significant Economic Benefits Points Test. Payment of the 5% uplift is conditional on the applicant fulfilling the deliverables in the specified time frame.

Official co-productions are becoming an increasingly popular arrangement whereby two or more participating countries create film and television projects in accordance with treaties and other formal agreements. These treaties are designed with the general principle of achieving balance in creative, financing and expenditure contributions from each country.

There are many potential benefits that can be garnered from these treaties. These include:

- Sharing of creative and technical resources
- Access to local and foreign incentives and subsidies
- Access to the domestic market of the other co-producer(s)
- The ability to pool financial resources
- The ability to share the associated financial risk
- The ability to deliver projects of larger scale

New Zealand has co-production treaties or agreements with Australia, Canada, China, Chinese Taipei, Denmark, France, Germany, India, Ireland, Israel, Italy, Poland, The Republic of Korea, Singapore, Spain, South Africa and the UK. A treaty with Brazil is currently in negotiation. Each treaty or agreement is unique and eligibility will be assessed against the relevant criteria but as a baseline the production must have a producer from each co-producing country and the key creatives must come from those countries as well.

A co-production becomes an official co-production when the film or television is deemed to have significant New Zealand content and given certification by the NZFC. This enables the official co-production to apply to the NZFC for production funding under the relevant grant or financing. In order to receive this status it must also attain certification on equivalent terms from the co-producing country. Unless the co-production achieves official certification it will be subject to the same general criteria required by the relevant grant.

# New Zealand Screen Production Grant ('Domestic Grant')<sup>1</sup>

The NZFC helps fund successful applicants aiming to contribute to the financing of between 8 and 12 films every year with the current budget of \$26 million. The purpose of this grant is twofold, with a focus on building sustainability, critical mass, and scale of the domestic industry and supporting the development of New Zealand creatives. Secondly, to provide support for the creation of New Zealand content and stories for cultural benefits. The grant requires productions to have significant New Zealand content in order to be eligible.

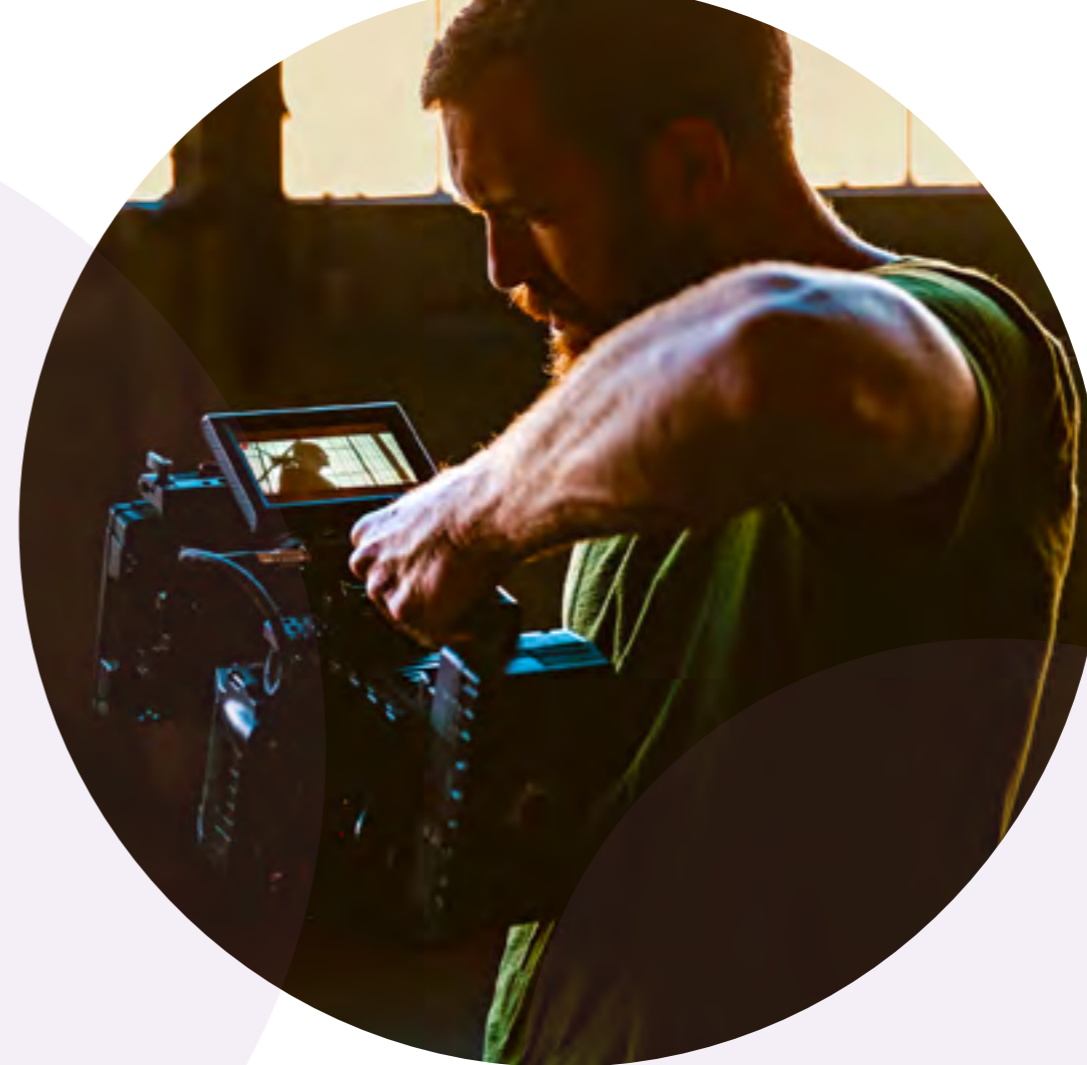
The producers applying are expected to be experienced and the applications must be prepared to a high standard within the letter and intent of the criteria. Although a production may technically meet the criteria, if in the NZSPG Panel's opinion, it is structured in a manner than is inconsistent with the purpose or intent of the grant it can be rejected at the Panel's sole discretion.

The Domestic Grant provides for 40% of Qualifying New Zealand Production Expenditure (**QNZPE Domestic**)<sup>2</sup> but is capped at \$6 million per production. There is opportunity for an additional grant if the production qualifies for it. This is 40% of QNZPE Domestic from \$15 million to \$50 million and is capped at \$14 million per production. The total amount available is \$20 million per production.

## Significant New Zealand content

The crucial element for eligibility under this grant is that the production has significant New Zealand content. There are a number of matters set out in section 18 of the New Zealand Film Commission Act 1978 (**NZFC Act**) that prescribe what must be considered when deciding what significant New Zealand content is, which form the basis of the test. These are:

- The subject of the film;
- The locations at which the film is made;
- The nationalities and places of residence of both the film crew, the persons who own shares or capital in the company or joint venture related to the making of the film, and the persons who have the copyright in the film;
- The sources from which the money used to make the film is derived from;
- Ownership of the equipment and technical facilities to make the film; and
- Any other matters that the Commission thinks are relevant to the purpose of the NZFC Act.



These guidelines are used in conjunction with the significant New Zealand content points framework but are not fixed policy, and the NZSPG reserves strict judgment and discretion in assessing the level of significant New Zealand content. The points framework includes the following other categories:

- New Zealand Subject Matter (Section A)
- New Zealand Production Activity (Section B)
- New Zealand Personnel (Section C)
- New Zealand Businesses (Section D)

The points framework provides guidelines for the Domestic Grant on eligibility but is subject to the NZSPG's discretion. Eligibility will be assessed on the following basis:

- A production that gains 20 out of 32 points will generally be considered to have significant New Zealand content (provided there are no other mitigating factors against eligibility).
- All productions are generally expected to receive at least three points in the related to New Zealand Subject Matter (Section A).

- All productions will generally be expected to receive at least 3 out of 6 points for the sections relating to Director, Producer and Scriptwriter.

These guidelines have arisen from the purpose of the grant – to build the sustainability, scale and critical mass of the domestic industry, and support the development of New Zealand creatives and to provide cultural benefits to New Zealand by supporting the creation of New Zealand Content and stories. These principles are generally reflected in New Zealand characters, stories, locations, and cultural and historical element.

This means that identifiable New Zealand on screen elements are generally important to the characterisation of what is significant New Zealand content, and are particularly important in the expression and development of New Zealand's identity and culture. Although this is not to say that a production without these identifiable elements will be excluded. Where this is the case the production will need to have strong creative input or underlying material and high levels New Zealand film-maker input and production activity.

<sup>1</sup> For full criteria and application forms, please see this link [NZ Film Domestic Grant](#).

<sup>2</sup> Please note there are differences in the definition between the criteria of the International Grant and the Domestic Grant for Qualifying New Zealand Production Expenditure.



## Specific eligibility criteria

### Feature films

There is a minimum QNZPE Domestic of \$2.5 million or more or the case of Official Co-productions, a minimum of \$2.5 million in Total Production Expenditure ('TPE') and it must be a feature film. This means a film that:

- Is commonly screened as the main attraction in commercial cinemas;
- Not less than 60 minutes, or in the case of a large format (IMAX) film not less than 40 minutes;
- Recorded, subtitled or dubbed in one of New Zealand's official languages; and
- Is shot and processed to commercial release standards primarily for exhibition to the public in cinemas.

Productions that fit, or substantially fit, into the following categories are specifically excluded from eligibility:

- An advertising programme or commercial;
- A discussion programme, current affairs programme, news programme, panel programme, or a programme of a like nature;
- Pornography;
- A training programme;
- An interactive digital game; or
- A production of a public event, including a sports event.

Notwithstanding the reasons outlined above, a feature film must achieve at least 20 points and the minimum points required in the relevant sections of the significant New Zealand content test.

The production must also be for New Zealand distribution. This means secure confirmed cinematic distribution in New Zealand which needs to be evidenced by a legally binding memo or distribution agreement. An acceptable arrangement would require a genuine intention from a recognised distributor to release the film in cinemas in New Zealand where there is an admission charge. Excluded from this is one-off or short-lived arrangements – the production needs to be the main attraction.

As with the International Grant, an applicant can apply for a Provisional Certificate. To be eligible an application must have an audience engagement plan that sets out how the feature film will be seen by audiences in New Zealand. The application must also have a strong commitment from a theatrical distributor in the form of a letter or deal memo. For the Final Certificate there must be a final engagement plan and fully executed formal legal distribution agreement from a recognised theatrical distributor.

### Television and other non-feature films

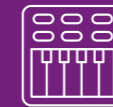
The format of a production will determine what minimum QNZPE Domestic will apply, as outlined in the table below. For Official Co-productions, the relevant expenditure threshold is calculated by reference to TPE instead of QNZPE Domestic.

Eligible formats under this limb of the grant will be either:

- A single episode that is at least a commercial half hour in length, whether scripted or not, and including but not limited to documentary, drama, factual, reality, children's and animation;
- A series or season of a series whether scripted or not that has a common theme or themes, consisting of at least two episodes and is at least a commercial half hour long in length (animation is an exception) and including but not limited to documentary, drama, factual, reality, children's and animation; or
- A short form animation that is a production which uses digital or other animation and whereby the duration is not less than one commercial quarter hour.

All formats must be shot and processed to commercial technical distribution standards and intended to be released on a distribution platform other than cinema. These platforms include television, internet, mobile phone or any other public mass distribution.

The exclusion criteria for this format is the same as above, with the addition being a programme based on a format other than formats developed in New Zealand for the initial distribution in New Zealand.



Format	Minimum QNZPE Domestic
Single episode programme, scripted	\$1 million total and no less than \$800,000 per hour
Single episode programme, unscripted	\$250,000
Series of programmes, scripted	\$1 million total and no less than \$250,00 per hour
Series of programmes, unscripted	No less than \$250,000 per hour
Short form animation (single episode or series)	\$250,000 total and no less than \$400,000 per hour



## General eligibility criteria

### SPV's

The applicant must be an SPV with its principal establishment being in relation to the production and have its own GST and payroll registration numbers and its own bank account.

There are some exceptions to this rule. These include when the production is a series or season. An SPV is not required for each series or season of the production provided that there is no overlap in QNZPE Domestic being claimed on each season or series. An SPV can be repurposed if all QNZP Domestic to be claimed from a previous production has been incurred. In the case of bundling, a separate SPV is not required for each production in the bundle provided that separate tax locations and separate bank accounts are used for each production. Further, there is a PDV grant exception.

It is important that if an applicant believes one of these exceptions apply, it applies to the NZFC for confirmation that the requirements for the exception have been satisfied. Further, if an applicant is relying on the series or season exception, it must contact IRD for further information on how to obtain a separate tax location number for individual production.

### Residency status

These requirements are tougher than those required for the International Grant as it promotes stronger alignment with the purpose of the Domestic Grant. Given that it is aimed at New Zealanders developing their business, the New Zealand Government expects the beneficiary to be a New Zealand-based producer or production company.

The applicant must be a New Zealand company, resident partnership, or a foreign corporation that operates with a fixed establishment in New Zealand for the purpose of lodging an income tax return.

For this application, a New Zealand company means a company incorporated in New Zealand or a company that has central management control, or its voting power controlled by New Zealand residents or in the case of individual shareholders are citizens or New Zealand permanent residents. Where the applicant is majority-owned by another company, the same criteria applies to the majority owner.

There is also the requirement for ongoing engagement with the business of film or television production in New Zealand to a significant extent for a period of at least 18 months prior to principal photography starting. This applies to the applicant or to the majority owner of the SPV.

### Responsible entity

Only one entity per production for the Domestic Grant is permitted and the applicant entity must be the entity responsible for all activities. The applicant must also have access to the worldwide financial information and be able to produce that for the NZFC if requested.

### Producer's income

The applicant must be entitled to receive a share of the income garnered from the production that is commensurate with the value of the grant received.

### QNZPE domestic

The definition of QNZPE Domestic is substantially the same as QNZPE International. However, there are some additional specific inclusions:

- The cost of production insurance if QNZPE Domestic is paid to a New Zealand resident.
- Completion bond fees whether paid to a New Zealand entity or an entity outside of New Zealand provided that they are paid at an arm's-length basis to a third party who is a recognised completion guarantor. This is determined by the NZFC.

- Remuneration and travel costs of New Zealand residents when there is a requirement for principal photography outside New Zealand and where that principal photography is reasonably required.
- Financing expenditure related to QNZPE Domestic where it is paid to a New Zealand resident providing finance, or is directly related to the cash flow of the estimated amount of the New Zealand grant and is paid to an entity that is resident in one of the NZFC approved countries.

Specific exclusions for the QNZPE Domestic are inclusive of the exclusions for the International Grant with these additions:

- Remuneration of non-cast personnel for short-term visits;
- Acquisition or licensing of copy right where it was not from a New Zealand Resident or created in New Zealand;
- Publicity and promotional costs incurred after completion;
- Additional audio-visual content incurred after completion; and
- Legal fees.

If there is any conflict between the specific inclusions and exclusions, the exclusion will always take priority. For an extended list of the specific inclusions and exclusions, and for specific information relating to the treatment of expenditure for tax purposes, [please see the full criteria here](#).

### TPE

TPE is the expenditure incurred in, or that is reasonably attributable to, actually making the Official Co-production, whether in New Zealand or elsewhere, to bring the production up to the state that the production is ready to be distributed, broadcast or exhibited to the general public. TPE includes all expenditure that is QNZPE Domestic but excludes the same expenditure set out for the Domestic Grant and International Grant.

## Application process

The application for a New Zealand Grant follows a substantially similar process to the International Grant.

### Registration

An applicant must either apply for a Provisional Certificate or register with the NZFC before the beginning of principal photography. If the applicant is not registered then it will not be eligible to make a final application for the New Zealand Grant.

### Notification of changes in estimated QNZPE Domestic

Applicants must inform the NZFC if the estimated QNZPE Domestic changes by \$1 million or more.

### Application for provisional certificate

This is not a mandatory requirement if an applicant is applying for the baseline grant only, but all applicants are encouraged to apply for a Provisional Certificate. It will not guarantee that a Final Certificate will be issued but it provides the applicant with indication of eligibility in regards to the criteria. This is especially important in regards to what constitute Significant New Zealand Content given the discretionary nature of this criteria.

If an applicant is applying for the Additional Funding aspect of the grant, then this is a mandatory step.

### Exchange rate fluctuation and pre-qualification

This provides applicants the opportunity to pre-qualify where they are concerned they may not meet the expenditure threshold solely due to fluctuations in exchange rates. For the full application process see [the criteria here](#).

### Final applications

Applications must be made within six months of completion of the production on the prescribed forms and all contracts forming part of the application must be fully executed.

The application must also contain:

- Fee (as determined by NZFC from time to time);
- Audited expenditure statement;
- Credit and promotional materials;
- A copy of the production (if requested);
- Statutory declaration; and
- Any further information as requested by NZFC.

Final applications generally take around three months from the date an acknowledgement letter that the application has been received has been issued by NZFC. Once the application is approved the payment will be made in 10 business days after the NZFC has received verified bank details. Unlike the International Grant the benefit can be assigned to a third party and paid to their nominated bank account.

## Assessment process

Once an application is received and checked the applicant will receive acknowledgement of receipt. The application is either internally assessed or sent to an independent consultant contracted by the NZFC to assess the application against the criteria. A final report is prepared by the NZFC using the information gathered during this process and the final report is then put before the NZSPG Panel for assessment.

The NZSPG Panel is made up of industry practitioners and representatives and is administered by the NZFC on behalf of the Ministry of Culture and Heritage. Representatives from IRD and MIBE are invited to attend the NZSPG Panel meetings.

Once a decision has been made by the NZSPG Panel, the decision is final and cannot be appealed. During the application assessment period, the applicant will have the chance to respond to an independent consultant or NZFC representative who may be assessing the application and comment on any adjustments to the QNZPE Domestic.

## Additional Grant and Significant Cultural Benefits Guidelines

There is an additional amount available for productions with more than \$15 million QNZPE Domestic and allows for a 40% rebate capped at \$14 million. This is a high threshold and applicants will only be successful if they can satisfy three additional aspects to the criteria.

### Producer experience

The applicant must demonstrate that the producer has experience in producing that format of that type (feature film, television, other format) in New Zealand or overseas. The production must have been released theatrically, broadcast on a major TV network or otherwise have been commercially exploited.

### Market attachment

The production must have market attachments that comprise 10% more of the production budget.

### Significant Cultural Benefits Test

The NZSPG Panel must be satisfied the cultural benefits provided by the production are commensurate with the value of the Additional Grant.

This is determined within the points framework of the Significant Cultural Benefits Test. This comprises of the following sections:

- New Zealand Subject Matter (Section A)
- New Zealand Production Activity (Section B)
- New Zealand Personnel (Section C)
- New Zealand Businesses (Section D)

The points framework provides guidelines for the Domestic Grant on eligibility but is subject to the NZSPG's discretion. Eligibility will be assessed on the following basis:

- A production that gains 27 out of 35 points will generally be considered to have significant cultural benefits (provided there are no other mitigating factors against eligibility).
- All productions are generally expected to receive at least five points in the related to New Zealand Subject Matter (Section A).

Every section has a minimum mandatory point requirement. For more details, [please see the full criteria here](#).



# Other domestic funding for New Zealand productions

There is a myriad of other production funding opportunities for New Zealand filmmakers and businesses with even more specific eligibility criteria. As a baseline applicants must be either New Zealand citizens, a permanent resident or a business registered in New Zealand. Generally, the key defining feature of eligibility for a production is it having significant New Zealand content.

Rather than these being a grant, production financing is provided as an equity investment, which means the NZFC has a state in the film and is entitled to recoup and profit from their investment. Like most investments there are terms of trade that attached with the financing.

## Feature film production investments

This incentive supports the making of diverse New Zealand feature films that are original, exciting and culturally significant. NZFC aims to invest about \$12 million into feature film production and post-production each year with the finance being spread across twelve projects. This will not necessarily

equate to equal funding amongst projects but generally, no more than \$2 million will be allocated to each project.

- Funding is aimed at feature films that are 80 minutes or longer and are to be screened in cinemas.
- Advertising, commercials, news or current affairs, or programmes primarily intended for television broadcast are not eligible.

The film needs to be distinctive, culturally significant, high impact, authentic and with a script that is ready for production. NZFC will expect to see a letter of interest from investors detailing the type of finance they are providing. The application must also include an audience engagement plan and market partners setting out the intended audience and how they will be reached.

The application assessment process is largely similar to that of the International Grant and Domestic Grant. External assessors may be appointed to consider if the application meets the criteria. Where relevant, an additional assessor with

appropriate cultural knowledge and/or value or experience with an under-represented group may be engaged as a Cultural Assessor to provide valuable objective insight. Once a decision has been made a conditional offer will be sent to the applicant and will remain valid for approximately four months. During this time all pre-closing conditions must be satisfied and in accordance to the terms of trade.

## Lower budget feature film

This incentive is aimed at lower-budget projects planned to be under \$500,000. The NZFC can provide an equity investment of up to \$250,000 if it is matched by an international market partner. If a project does not have an international market partner, the NZFC may be able to assist in introducing the applicant to one.

The project must have a strong script and a clear target audience, but both emerging and experienced filmmakers are encouraged to apply.

## Indigenous voice

These initiatives are focused on attracting and encouraging new and emerging Māori voices.

There is a strong focus on promoting the authentic representation of Māori characters, stories, places, history and culture in high quality films. The gateway to eligibility for this scheme is much tighter than the grants above, with some requiring the content to be led by Māori key creatives. These schemes include:

- Te Rautaki Māori Feature Film Initiative – \$2 million equity investment
- He Pounamu Te Reo Māori Feature Film Initiative – \$2.5 million equity investment
- Ngq Pouwhenua Joint Indigenous Initiative (one-off grant)

## Tax treatment

New Zealand has a simple tax system in the sense that there are no regional or provincial sales taxes. After an SPV becomes GST registered, the production can claim back 12.5% GST incurred on the purchase of goods and services in New Zealand. Most crews operate as self-employed individuals or through services companies which means they are usually responsible for their own taxes.

The New Zealand screen production industry is subject to special income tax rules under the 2007 Act. This is in line with the Government's efforts to encourage the development of the New Zealand screen production industry.

Key points of the tax treatment of the industry include:

- Income from films
- Deductions and timing rules in relation to film industry expenditure
- Deferred deductions relating to money not at risk
- Specific anti-avoidance provisions in relation to films

For further information, please see the IRD guide for income tax treatment of the New Zealand screen production industry [here](#).



# Other incentives

## Accident Compensation Corporation ('ACC')

ACC is a comprehensive no-fault insurance scheme that covers all injuries that occur in New Zealand. Under the scheme, it is generally not possible to sue for damages due to an accident. All New Zealand residents are covered by the scheme, and overseas residents status will vary depending on whether they are employees of, or contractors to, the production company.

## Customs (goods and equipment)

The customs regime for importing temporarily for this purpose is simple. Goods and equipment brought in are not subject to goods and services tax.

## No fringes

There are no compulsory fringe benefit tax obligations when the film crew are self-employed contractors. Fringes can include things such as employee benefits (pension, health, holidays) and payroll taxes and can contribute a significant cost to payroll. Comparatively, the fringe costs in Australia are greater than 24%, in Canada greater than 32.5% and in the United States, greater than 34%.

This is intended as a guide only for the productions stage of the film industry and is not a list of every available funding opportunity offered by the NZFC but rather has been refined to the production stage of the screen/film process. For further information on what the NZFC has to offer by way of support and other funding through all stages from early draft of screen play, through to development, post production and distribution and marketing, see their [helpful Funding Wizard](#).

# Conclusion

The New Zealand government has and is willing to invest heavily in the New Zealand film industry. It is evident from the growing expansion and success of New Zealand's film industry both in the domestic and international sphere that New Zealand is strongly placed to keep providing opportunities for our home grown talents and those from further abroad.

# Contacts



**Hayley Miller**  
Partner  
D +64 9 915 3366  
M +64 21 870 477  
E [hayley.miller@dentons.com](mailto:hayley.miller@dentons.com)



**Gretchen Fraser**  
Senior Associate  
D +64 9 375 1125  
M +64 21 386 500  
E [gretchen.fraser@dentons.com](mailto:gretchen.fraser@dentons.com)



# About us

We understand the dynamics of the ever-changing media industry and closely monitor developments in the media industry.

We advise on all aspects of consumer legislation including regulatory investigations, promotions, product safety issues, and claims of misleading representations, deceptive conduct and unsubstantiated claims.

We have acted for a number of well-known companies procuring new software platforms and our team is experienced in balancing agile software development contracts to reflect the reality of the agile model.

Our team offers a wide range of services including:

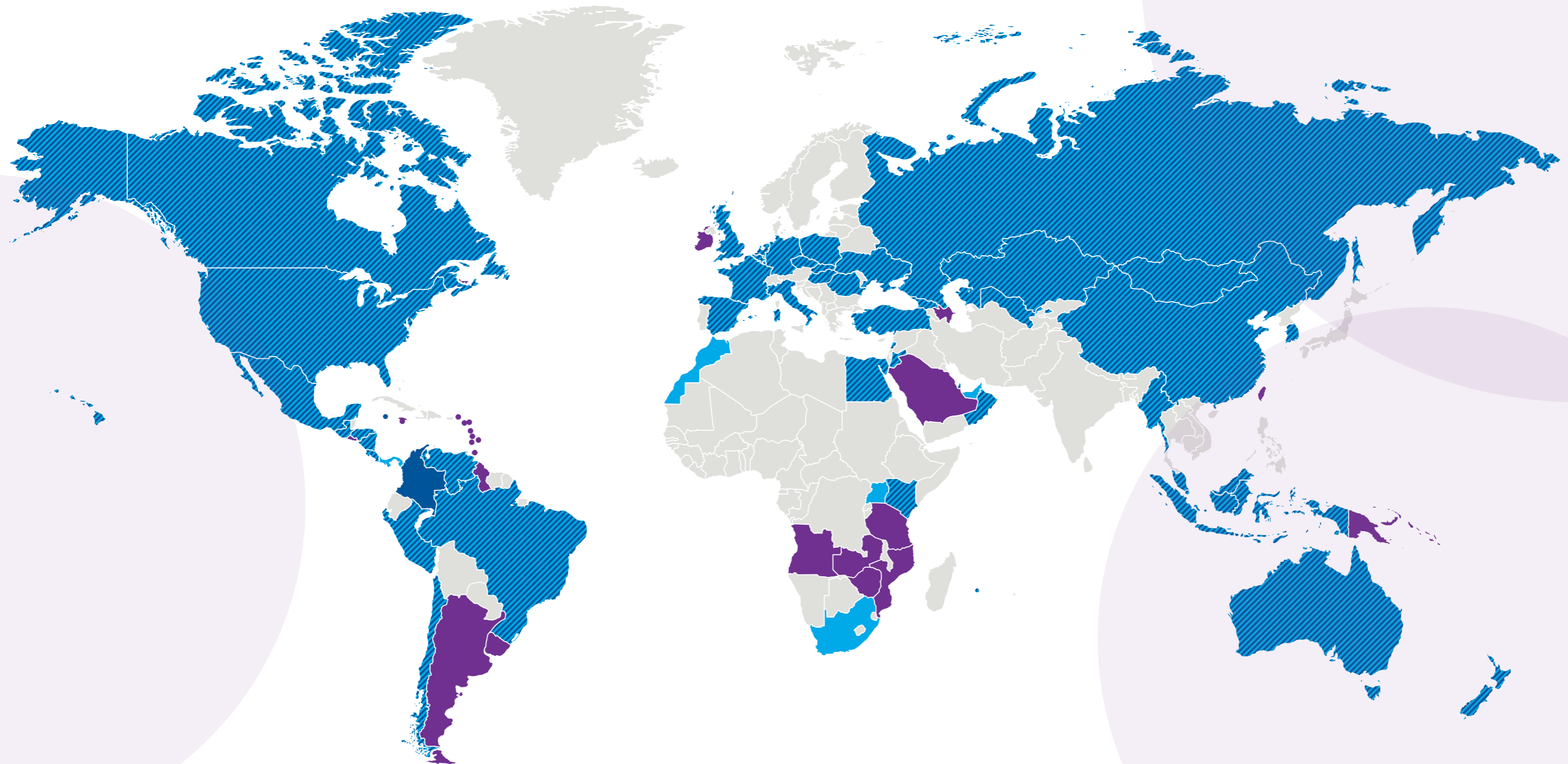
- M&A, competition and regulatory advice on transactional matters, such as acquisition and sale of different media outlets/businesses (i.e. films, television, music, publishing and digital media assets). We can advise you on the regulatory environment affecting your business or the transaction you are undertaking. We support all forms of corporate entity, providing compliance advice across the business lifecycle;
- Experience acting for businesses in the technology area, to develop priorities around protection of IP and confidential information, website and online sales terms and licensing agreements, as well as privacy issues and compliance, to help organisations unlock their potential as quickly and efficiently as possible;
- Advising a number of clients (including banks, airlines and other corporate and government entities) on the legal and other issues related to the use of cloud technology and legal issues relating to big data analytics;

- Legal assistance for advertising and media investment agencies in drafting and negotiating advertising, media buying and planning, barter, content production, inventory licensing contracts, search engine marketing and search engine optimization services, social media management, digital performance marketing, and behavioural advertising services contracts;
- Regulatory and competition compliance advice on distribution and financing of different media outlets/businesses (i.e. licensing and broadcasting rights, content production etc.);
- Regulatory and competition compliance advice on all IP-related issues, as well as data protection and data privacy issues;
- Resolving legal challenges associated with e-commerce and the new set of risks that must be effectively managed, including online security, the protection of personal information, and intellectual property protection;
- Litigation, arbitration or mediation advice, especially in relation to copyright, trademark or licensing disputes.

We bring deep experience and a successful track record of delivering and project-managing legal advice surrounding the procurement of complex, technology-based services with national significance.

Dentons Kensington Swan has been involved throughout the procurement life cycle of some of the most complex IT systems and services in the public sector in recent history in transport, immigration and corrections.

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- Other Dentons Offices
- Film industry experience only
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