

**MINUTES OF THE TWO HUNDRED AND EIGHTIETH MEETING OF
THE OFCOM BOARD HELD ON 17 MARCH 2021
MEETING HELD VIRTUALLY VIA MICROSOFT TEAMS**

Present

Maggie Carver	Interim Chair
Kevin Bakhurst	Executive Member and Group Director, Broadcasting & Online Content
Melanie Dawes	Executive Member and Chief Executive
Angela Dean	Non-Executive Member
Bob Downes	Non-Executive Member
Lindsey Fussell	Executive Member and Group Director, Networks & Communications (items 1-5 & 10-16)
David Jones	Non-Executive Member
Graham Mather	Non-Executive Member
Tim Suter	Non-Executive Member
Ben Verwaayen	Non-Executive Member

In attendance

Martin Ballantyne	General Counsel
Jacqui Gregory	Corporation Secretary
Jenny Leyland	Assistant Corporation Secretary

Other Ofcom colleagues:

- Yih-Choung Teh (items 8 and 11)
- Iqbal Marikkar (item 8)
- Curtis Juman (item 9)
- Brian Newcombe (item 9)
- Kerri-Ann O’Neill (item 10)
- Jane Rumble (item 10)
- Kate Davies (item 11)

Item 1: Declaration of Members’ Interests – oral

1. No new declarations of interest were notified.

Item 2: Chair’s Introduction – oral

2. The Chair welcomed all to the meeting.
3. Since the last Board meeting, the Chair had met each of the Non-Executive Members as part of the annual appraisal process and those meetings had also included a general catch up. One of the topics discussed at these meetings had been Board Members’ attendance at relevant events such as conferences. The Chair encouraged such attendance where it was wholly within Ofcom’s interest and consistent with the Ofcom Board Code of Conduct and the Seven Principles

of Public Life and confirmed that reasonable expenses incurred would be paid in accordance with Ofcom's Expenses Policy. The Chair referred to a number of engagements she had attended since the last Board meeting in February. She also advised that, with the welcome reduction in COVID-19 cases, consideration was being given to the post lockdown return to office-based working for colleagues and – restrictions permitting – a return to Board meetings held in person starting with the 23 June 2021 meeting.

Channel 4 Corporation Board Non-Executive Director Appointments - oral

4. The Board was updated on the status of the appointments process for three non-executive members of the Channel 4 Board. Ministers had confirmed that they were content for the recruitment to be launched, subject to any sift not taking place until the new Ofcom Board Chair was in place. The recruitment process for the three NED positions was due to commence on 1 April 2021, using appointed head-hunters. Secretary of State approval was awaited for the recommendation to reappoint Chris Holmes as Deputy Chair of the Channel 4 Board.

Item 3: Minutes of the meeting held on 10 February 2021 and Matters Arising – Board Minutes 279(20) and Note of Action Points

5. The minutes of the Ofcom Board meeting held on 10 February 2021 were **APPROVED** for signature by the Chair as an accurate record.

6. A summary of progress against action points had been circulated. Status updates against each of the actions were duly **NOTED**.

Item 4: Chief Executive's Report – Board Paper 12(21)

7. Melanie Dawes presented her report and provided an update on recent developments, including the following issues.

8. Wholesale Fixed Telecoms Market Review 2021-26 ("The Access Review"): The Access Review Statement would be published the following day, on 18 March 2021. The Board was updated on plans for the communication of this. Government was expected to set out its investment plans for fibre rollout to more rural/less commercial areas in the coming weeks.

9. Spectrum Auction: 700 MHz and 3.6-3.8 GHz: The results of the 'principal' stage of the auction had been announced on the day of the Board meeting. All the available spectrum had been sold and the total revenue raised was £1,356,400,000, with all the money to be paid to HM Treasury.

10. Royal Mail: Melanie Dawes reported on her introductory meeting with Royal Mail's new Chief Executive, Simon Thompson. He had focused in the meeting on the importance of building trust with employees and customers to progress efficiency reforms. A forthcoming decision for Ofcom would be when to remove the emergency provisions which applied during the COVID-19 pandemic and to require Royal Mail to meet normal service level requirements.

11. Broadcasting Complaints: Ofcom had received over 57,000 complaints relating to comments made by Piers Morgan in the wake of the Duke and Duchess of Sussex' interview with Oprah Winfrey. Ofcom had launched an investigation into the comments made during the Good Morning Britain programme broadcast on ITV on 8 March 2021.

12. BBC: The BBC were about to announce plans to move part of their programme production to locations outside London.
13. Video-Sharing Platforms (VSPs): On 10 March Ofcom had published guidance to help VSP providers to self-assess whether they would need to notify to Ofcom as UK-established video-sharing platforms, with the deadline for formal notification being 6 May 2021. On 24 March 2021 Ofcom would be publishing the next VSP-related consultation, which would seek views on Ofcom's guidance around risk of harms and protection measures. Two research reports would be published alongside the consultation document.
14. Chief Technology Officer Recruitment (CTO): Bob Downes had agreed to be on the Selection Panel for the CTO appointment. A long-listing meeting had been held recently.
15. Ofcom Leadership Survey: The recently conducted survey had shown strong scores for line manager behaviour in line with Ofcom's values, including the new value of "respect". Weaker areas had included career and performance management. The annual Colleague Survey would be conducted in the summer.
16. Openreach: In response to a question from the Board, Lindsey Fussell provided an update on Openreach service levels during the COVID-19 pandemic and the future requirements that would apply to them.
17. Power to the People: Independent Report on Competition: On 16 February 2021 John Penrose MP had published his report setting out proposals for the future of the UK's competition and consumer regime. The Government was considering its response to the report. Melanie Dawes commented that Ofcom was in a strong position as an effective regulator with competition at the heart of its approach.
18. Pre-disclosure Process: Since April 2020, Ofcom had been required by law to formally disclose new information that was being published to DCMS or, in some instances, BEIS. In answer to a question from the Board, the Executive Members confirmed that the process was working well, with no cause for concern. If anything, it had been a helpful discipline to encourage meeting deadlines for publication.
19. The Board **NOTED** the report from the Chief Executive.

Item 5: Executive Director Updates – oral

20. Lindsey Fussell provided an update on the draft report from the DCMS Telecommunications Diversification Taskforce. The report was due to be published in the next few weeks.
21. Martin Ballantyne provided further detail on the outcome of the 'principal' stage of the Spectrum Auction (referred to in minute 9 above). The auction would now move to the 'assignment' stage. This process involved a single bidding round in which the companies could bid for the frequency positions they preferred for the airwaves they had secured in the 'principal' stage, and potentially a 'negotiation' phase to facilitate defragmentation of the wider spectrum band. The fact that the virtual auction process necessitated by current COVID-19 pandemic restrictions had worked so well gave confidence that future auctions could be held virtually. The Board **ASKED** that Members' thanks and congratulations be conveyed to

Philip Marnick, Group Director, Spectrum, and all involved in the successful delivery of the auction.

22. Kevin Bakhurst provided an update on preparations for Ofcom's online harms responsibilities with confirmation received from DCMS of the funding for 2020/21 and the recent appointment of a Delivery Director. With reference to VSPs, he provided an update on ongoing discussions about jurisdiction issues and current engagement with BitChute. The BBC Chair and Chief Executive had invited the Chair and Chief Executive of Ofcom to attend their Board meeting for a discussion (likely to be the BBC Board meeting in May 2021). A date would be found for a corresponding session for the BBC Chair and Director General with the Ofcom Board later in the year. Kevin Bakhurst reported on several current content standards and fairness and privacy cases.

23. The Board **NOTED** the oral reports provided by the Executive Directors.

Item 6: Risk and Audit

Item 6.1: Report from the Chair of the Risk and Audit Committee - oral

24. Angela Dean reported on matters discussed at the Risk and Audit Committee meeting held on 3 March 2021. There had been no reports from the Internal Auditors (Deloitte) presented at the meeting. Deloitte were doing some helpful work to identify areas that had not been subject to internal audit for some time. The Committee had received updates on the Information Security/ISO27001 certification process and on cyber security issues. The Committee had also received a report on the People and Finance System Project. The launch date for the new system had been put back by four months to October 2021, largely for COVID-19 related reasons. The Committee had had a deep dive risk focus on Thought Leadership, and the Board would have an opportunity to focus on Thought Leadership strategy at a future meeting.

25. Melanie Dawes welcomed a suggestion from the Board that Ofcom should undertake some form of cyber-attack rehearsal as part of the business and continuity planning, possibly drawing on Bob Downes' recent experience at the Scottish Environment Protection Agency. The Board suggested that, in addition to the planned internal audit of Ofcom's cyber security, it would be helpful to have some form of Red Team penetration testing on a regular basis.

26. The Board **NOTED** the oral update provided by Angela Dean on the Risk and Audit Committee.

Item 6.2: Review of Risk Appetite Statements – Board Paper 13(21)

27. Angela Dean referred to the Risk Appetite Statements, which had been approved by the Risk & Audit Committee on 3 March 2021, following changes recommended by the Policy and Management Board (PMB). The changes were highlighted in the cover paper. The Board **APPROVED** the Risk Appetite Statements, as set out in the Appendix to Board Paper 13(21).

Item 6.3: Strategic Risk Register – Board Paper 14(21)

28. Angela Dean referred to the Strategic Risk Register, which had been circulated as Board Paper 14(21). The Risk Register had been reviewed by the Risk and Audit Committee at its meeting on 3 March 2021. The Board **NOTED** the Strategic Risk Register, as set out in Board Paper 14(21).

Item 7: Reports from Non-Executive Members – oral

29. Bob Downes reported on broadband rollout developments in Northern Ireland and Scotland, and on increasing interest in the introduction of a social tariff for broadband to help address the digital divide. Bob Downes also referred to concerns raised by independent producers in Northern Ireland and Scotland.

30. David Jones referred to a report published on the day of the Board meeting by the Welsh Parliament's Culture, Welsh Language and Communications Committee which called for the devolution of broadcasting powers to Wales.

31. Graham Mather was due to meet the Chair of the Communications Consumer Panel shortly and would provide feedback from that meeting at the next Board meeting.

32. Tim Suter referred to the meeting of the Advisory Committee for England that he had attended on 11 March 2021 and a presentation given there by the Chief Executive of PACT.

33. The Board **NOTED** the oral reports from Non-Executive Members.

Item 8: Ofcom Plan of Work 2021/22 and Process to Develop a Three-Year Plan – Board Paper 15(21)

34. Yih-Choung Teh introduced this item. The Plan of Work for 2021/22 had been published for consultation in December 2020. A summary of the responses received was included in Board Paper 15(21). The consultation responses typically supported the Plan of Work and raised questions on specific projects. No fundamental changes to the document were proposed as a result of the consultation responses received. Updates to the Plan, reflecting developments since it was published for consultation, were summarised in Board Paper 15(21).

35. The paper also set out a new approach to engaging with the Board in relation to Ofcom's strategic planning, including earlier engagement on issues and in a broader and more holistic way. The new approach included the development of a three-year business plan. The Board **WELCOMED** the new approach, as summarised in Annex 1 to Board Paper 15(21). In answer to a question from the Board, Yih-Choung Teh said that work was in hand to develop metrics against which to monitor progress delivering the business plan, and it was intended that the metrics should focus on consumer outcomes. The Board commented on the importance of thinking about the talent base and capacity as part of the organisation's strategic planning.

36. The Board **APPROVED** the Plan of Work, 2021/22 and **AGREED** to **DELEGATE** final sign-off to Melanie Dawes and Yih-Choung Teh. The draft statement was set out at Annex 2 to Board Paper 15(21).

Item 9: Budget for 2021/22 – Board Paper 16(21)

37. Curtis Juman introduced this item. He advised the Board that the Chief Secretary to the Treasury had confirmed funding of £18.9m for Ofcom's online harms work in 2021/22. Funding of £4.6m for Telecoms Security work was being sought and confirmation of that figure and the overall budget cap was expected shortly. Board Paper 16(21) outlined the proposed budget for 2021/22 and its make-up and described the rebalancing of Ofcom's resources over time from connectivity issues (the better broadband and mobile theme) towards more work on online policy, network security, innovation and data analytics as a result of new duties. It also

highlighted how the necessary savings for 2021/22 had been achieved and plans for dealing with the prospect of a flat cash budget in future years. The paper also set out the proposed tariffs for 2021/22.

38. Areas covered during discussion included:

- confirmation that the budget included provision for a ramping up of costs such as travel expenses as the restrictions that applied during the COVID-19 pandemic were anticipated to ease later in the year;
- confirmation that the impact of surrendered broadcasting licences post-Brexit did not have a significant impact on revenues;
- consideration being given to the charging regime for the VSPs/online harms work;
- the approach being taken to guard against wage inflation for new hires as Ofcom takes on new responsibilities; and
- an exploration of current tariffs and future charging mechanisms.

39. Following discussion, the Board:

- **NOTED** the overall budget, as set out in Board Paper 16(21) (ie, flat cash plus the funding for new duties, which was still subject to final HM Treasury approval in the case of the Telecoms Security work);
- **NOTED** the changes in budget and resource allocation which included considerable reprioritisation;
- **APPROVED** the proposed 2021/22 Budget; and
- **NOTED** the associated tariffs.

Item 10: Five Year Location Strategy, 2021-2026– Board Paper 17(21)

40. Kerri-Ann O’Neill introduced this item which set out the Five Year One Ofcom Location Strategy 2021-26. An extensive Board discussion took place, with discussion focussing on the recommendations to establish a new Ofcom location. During the course of discussion, a number of questions and challenges were raised by Board Members which the Executive was asked to reflect on in considering next steps.

41. Subject to the Executive reflecting on the comments and challenges raised by the Board, the Board:

- **CONFIRMED** its support of management, in principle, to:
 - help drive a bolder plan to extend Ofcom’s presence out of London through the opening of a new office hub in Manchester in FY21/22;
 - commence the process for acquiring a new location site. It was **NOTED** that details of the Manchester office and options for timings of openings would be presented to the Board in July, which would include commercial information for Board approval; and
 - the broad communications timetable to colleagues.

- **NOTED** the Five Year One Ofcom Location Strategy 2021-2026 to rebalance roles in Ofcom across the United Kingdom, as set out in Board Paper 17(21).

Item 11: Digital Regulation Cooperation Forum (DRCF) – Board Paper 20(21)

42. Kate Davies introduced this item. The DRCF membership comprised the Competition and Markets Authority, Information Commissioner’s Office, Ofcom and – from April 2021 – the Financial Conduct Authority. The DRCF Work Plan 2021-22 had been published on 10 March 2021. The Work Plan focused on three areas, namely:

- Responding strategically to industry and technological developments: establishing joint strategic projects where cooperation would help to provide clarity for businesses and digital service users; and regulatory coherence.
- Joined-up regulatory approaches: develop approaches for delivering coherent regulatory outcomes where different regulations overlap, such as the ICO’s Age Appropriate Design Code and Ofcom’s approach to regulating video-sharing platforms.
- Building skills and capabilities: develop practical ways of sharing knowledge, expertise, capabilities, and resources, for example, in AI and data analysis.

43. In answer to questions from the Board, Kate Davies confirmed that the DRCF would work with other regulators such as the Advertising Standards Authority and the Electoral Commission on particular issues, as appropriate, but that the membership was not intended to grow beyond the proposed four regulators. The Work Plan was adopting a “test and learn” approach. The key purpose of the DRCF was to ensure that cooperation between the regulators happened in the right way and it should exist for as long as it served that purpose.

44. The Board:

- **NOTED** the published scope of the Digital Regulation Cooperation Forum Workplan and the planned response to the DCMS Secretary of State’s request on further measures that might be needed to support cooperation. The Workplan was at Annex 1 to the Board Paper 20(21). The draft response to DCMS was at Annex 2.
- **NOTED** the implications of these developments for Ofcom.

Item 12: Advisory Committee for Wales: Reappointment of a Member – Board Paper 18(21)

45. The Board **APPROVED** the reappointment of Ruth McElroy to the Advisory Committee for Wales for a further two years until 30 April 2023.

Item 13: Minor Proposed change to Ofcom’s Delegated Authorities Framework – Board Paper 26(21)

46. The Board **APPROVED** minor changes to the Delegated Authorities Framework (Annex 4 to the Corporate Governance Framework) to extend the current delegated authority for relevant decisions in enforcement cases, to Principals in the Enforcement Team. The changes were highlighted in the Annex to Board Paper 26(21).

Item 14: Information Items

47. The Board **NOTED** the following information items:

- EU Engagement (Brexit) Update – Board Paper 19(21).
- Ofcom Diversity and Inclusion Update: Status on 2015-2020 D&I Targets and Update on New D&I Targets and Areas of Focus 2021-2026 – Board Paper 20(21).
- Ofcom Enforcement Function Update – Board Paper 22(21) – with a request **NOTED** from the Board to have an opportunity to discuss Ofcom’s Enforcement Strategy at a future meeting.
- Legal Update: Decision Making and Board Involvement – Board Paper 23(21).
- Monthly Finance Report – Board Paper 24(21).
- Board Work Programme/Forward Agendas – Board Paper 25(21).
- Minutes of the Content Board meetings held on 24 November 2020 and 26 January 2021).
- Minutes of the Risk and Audit Committee (meeting held on 2 December 2020).
- Minutes of the Communications Consumer Panel/ACOD (meeting held on 21 January 2021).

Item 15: Any Other Business

48. There were no additional matters raised at the meeting.

Item 16: Date of the Next Meeting

49. The next scheduled Board meeting will be held on Wednesday, 28 April 2021.