

**MINUTES OF THE TWO HUNDRED AND EIGHTY-EIGHTH MEETING OF  
THE OFCOM BOARD HELD ON 20 OCTOBER 2021  
AT GOLDSMITHS' CENTRE, 42 BRITTON STREET, LONDON, EC1M 5AD**

**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
David Jones	Non-Executive Member
Graham Mather	Non-Executive Member (attended virtually via Teams)
Ben Verwaayen	Non-Executive Member

**In attendance**

Martin Ballantyne	General Counsel
Jacqui Gregory	Corporation Secretary
Jenny Leyland	Assistant Corporation Secretary (attended virtually via Teams)

**Item 1: Declaration of Members' Interests – oral**

1. There were no new declarations of interest raised by Members at the meeting.

**Item 2: Chair's Report**

2. Opening remarks: Maggie Carver welcomed all to the meeting. She noted that several Board Workshops had been held during October (two on Online Safety) and she thanked Members who had attended for their time, particularly those already shouldering the burden of additional Board / Board Committee responsibilities.
3. Maggie Carver updated the Board on matters discussed at recent meetings which she had attended, including a meeting held with the Chairman of City Fibre, and a first meeting with the Rt Hon Nadine Dorries MP, who had been appointed Secretary of State for Digital, Culture, Media and Sport on 15 September 2021.
4. Non-Executive Ofcom Board Member Appointments: An update on Non-Executive Board Member appointments had been included in the action points note which had been provided ahead of the meeting. The advertisement for a new Ofcom Board Member had gone live on the HM Government Public Appointments website on 13 October 2021 and the Board was updated on plans for further advertising of the role and other engagement to seek to ensure there was a strong field of candidates for consideration. The Board noted that this was a DCMS led process, although Maggie Carver had been asked to serve as a member of the Recruitment Panel.

**Item 3: Minutes of the meeting held on 15 September 2021 and Matters Arising – Board Minutes 287(21) and Note of Action Points**

5. The minutes of the Ofcom Board meeting held on 15 September 2021 were **APPROVED** for signature by the Chair as an accurate record.
6. The Board **NOTED** that the People Committee had adjourned its meeting on 28 September 2021 so that the Board Members present could convene as the Ofcom Board to approve new terms of reference for the People Committee (as recommended by the Committee).
7. The Board **NOTED** approval obtained by Written Resolution (circulated on 29 September 2021) for the appointments and reappointments to the Board of the Channel 4 Corporation (C4C), as recommended in Board Paper 88(21), subject to final approval by the DCMS Secretary of State.
8. A summary of progress against action points had been circulated. Status updates against each of the actions as set out in the summary were duly **NOTED**.

**Item 4: Chief Executive’s Report – Board Paper 89(21)**

9. Melanie Dawes presented her report and provided an update on recent developments, including the following issues.
10. Fixed Networks: Melanie Dawes reported on recent meetings to discuss the fibre investment plans of the operators which were becoming clearer following implementation of the recommendations from Ofcom’s Access Review. A more detailed update paper would be provided for the 17 November 2021 Board meeting with time scheduled for discussion. A key challenge which was emerging was achieving customer penetration.
11. Broadband Switching: Ofcom’s Broadband Switching Statement had been published on 28 September 2021. The changes, which would be effective from April 2023, would mean that consumers would only need to contact their new provider to switch landline and broadband services.
12. Public Switched Telephone Network (PSTN): Ofcom was continuing to engage with the industry on PSTN switch-off, against a backdrop of increased media interest as consumers started to be migrated to digital voice as part of fibre rollout. There had been some issues with BT’s handling of the process which they needed to address.
13. Bilsdale Transmitter: On 10 August 2021 a fire had destroyed the Bilsdale Transmitter. It had taken until 13 October 2021 for a temporary mast to be erected and switched on. Melanie Dawes reported that it was clear that Arqiva’s contingency plans for a fire had not been adequate. Now that the operational crisis had been resolved, Ofcom would be undertaking a review of events, reporting in the New Year. An email from the Group Director, Spectrum setting out the approach to be taken to the review would be shared with the Board. In light of the incident at Red Bee Media’s broadcast centre in September 2021 which meant that Channel 4 programmes continued to be without subtitling, signing and audio description, the Board suggested that that there might be a wider issue to consider with regard to the resilience of broadcasting services.

14. Online Safety: The Joint Committee for Pre-Legislative Scrutiny of the draft Online Safety Bill was continuing to take evidence from a wide range of stakeholders. Melanie Dawes was due to attend the Committee to give evidence on 1 November 2021. In answer to a question from the Board, Melanie Dawes and Kevin Bakhurst provided an update on a recent meeting with the Commissioner of the Metropolitan Police and members of her team held to discuss the new online safety regime.

15. Return to office-based working: On 11 October 2021, Ofcom had launched a hybrid working trial for colleagues in England. During the trial period colleagues were being encouraged to aim to spend 60 per cent of their working week in the office, 40 per cent working from home. In answer to a question from the Board, Melanie Dawes said that whilst some colleagues, for a variety of reasons, remained reluctant to return to office-based working, that percentage had reduced significantly as colleagues experienced engaging with the Reunite programme of events and had begun to return to the offices. A flexible approach was being adopted, recognising that COVID numbers were increasing and current Government guidance might change. Lindsey Fussell referred to some sectoral differences which had to be worked through in recruitment, as prospective candidates in the Tech and Cyber sectors were used to a more flexible approach to their working arrangements.

16. The Board **NOTED** the report from the Chief Executive.

#### **Item 5: Executive Director Updates – oral**

17. Lindsey Fussell reported that, alongside publishing new research into consumers' experiences regarding suspicious calls and messages, Ofcom had launched a communications campaign which provided advice on how consumers could keep themselves safe and how to report scams.

18. Kevin Bakhurst referred to advice Ofcom was providing to DCMS in relation to drafting secondary legislation which would bring in new restrictions on the advertising of high fat, salt, and sugar (HFSS) products.

19. Martin Ballantyne advised that the High Court had refused permission for SCML's judicial review of Ofcom's sanction decision which imposed a financial penalty of £125k on SCML following Ofcom's finding of five due impartiality breaches on the CGTN service. SCML had decided to seek to renew its application by means of an oral hearing. Martin Ballantyne provided an update on the Court of Appeal's hearing of RT's appeal of the Divisional Court's Judgment.

20. The Board **NOTED** the updates presented orally at the meeting.

#### **Item 6: Report from the Interim Chair of the Content Board – oral**

21. Bob Downes reported on the meeting of the Content Board held on 5 October 2021. Maggie Carver had attended the meeting as an observer. Bob Downes referred to the difficulties which were being experienced with the recruitment of new Content Board Members for Northern Ireland and Wales, with a second advertising campaign being run. Bob Downes referred to a review currently being undertaken of the way the Content Board works, to reduce the time taken at meetings to provide updates to Content Board Members and allow more time for in depth discussion of current issues. The aim was to gain the maximum benefit for Ofcom from the experience and expertise of Content Board Members.

22. The Board **NOTED** the oral update provided by Bob Downes.

**Item 7: Report from the Chair of the Risk and Audit Committee – oral and Board Paper 90(21)**

23. Angela Dean reported on matters discussed at the Risk and Audit Committee meeting held on 6 October 2021, including the Strategic Risk Register which had been circulated to the Board as Board Paper 90(21). For reasons which had been explained and were understandable, several internal audit reports had been delayed meaning that the Committee would be asked to consider four reports at its December 2021 meeting. Angela Dean was keen to ensure, with the Executive, that there were no further delays to internal audit reports. The Committee had approved the Internal Audit Plan for the second half of 2021/22.

24. The Board:

- **NOTED** the oral update provided by Angela Dean.
- **NOTED** the updated Strategic Risk Register (SRR) (Annex 1 to Board Paper 90(21)), which had been recalibrated by the PMB and reviewed by the Risk & Audit Committee and which included changes in scoring and in the narrative, as a result of the detailed review by the PMB in September.
- **NOTED** that, overall, there were 10 changes in the SRR - there was a small net reduction in the current/residual risk (3 reduced, 2 increased) but a net increase in the target risk levels (4 increases, 1 decrease).

**Item 8: Reports from Non-Executive Members – oral**

25. In his update on current issues in Wales, David Jones referred to the announcement made by the Welsh Minister for Education and Skills on 19 October 2021 of a joint initiative between the Football Association of Wales and the Welsh Government to launch educational resources aimed at tackling online hate towards girls and women. On the same day the Welsh Government had announced that Professor Laura McAllister and Dr Rowan Williams would be co-chairs of an independent Constitutional Commission to consider Wales' future.

26. Bob Downes reported on current issues in Scotland, including a meeting with the Cabinet Secretary for Finance and the Economy. Production companies in Scotland continued to be concerned about the potential impact of the Government's proposals to privatise Channel 4. In Northern Ireland an anti-privatisation campaign was being led by Northern Screen.

27. Graham Mather reported on matters discussed at a meeting he had held with the Chair of the Communications Consumer Panel/ACOD. Graham Mather also referred to a meeting he had chaired with Treasury and BEIS officials on their forthcoming review of economic regulation.

28. Following her appointment as Board Member for England, Angela Dean had attended her first meeting of the Advisory Committee for England. Angela Dean provided feedback on her engagement with Committee members and reported on issues of concern to them.

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

**Item 9: National Advisory Committees: Review of Remit - Board Paper 91(21)**

30. [Witheld from published minutes]

31. Following discussion, the Board:

- **APPROVED** the proposed next steps set out in Board Paper 90(21) – in particular, the proposal for a meeting to take place between the Interim Chair, each of the Board Members representing the interests of the Nations and the Executives noted in the Board paper, to discuss how to help the Advisory Committees be more selective in what they considered/focused on and what, if any, amendments should be made to the terms of reference of the National Advisory Committees, to better reflect their role/remit. The Board suggested that a topic for inclusion in the discussion at that meeting should be how to ensure the most effective two-way communication between the Board/Executive and the Committees.
- **NOTED** that a further paper on proposed actions would be submitted to either the November or December 2021 Board meeting. Thereafter, a meeting would be arranged with the respective Advisory Committee Chairs.

**Item 10: Annual Report and Performance Report on the BBC – Board Paper 92(21)**

32. Ofcom's fourth Annual Report and Performance Report on the BBC was due to be published in November 2021. This year it would include an assessment of the BBC's performance over the Charter Period covering the last four years, which would lay the foundations for Ofcom's Periodic Review and the next Operating Licence.

33. One of the key themes to be drawn out in the report was that improved transparency, on the part of the BBC, was a pre-requisite for a less prescriptive approach to regulation. In answer to a question from the Board about what a less prescriptive approach might mean, Kevin Bakhurst gave the example of the Operating Licence which currently included 110 quotas on the BBC. Many of those quotas had been required to be included in the first Operating Licence under the Charter and Agreement. A move to a cross-platform approach to regulation including iPlayer and BBC Sounds in the Operating Licence could see the BBC being offered more flexibility about how it delivered on its Mission and Public Purposes across the platforms.

34. Following discussion, the Board:

- **NOTED** the key themes that the Executive proposed to focus on in this year's Annual Report and Performance Report on the BBC; and
- **AGREED** that final approval of the report for publication should be by the Chief Executive and the Group Director, Broadcasting & Online Content.

**Item 11: Total Facilities Management: Contract Tender – Board Paper 93(21)**

35. At the 15 September 2021 meeting the Board had received a background information paper on the Total Facilities Management contract tender. Following review and approval of the recommendation by the Operations Board and the Policy and Management Board, the Board:

- **APPROVED** the recommendation of the evaluation panel to award a contract to the first ranked supplier, Mitie Technical Facilities Management Limited (the incumbent);
- **NOTED** the full Tender Evaluation Report attached at Annex 1 to Board Paper 93(21); and
- **NOTED** other terms, including the duration of the contract term, price and the arrangements for extra works as set out in Board Paper 93(21).

**Item 12: One Ofcom Reunite Events and Hybrid Trial – Board Paper 94(21)**

36. The Board **NOTED** the update provided in the slide pack circulated as Board Paper 94(21) which explained the approach being taken to reinvigorate Ofcom's ways of working coming out of the pandemic. The work comprised two core strands of Reunite events and a new hybrid working trial – involving a test and learn approach to building future ways of working which was intended to distil and apply the best of working from home and working in an office across all Ofcom's UK sites.

**Item 13: Media Ownership/Plurality – Board Paper 95(21)**

37. The Board:

- **NOTED** the final recommendations on changes to the existing Media Ownership Rules (MORs) as set out in Board Paper 95(21). A statement was due to be published in November 2021;
- **NOTED** the intention to include, in the MORs statement in November, a summary of the key themes and concerns arising from the earlier Call for Evidence on the future of media plurality in the UK; and
- **NOTED** the proposal to publish a document in 2022, which would set out Ofcom's view on the key potential media plurality concerns in today's media market and recommendations as to how those issues could be addressed.

**Item 14: Information Items**

38. The Board **NOTED** the following information items without discussion:

- Finance Report – Board Paper 95(21)
- Board Work Programme/Forward Agendas – Board Paper 96(21)
- Publications Schedule – Board Paper 97(21)
- Minutes of the Communications Consumer Panel/ACOD (meeting held on 15 July 2021)

- Minutes of the Content Board “catch-up” meeting (meeting held on 7 September 2021).

**Item 15: Any Other Business**

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

**Item 16: Date of the Next Meeting**

40. The next scheduled Board meeting will be held on 17 November 2021.

**Board Strategy Event**

41. The annual Board Strategy Event took place at the conclusion of the Board meeting.