

**MINUTES OF THE ONE HUNDRED AND SEVENTY-SECOND MEETING OF THE OFCOM
CONTENT BOARD HELD VIRTUALLY VIA MICROSOFT TEAMS
ON TUESDAY 5 OCTOBER 2021**

Members Present:

Bob Downes	Interim Chairman
Dekan Apajee	Member
Jonathan Baker	Member
Kevin Bakhurst	Executive Member
Rachel Coldicutt	Member
Maggie Cunningham	Member
Aled Eirug	Member
Robin Foster	Member
Anna-Sophie Harling	Member
Peter Horrocks	Member
Tobin Ireland	Member
David Jones	Member
Ali Marsden	Executive Member
Stephen Nuttall	Member
Monisha Shah	Member
Kim Shillinglaw	Member

Apologies:

Sophie Morgan	Member
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In Attendance:

Maggie Carver	Interim Ofcom Chairman (observer)
David Edwards	Assistant Corporation Secretary
Adam Baxter	Director, Standards and Audience Protection
Other Ofcom colleagues attending for specific items	

Introduction & Welcome

1. The Chairman welcomed all present to the one hundred and seventy-second meeting of the Content Board, including Maggie Carver, Interim Chair of Ofcom, who was attending as an observer.
2. Sophie Morgan was not present but members noted that this would have been her last meeting, her appointment was due to end on 31 October.
3. The Chairman flagged a desire to hold a Content Board meeting at Ofcom's new Manchester office in due course.

Members' interests

4. Rachel Coldicutt had reported (at a Content Board catch-up held on 7 September) that she was acting as a consultant on a "Safety Tech" project that Ipsos Mori was undertaking for DCMS. She also informed members that she had been invited to provide written evidence to the parliamentary Draft Online Safety Bill Joint Committee.
5. Kim Shillinglaw reported that she had been appointed as Chair of the Discovery Decade project, a CaSE-Wellcome project on UK R&D Investment, and as a non-executive director of Curious Films, an independent TV production company.

Minutes of the Content Board Meeting held 6 July 2021 – CB Minutes 171(21), Actions List and Matters Arising

6. The minutes of the Content Board meeting held on 6 July 2021 were agreed as a true and accurate record for signature by the Chairman.
7. There remained two outstanding actions, to schedule discussions about due impartiality and on broadcasting strategy. The latter would be picked up at an offline session and combined with discussion of Ofcom's Plan of Work 2022/23.
8. [Note: Following the meeting it was agreed that discussion of due impartiality would be part of the agenda for the 25 January 2022 Content Board meeting. As preparation for the January discussion, an offline due impartiality teach-in and discussion would take place, for those Content Board members who were interested, to go through Ofcom's due impartiality rules and approach in more detail.]
9. There were no other matters arising.

Chairman's update

10. The Chairman reported on recent discussions of the Ofcom Board and focussed on the main areas of work. These had included an update on plans to restore service following the 10 August fire at the Bilsdale TV Transmitter Mast, in North Yorkshire, and discussion of Ofcom's Broadcasting Strategy.

Broadcast and Online Content Group Policy updates – CB 25(21)

11. Members had received a paper providing an update on key policy and project areas in the Broadcast and Online Content Group.
12. Members were updated further on a wide range of topics, including:
 - Online safety (OS); members noted ongoing Ofcom parliamentary engagement; Ofcom's Chief Executive was due to appear before the Draft Online Safety Bill Joint Committee, on 1 November 2021, and she had written a joint letter to the DCMS Sub-committee on Online Harms and Disinformation and to the Draft Online Safety Bill Joint Committee setting out, at a high-level, Ofcom's views on the draft OS Bill and the key questions for parliamentarians.
 - It was noted that the September Cabinet reshuffle had resulted in a new set of ministers at DCMS, including a new SoS. [Note: Chris Philp MP would be responsible for OS.]
 - It was further noted that in the previous week, as part of OS stakeholder engagement, the Executive had met the Commissioner of the Metropolitan Police.
 - Other OS matters touched on were the recent opening of Ofcom's office/ digital and technology hub in Manchester; whether appointment of new DCMS ministers could lead to a change of emphasis or delay the OS legislative timetable; HM Treasury's 2021 spending review and possible impact on Ofcom's OS budget; and ongoing engagement with the Content Board on Ofcom's OS policy framework, possibly via a Content Board sub-group.
 - Video Sharing Platforms (VSPs); it was noted that the following day would see the publication of VSP Guidance, a statement and a VSP plan and approach paper (see separate agenda item below).
 - Diversity; on 29 September Ofcom had published its fifth annual diversity report covering TV and radio, including a review of progress over the past five years. Publication had been followed the

- next day by a virtual *All In: Diversity in Broadcasting 2021* event.
- Standards and Audience Protection; it was noted that Ofcom's Standards and Audience Protection Team would be led by three Directors going forward, in recognition of the high volume of work that the team was dealing with. A note would be sent to Content Board members to set out the division of responsibilities of these Directors.
 - Various areas of work were highlighted, including: Ofcom's Annual Report and Performance Report on the BBC (see separate agenda item below) which included the BBC's observance of content standards; the BBC Periodic Review, for which Ofcom research had been commissioned on audience attitudes to the 'BBC first' system for complaints about programmes; and BBC transparency – a recent meeting was held with Tim Davie, Director-General, to discuss the BBC's approach to transparency. Two BBC-related Ofcom investigations were highlighted, one on due accuracy in an edition of *BBC News at Six* and one on due impartiality in an edition of *The World at One*.
 - Other matters touched on included: Ofcom's recent not in breach decision related to ITV's *Good Morning Britain (GMB)*; sanctions levied against CGTN and RT; the BBC Serota Review; and complaints about GB News related to a number of different programmes and issues.
 - BBC work areas; it was noted that Ofcom was consulting on its preliminary determination that the BBC should be allowed to launch BBC Three as a broadcast channel (returning to linear TV when it was currently an online service) and an information paper had been provided to members with more details.
 - As part of the review of BBC Studios, it was noted that the Executive had written to the BBC to confirm Ofcom's understanding of the arrangements in place for the treatment of revenue from secondary content sales (which might give BBC Studios an advantage compared to its rivals) and of how the BBC considered that this was consistent with Ofcom rules. In addition, assessment of BBC's transfer pricing had also identified potential concerns with processes/ record keeping (although not to the extent that this would be a competition concern) and the latter would need to be consistent with Ofcom rules.

BBC Annual Report & Performance Report – CB 26(21)

13. Ofcom would publish its fourth Annual Report and Performance Report on the BBC, in November 2021. It would include an assessment of the BBC's performance over the existing Charter Period and contribute to Ofcom's Periodic Review of the BBC. Members were asked to provide feedback on the key findings that Ofcom proposed to include in the publication and noted the live issues of the next licence fee settlement and of the ongoing Serota Review.
14. Issues raised or discussed by members included reporting on diversity; representation and portrayal, lower satisfaction levels being noted in Scotland and a need for research in this area; provision of local news during the pandemic and online; whether lessons from the pandemic meant that the BBC would be well prepared to deal with challenging times in the future; BBC investment in original programming; the volume of production that had moved to BBC Studios; the cost implications of making BBC Three a linear TV channel; how well the BBC was able to generate third party financing to

supplement its own spend, but perhaps at the expense of losing some editorial control; whether the iPlayer was meeting targets and public service objectives; and the reach, relevance and impact of BBC programming.

VSP Regulation: Ofcom's approach and priorities for the year ahead – CB 27(21)

15. Members noted Ofcom's strategy, its plan for the first year of regulating Video Sharing Platforms (VSPs) and guidance for VSPs, due to be published the following day and marking a significant moment for Ofcom (as the first communications regulator to do so) and the end of the implementation phase of work and the beginning of a gradual process of compliance. Members were briefed on Ofcom's five areas of focus: reducing the risk of child sexual abuse material; tackling hate and terror; protections for under-18s; age verification on adult VSPs; and user reporting and flagging processes. The regime would include an annual Ofcom VSP report (the first to be published in Autumn 2022).
16. Issues raised or discussed by members included age verification, it being noted that Ofcom would be working with platforms and other regulators to coordinate efforts in this area and that approaches in different stages of development included age verification and age estimation, the latter based on online cues about a user's age; high public expectation when instead there would be gradual improvement; outcomes, an evidence base and value in developing short-term KPIs; and complaint handling, it being noted that it would *not* be Ofcom's role to respond to or adjudicate on individual user complaints but to monitor trends that would help to identify compliance concerns (a similar model existed for telecoms complaints).
17. It was noted that a consumer awareness campaign would take place in the winter to explain Ofcom's role as the VSP regulator and, in due course, the Executive would be able to update further on the campaign and matters including age verification.

Audience expectations in broadcast standards – CB 28(21)

18. In light of the recent *GMB* case (see above) and responding to a member's suggestion, the Executive had prepared a short paper to prompt discussion of how audience expectations were taken into account in decisions in broadcast standards cases. The topics covered included: the legal background; the consideration of audience expectations in cases relating to generally accepted standards, due impartiality and incitement/hate speech; and some illustrative case studies.
19. Issues raised or discussed by members included: the fact that audience expectations was not the only and determinative factor in decision-making; how audience research could help in determining audience expectations; how provocative/ confrontational presenting styles and non-UK editorial perspectives could shape audience expectations; the need for a common set of content standards across all communities; Ofcom's use of language and cultural experts; and learning for Ofcom as it took on OS regulation.

Information items

20. The following items were noted:
 - BBC Three BCA and associated changes – CB 29(21)
 - Minutes of the Ofcom Board (23 June, 8 and 21 July 2021); and
 - Minutes of the Communications Consumer Panel/ACOD (17 June and 15 July 2021).

Any Other Business

21. Maggie Carver thanked Bob Downes for taking on the role of Interim Chairman of the Content Board, following the resignation of Tim Suter from the Ofcom Board in May. Members noted that the Ofcom Board vacancy was expected to be advertised by DCMS later in October and that the recruitment process for new Wales and Northern Ireland Content Board members was ongoing.
22. Bob Downes was unable to attend the next Content Board meeting in November and David Jones had kindly agreed to chair the meeting (it would be the last meeting for Aled Eirug and Robin Foster).

Date of the Next Meeting

23. The next meeting of the Content Board was scheduled to take place on 30 November 2021.