

**MINUTES OF THE TWO HUNDRED AND FORTIETH MEETING OF
THE OFCOM BOARD HELD ON 16 MAY 2017**

Present

Patricia Hodgson	Chairman
Sheila Noakes	Deputy Chairman
Sharon White	Chief Executive
Lynne Brindley	Member
Graham Mather	Member
Nick Pollard	Member* (not minutes 14-15)
Jonathan Oxley	Executive Member and Group Director, Competition
Steve Unger	Executive Member and Group Director, Strategy, International, Technology and Economists

*Nick Pollard recused himself during discussion of the potential 21st Century Fox/Sky News public interest assessment. Board Paper 54(17) was not provided to him.

Apologies

Ben Verwaayen	Member
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In attendance

Kevin Bakhurst	Group Director, Content and Media Standards (minute 14-15)
Lindsey Fussell	Group Director, Consumer (minute 17)
Polly Weitzman	General Counsel
Steve Gettings	Corporation Secretary
Jenny Leyland	Assistant Secretary to the Corporation

Other Ofcom Colleagues

Minutes of the meeting held on 11 April 2017 matters arising – Board Minutes 239(17)

1. The minutes of the Ofcom Board meeting held on 11 April 2017 were **APPROVED** for signature as an accurate record. There were no matters arising.
2. The Board noted that approval had been given by email between meetings for revised Terms of Reference for the Election Committee and confirmation that Nick Pollard should continue to chair the Election Committee.

Chairman's Report – oral

3. The Chairman provided her report to the Board which included reference to recent meetings. This included a meeting with the Chairman of Channel 4 during which the recruitment process for appointments to the Channel 4 Board was discussed; meetings in Scotland with members of the Scottish Government; and a session with the BBC Board as part of their induction process.

4. The Board noted the recent announcement that the Chairman would be stepping down at the end of 2017, a few months before the end of her extended term. This would allow for a new Chairman to be involved in other Board appointments due next year.

5. Appointment to the Communications Consumer Panel/Advisory Committee on Older and Disabled People: The Board **APPROVED** the appointment of Amanda Britain as the CCP/ACOD member for Scotland, following the retirement of Mairi Macleod.

6. Changes to Members' portfolios: There were none to report.

Report from the Chairman of the Content Board (meeting held 25 April 2017) – oral

7. Nick Pollard reported on matters discussed at the Content Board meeting held on 25 April 2017. He also provided updates on the recruitment process for new Content Board members and on recent content standards work.

Report from the Deputy Chairman on matters discussed at the Risk and Audit Committee meeting held on 15 April 2017 - oral

8. The Deputy Chairman reported on matters discussed at the Risk and Audit Committee meeting held on 15 April 2017. The Committee's main focus had been on approving the draft accounts for 2016/17 for release to DCMS, needed for their consolidation process. The Committee had considered a further draft of the Annual Report 2016/17 and asked for some further work to be done ahead of a draft being provided to Board Members for comments. The Board would be asked to approve the final version at the 13 June Board meeting, following review at the Risk and Audit Committee meeting on 5 June 2017.

Reports from other Non-executive Members – oral

9. Graham Mather reported on a recent meeting with the Chairman of the Communications Consumer Panel/ACOD. A particular concern raised was around unfair contract terms, and specifically where consumers were continuing to pay a handset subsidy under their contract with a mobile telephone operator when they had already paid for the handset.

Chief Executive's Report – Board Paper 53(17)

10. Sharon White presented her report to the Board and provided an oral update on current issues. This included the recent announcement of a forthcoming review of the cost of calls to 070 and 118 numbers. The Board was also updated on a pilot being run on the second floor at Riverside House of new open plan office space to facilitate agile working. There was some discussion of the Colleague Survey results. The survey would in future be conducted on an annual basis which would enable trend information to be monitored.

11. Following the ransomware attack launched on 12 May 2017, the Board had been provided with an information paper on Ofcom's handling of its cyber security and the measures in place to counter such attacks (Board Paper 67(17) refers). Following discussion the update was noted.

12. The Board commended those involved at Ofcom in work on the Digital Economy Bill which had completed its passage through Parliament and received Royal Assent to become the Digital Economy Act.

13. The Board welcomed the publication on 12 April 2017 of the first annual report comparing service quality provided by the UK's largest landline, broadband and mobile providers, alongside an interactive tool to help consumers compare provider service in detail.

21C Fox/Sky Bid – Board Paper 54(17)

14. The Board discussed the information paper updating it on the public interest test and the fit and proper assessment, and proposing arrangements for making decisions on the advice and recommendations to the Secretary of State on the public interest assessment considerations specified in her European Intervention Notice and on Ofcom's ongoing duty to be satisfied that the holders of Broadcasting Act licences are fit and proper persons in light of the proposed transaction. The Board considered precedents in respect of merger and broadcast licensing decisions. The Board also discussed the particular circumstances surrounding the public interest test and fit and proper assessment. The Board agreed that, subject to the Board being updated and informed about the process, approach and progress at all key stages of consideration, the Chief Executive and the Content Group Director would take these decisions under the relevant delegation in the Delegations Framework approved by the Board in 2016. The Board noted that the General Counsel would provide advice to the Chief Executive and the Content Group Director. In approving these arrangements, it was also recognised that any question of possible conflicts from any non-Ofcom responsibilities or experience of other Board Members could not arise.

Digital Communications Review: How our enforcement strategy supports our wider policy objectives – Board Paper 55(17)

15. The Board was updated on and supportive of the new approach to enforcement strategy as set out in Board Paper 55(17). The key principles shaping the enforcement strategy would be:

- Enforcement actions should reinforce Ofcom's wider policy objectives, ensuring that every investigation has a clear narrative supporting wider policy objectives, including how it benefits consumers.
- We will take an end-to-end approach to enforcement, considering from the outset the compliance and deterrence messages involved in any given intervention.
- We will have a balanced and considered approach to legal risk, considering what is appropriate on a case by case basis.

16. The Board noted that to help underpin the success of our revised strategy, stakeholder engagement would be crucial. To that end, Board Members were in a unique position to act as advocates of Ofcom's approach to enforcement in their engagement with stakeholders, to emphasise its key role in achieving effective competition outcomes and maximise consumer benefits. This would include encouraging stakeholders to engage in open and frank discussions with Ofcom's enforcement teams in relation to any concerns they may have that impact on the effective operation of competition of the market or have detrimental implications for consumers.

17. The Board noted that two important mobile coverage obligations would crystallise at the end of 2017: O2's obligation to reach 98 per cent of UK indoor premises coverage for 4G services (including 95 per cent coverage in each of the nations of the UK) and all four major mobile network operators' obligation to reach 90 per cent geographic voice coverage. Both

obligations were conditions of the relevant MNOs' spectrum licences. Following the recent enactment of the Digital Economy Act 2017 Ofcom had powers to impose financial penalties for breaches of conditions of spectrum licences. The Board noted that a discussion of mobile coverage policy options was scheduled for the 13 June 2017 meeting.

Update on Consumer Switching Reforms – Board Paper 60(17)

18. The Board was updated on proposed next steps for the Mobile and Triple Play Switching Projects. In relation to Mobile Switching the Board **APPROVED** the proposal set out in Board Paper 60(17) to proceed with a consultation on a revised a package of process reforms. In relation to proposed next steps for Triple Play Switching the Board asked for an opportunity to discuss this further at the 13 June Board meeting.

Ofcom Board Forward Agendas – Board Paper 57 (17)

19. The Board reviewed the latest iteration of the Board forward agendas plan. It was noted that the 13 June Board meeting would take place shortly after the General Election and that it would be helpful if the Government and Parliamentary Team could attend to provide a briefing on the outcome. A briefing by the National Cyber Security Centre which had been due to take place to coincide with today's Board had been postponed and would be rearranged.

BBC Related Amendment to the Delegations Framework – Board Paper 59(17)

20. The Board **APPROVED** an amendment to the existing Delegations Framework (in paragraph 1.15) which flowed from the provisions of the Digital Economy Act amending the scope of Ofcom's vires in relation to the BBC. The relevant provisions of the Digital Economy Act brought the scope of Ofcom's vires into line with the functions already contained in the new Charter and Agreement.

Information items

21. The following information papers were noted.

- Cyber Security in the Communications Sector – Board Paper 56(17)
- Briefing for Board lunch with the BBC Chairman and Director General – Board Paper 58(17)
- Digital Economy Bill Update – Board Paper 61(17)
- Update on EU Digital Single Market – Board Paper 62(17)
- Content Board: Editorial Standards: Summary and Review – Board Paper 63(17)
- Community Radio Fund Panel Annual Report – Board Paper 64(17)
- Management Information Report – Board Paper 65(17)
- Major Incidents: Preparation update – Board Paper 66(17)
- Ofcom Cyber Security Update – Board Paper 67(17)

Minutes from other Boards/Panels/Committees

22. The Board noted the minutes of the following meetings without comment:

- Advisory Committee for Northern Ireland (2 February 2017)
- Advisory Committee for Wales (9 February 2017)
- Communications Consumer Panel/ACOD (23 March 2017)
- Content Board (7 March 2017)
- Advisory Committee for Scotland (8 February 2017).

Any Other Business

23. There was none.

Date of the Next Meeting

24. The next scheduled Board meeting will be held on Tuesday, 13 June 2017. It was agreed that an interim meeting would be arranged.