

Minutes of the 82nd meeting of The Advisory Committee for Wales held via Teams on 22 September 2021

Present

Hywel Wiliam	Chair
Peter Trott	Member
Robert Andrews	Member
Andrew Board	Member (joined at item 5)
Ruth McElroy	Member
Rem Noormohamed	Member (joined at item 5)

In attendance

David Jones	Ofcom Board Member for Wales
Aled Eirug	Content Board Member for Wales
Sian Phipps	Communications Consumer Panel Member, Wales
Eleanor Marks	Director, Ofcom Wales
Elinor Williams	Principal, Regulatory Affairs, Wales
Meleri Evans	Regulatory Affairs Manager, Wales

Other Ofcom colleagues

Apologies

Agenda items	Action
<p>Introduction</p> <p>1. The Chairman welcomed attendees to the 82nd meeting of the Advisory Committee for Wales. No apologies were received but AB had noted that he would be joining the meeting slightly later than the starting time.</p>	
<p>Declaration of Members' Interests – oral</p> <p>2. RM said that she had accepted an invitation by DCMS to join the group evaluating Festival 2022.</p>	
<p>Minutes of the meeting held on 15 June 2021 and matters arising – Minutes ACW 81</p> <p>3. The minutes of the meeting held on 15th June 2021 had been previously circulated to Members. The minutes were APPROVED as a true account of the meeting with no comments or amendments.</p> <p>Matters arising/outstanding Actions –</p> <ul style="list-style-type: none"> • Calon FM: It was mentioned that the licence transfer process for the community radio station was now complete and that the licence is now owned by Wrexham Broadcasting Ltd. It was also confirmed that the Wrexham Broadcasting Ltd formed part of an application for a small-scale DAB licence for North Wales. 	

<ul style="list-style-type: none"> • Ownership of Channel 4 consultation: The Chair thanked members and Ofcom Wales colleagues for their contributions to the committee’s submission. It was agreed that consideration be given to the need to submit future consultation responses in Welsh depending on the nature of the subject area being consulted upon. • Hard to reach areas consultation: The Chair thanked PT for his expertise and guidance in drafting the committee’s submission. 	
<p>Chairman’s Report – oral</p> <p>4. The Chairman gave an oral update of his activities since the last meeting including:</p> <ul style="list-style-type: none"> • Process of recruiting new members to the Advisory Committee for Wales was nearing completion and that it is hope that the new members would join the November meeting. • Welsh Community Radio Network (WCRN) – meeting with the head of the organisation which is reported to be in good shape. • Teledwyr Annibynnol Cymru (TAC) - provided insight into the way Channel 4 collaborates with the independent sector in Wales. • Communications Consumer Panel (CCP) Hub Wales – will be attending the Hub meeting on 6th October • Wales Internet Safety Partnership (WISP) – attended a meeting of WISP <p>Housekeeping – It was agreed that a disclaimer would be included on ACW documents in future, clarifying the role and nature of the Advisory Committee for Wales.</p> <p>A member asked for an update on the research on network news content analysis and it was agreed to ask Prof Stephen Cushion to attend the November meeting to discuss the findings.</p> <p>The Chair thanked members whose terms on the committee had come to an end. The Chair closed his update by mentioning that he would very much like to be in a position to meet in person in the office for the next meeting in November and to consider the possibility of organising a get together for committee members and Ofcom Wales team before Christmas.</p>	EW
<p>Draft Plan of Work 2022_23 and Strategy Planning</p> <p>5. Colleagues outlined that the team is very much in the early stages of pulling together the draft Plan of Work for publication before Christmas but that the document will broadly follow the same structure as 2021_22. It is envisaged that the Plan of Work event will be hosted by the Ofcom Wales team once again next year as with the other nation’s offices. The aim is to publish a final statement on Ofcom’s Plan of work at the end of March 2022.</p> <p>In discussing Ofcom’s longer-term strategy, policy colleagues mentioned that Ofcom’s mission is to make communications work for everyone and that the focus was on ensuring that Ofcom does what is required to deliver on that mission.</p> <p>In terms of establishing new partnerships, a member urged the team to learn from the experiences of partnerships established in other countries. The member also highlighted the relicensing of Channel 3 and 5 as key pieces of upcoming work.</p>	

A member asked whether consideration had been given to whether the Content Board was the right forum to regulate both broadcasting and online safety. Members of the team noted the comment and said that it would be picked up with relevant colleagues.

A member raised the continued relevance of affordability in light of the reduction in universal credit and energy price rises. In addition, the same member highlighted the need to include the relevance of Fixed Wireless Access as a viable means of getting some of the hardest to reach areas connected. Copper retirement and the switch off of 2G and 3G were also highlighted as being of importance to stakeholders in Wales and that Ofcom's position on both should be clarified in the document.

Climate change and its relevance to and impact on the broadcasting landscape was raised by a member, noting that UK PSB's had already published net zero plans with a focus on 2030 and queried Ofcom's position on this. Colleagues mentioned that this would be considered and reflected as appropriate in the Plan of Work document.

Update: Ofcom Content Board Member for Wales

6. The Content Board Member for Wales had previously circulated an update paper. Highlights included:

- The online safety programme and video sharing-platforms - Melanie Dawes wrote to the chair of the Parliamentary committee scrutinising the new online safety legislation, to give Ofcom's view of the legislation.
- Notable investigations completed in the last two months have included the Piers Morgan complaint (c. 50,000 complaints received). The decision was that it was not in breach of the Broadcasting Code given the significant challenge to Piers Morgan's comments provided by other presenters and guests.
- GB News launched in June, with Andrew Neil as its chairman. Ofcom has received a steady stream of complaints regarding a number of its programmes and is assessing them.
- HFSS Advertising - For TV and on-demand programme services under UK jurisdiction, HFSS advertising will be prohibited between 5.30pm - 9pm, and for online, paid-for HFSS will be prohibited.
- Ofcom's review of the interaction between the Public Service and BBC Studios will be published in late October 2021.
- Ofcom will publish its fourth Annual Report on the BBC in November 2021, which will set out how Ofcom has conducted its regulation of the BBC, in securing effective regulation of the BBC's performance; protecting fair and effective competition; and securing the observance of content standards.
- A 'section 229' report is due to be presented by Ofcom to the Secretary of State at DCMS by June 2022, which will provide an opinion as to whether the present Channel Three and Channel Five licence holder will be able to contribute, at commercially sustainable cost, to the fulfilment of the public service purposes over the next ten years from January 2025.

Communications Consumer Panel Update

7. The Communications Consumer Panel Member for Wales had previously circulated an update report on the Panel's activities since the last meeting. Key highlights as mentioned during the meeting included:

<ul style="list-style-type: none"> • The Panel Member for Wales recently chaired a meeting of the Communications Consumer Stakeholder Hub for Wales, which focused on making communications services more inclusive to consumers, citizens and micro-businesses. • The Panel continues to be concerned about the impacts of migration to voice-over IP on consumers and citizens and micro-businesses, particularly consumers with specific support requirements who rely on services such as telecare users. • The Panel is currently scoping out potential research projects for the forthcoming year and possibilities include the role of FWA in connecting those premises in rural Wales that remain with poor connectivity and a programme of work around vulnerability, the definition for which needed to be carefully considered. <p>A member suggested that it would be beneficial to engage with the Awen Institute and Age Cymru in relation to Migration to VOIP. Another member reaffirmed the need to define 'vulnerability carefully' and whether students should in fact be included in this group in relation to their ability to afford to pay for communications services.</p>	
<p>Report – Wales Recent Developments</p> <p>8. Members noted the contents of an update paper previously circulated commenting on topics including:</p> <ul style="list-style-type: none"> • Memorandum of Understanding (MOU) – Ofcom has agreed to amend the text in a manner which will see Ofcom and the Welsh Government meet at least once a year to share strategic priorities. • WLGA - Ofcom met with the Welsh Local Government Association alongside colleagues from our Consumer Enforcement team to discuss our Telephony Universal Service Obligation review programme of work. • Ofcom Network News - Coverage of devolved nations - Cardiff University has been appointed to undertake the project and Professor Stephen Cushion and his team are currently analysing television network news broadcast during a four-week period in June. A final report should be ready by November. • Investigation by Welsh Language Commissioner - the Welsh Language Commissioner has launched an investigation into Ofcom's approach to licensing Small Scale DAB (round 1) in the Cardiff area which was awarded to Cardiff DAB Ltd in May of this year. The Commissioner believes that Ofcom may potentially be in breach of its policy making standards and may not have taken sufficient account of the needs of Welsh language speakers and opportunities created for them to use the Welsh language in formulating our policy on licensing Small Scale DAB as outlined in our consultation document. Our view is that it was not necessary to consider the implications of the licence award on the Welsh language given that broadcasting is exempt from the Welsh language standards regime. We will be submitting our evidence to the Welsh Language Commissioner shortly. • Connected Nation Wales 2021 – Members were given an update on the timescale and proposed contents of this year's Connected Nations report for Wales. Members were assured that there would be an update on progress of the Shared Rural Network programme in the report. <p>A member asked whether it would be possible to have an update on Local TV at the next meeting in November. It was agreed that this would be a good idea. The same member asked for an update on the Media Bill and on more detail on our proposed response to the Welsh Language Commissioner's investigation.</p>	<p>EW</p>

<p>The Chair moved the responses to later in the agenda as colleagues for the next item were ready to join the meeting.</p>	
<p>Report – Public Policy</p> <p>9. The Chair welcomed the Director of Public Policy to her first Advisory Committee for Wales meeting and wished her well in her role. The Director had previously circulated an update report outlining key UK Government and Parliamentary developments since the last meeting. In addition to topics already mentioned, additional highlights included:</p> <ul style="list-style-type: none"> • Recent cabinet reshuffle and the appointment of Nadine Dorries MP as Secretary of State for Digital, Culture, Media and Sport. Other portfolios were still being ironed out but it was expected that Julia Lopez MP would become the Minister of State at the Department for Digital, Culture, Media & Sport. • Media Bill – Ofcom is engaging closely with DCMS and expects that some of the key recommendations from our statement on the Future of Public Service Broadcasting will be included in the bill, namely the recommendations on prominence and availability. There had also been mention of provisions in relation to the governance structure at S4C. 	
<p>ITV Cymru Wales – annual update</p> <p>10. The Chair welcomed Phil Henfrey, Head of News & Programming and Elin Llyr, Public Affairs Manager at ITV Cymru Wales to the meeting.</p> <ul style="list-style-type: none"> • In his opening remarks, Phil Henfrey welcomed the opportunity to respond to our Small Screen: Big Debate (SSBD) on the future of public service media (PSM) • ITV would encourage the UK Government to accept the recommendations from Ofcom’s SSBD statement, which included introducing new legislation to strengthen PSM and updating the rules around availability and prominence so that they extend to digital platforms. • He added that viewers appreciate a high-quality, universally available and free commercial Public Service Broadcaster (PSB) as part of the PSM landscape and that people in Wales value the plurality of choice that ITV Cymru Wales delivers especially in terms of news and current affairs • He said that although ITV wanted to be a PSM, that it wouldn’t do so at any price: the model had to be sustainable and based on a level playing field • Elin Liŷr said that ITV Cymru Wales provided additional value pointing to the various partnerships it has, for example with S4C to deliver news. She said that ITV Cymru Wales is committed to diversity and inclusion both on and off screen, has an award-winning apprenticeship scheme, and is part of a training scheme with Skills Cymru • In response to questions from members Phil Henfrey said a new Channel 3 licence had to be economically viable, over the 10-year term of the licence. • He stressed that although prominence was important it was not currently commercially feasible to include ITV Cymru Wales content on its digital platform. • More choice and fewer restrictions could allow ITV to secure revenues from advertising. • ITV Cymru Wales said that it was constantly monitoring and challenging itself to ensure that its diversity and inclusion programme was Wales-wide. 	
<p>Ofcom’s Annual Report on the BBC</p>	

<p>11. Colleagues gave an update on the Annual Report on the BBC. Key issues raised by the Committee relating to audiences and the network in Wales included:</p> <ul style="list-style-type: none"> • The level of viewer satisfaction in Wales and how that compares to other nations. • Portrayal and representation of Wales and its people, and how this can be measured; • Accuracy of network news coverage; • Commissioning of content and the impact of locating departments outside of London; • Current quota requirements and whether any changes are needed; and • Prominence of nations content especially on digital platforms. 	
<p>Update: Ofcom Board Member for Wales – oral</p> <p>12. The Board Member for Wales gave a full oral update and a summary of key topics over the last few months. These included:</p> <ul style="list-style-type: none"> • The new Ofcom office in Manchester has opened and recruitment has begun for staff to support Ofcom’s work around the Telecoms Security Bill and the Online Safety Bill. • The Member has met with Glyn Jones, the Welsh Government’s Chief Digital Officer and suggested that he is invited to attend a future meeting of the Advisory Committee • Further pieces of legislation from the UK Government are expected later in the year that will have implications for Ofcom. These including a Media Bill which could have consequences for the media in Wales. 	
<p>Consultation responses – feedback from members</p> <p>13. The ACW responded to the following consultations:</p> <p>DCMS: Ownership of Channel 4 (ACW response submitted on 14 September)</p> <p>DCMS Call for Evidence: Improving Connectivity for Hard-to-Reach Premises (ACW Response submitted on 25 June)</p> <p>The committee noted the forthcoming Ofcom consultations, due to published later in the autumn:</p> <p>Ofcom: BBC Studios (estimated publication 27 October)</p> <p>Ofcom: Market Position of BBC Sounds (estimated publication 27 October)</p>	
<p>14. Fixed Wireless Access – Clive Downey, ResQNet</p> <p>Clive Downey, Director of REsQNet, a WISP company based in west Wales, gave a brief update on the superfast broadband service it provides to premises across Carmarthenshire, Ceredigion, Pembrokeshire and the Swansea valley.</p> <ul style="list-style-type: none"> • The company has received funding from the Welsh Government Access Broadband Cymru scheme to provide fixed wireless access (FWA) to mainly rural communities in Wales who would otherwise not be able to receive a decent fixed broadband connection 	

<ul style="list-style-type: none"> • ResQNet attracts its customers mainly through word of mouth locally, developing good relations with its customers and providing a great service, including dealing with any complaints in-house • Although the UK Government is investing in full fibre broadband, there will still be areas where it is simply too expensive to install it and FWA can often provide a solution in getting a broadband connection to the last mile • As a small local company, it faces many challenges, including finding new customers. However, improvements in both equipment and technology over the years provides opportunities for further growth. 	
<p>Consumer complaints update</p> <p>15. Contents NOTED.</p>	
<p>Forthcoming Consultations & Publications</p> <p>16. Upcoming consultation that the Committee should consider responding to include: Market position of BBC Sounds; Review of the interaction between the BBC Public Service and BBC Studios; Ofcom’s approach to assessing compliance with net neutrality rules.</p>	
<p>Any Other Business and future agenda items</p> <p>AOB</p> <p>The Chair returned to the responses to questions raised by a member at item 8 (Wales Recent Developments). Members had by then been given an update on the Media Bill by the Director of Public Policy. Members were given further detail on the issue relating to the Welsh Language Commissioner’s investigation.</p> <p>It was suggested that Members keep a current note of the work that the Committee has completed.</p> <p>Members agreed to visit to BBC Cymru Wales’ Central Square headquarters.</p> <p>Dates for upcoming meetings for 2022 have been agreed: 22 March; 23 June; 13 September; and 29 November</p> <p>Future meeting dates confirmed as:</p> <p>Wednesday 24th November 2021</p>	<p>EW</p>