

**MINUTES OF THE TWO HUNDRED AND SEVENTY-NINTH MEETING OF  
THE OFCOM BOARD HELD ON 10 FEBRUARY 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
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:**

- Mark Bunting (Item 8)
- Kerri-Ann O’Neill (Items 8-9)
- Simon Redfern (Item 8)
- Melissa Tatton (Items 8-10)
- Richard Wronka (Item 8)
- Jane Rumble (Items 9-10)
- Yih-Choung Teh (Items 9-10)
- David Clarkson (Item 11)
- Adam Baxter (Item 12)

**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. This Board meeting marked a year of holding virtual meetings during the COVID-19 pandemic and also marked the first full annual cycle of Board meetings for Melanie Dawes since she was appointed as Ofcom’s Chief Executive. The Chair recorded congratulations to Melanie on the way she had led Ofcom so ably during a very challenging year. The Chair also congratulated those colleagues involved in dealing with the

recently announced decision to revoke CGTN's licence to broadcast in the UK and, in particular, on their expert handling of the case and the clarity of the decision published on 4 February 2021.

3. The Chair referred to engagements she had attended since taking on the Interim Chair role at the beginning of January, including a meeting of the UK Regulators Network, and meetings with the Chair of Channel 4 and the incoming Chair of the BBC. The Chair noted that the DCMS position on recruitment for the permanent Chair for Ofcom was that the recruitment would be launched as soon as possible, and progress had been made with Ministers now having signed off on the job specification. Ofcom would be given 24 hours' notice ahead of the advertisement being published and the Corporation Secretary would advise Board Members when that point was reached.

#### Advisory Committee for Wales (ACW)

4. Andrew Board and Robert Andrews' original terms on the Advisory Committee for Wales were from 1 November 2017 to 31 October 2020. They were extended for six months due to the COVID-19 pandemic from 1 November 2020 to 30 April 2021. Peter Trott was appointed on 11 April 2018 for a three-year term ending 10 April 2021. The Board **AGREED** that both Andrew and Robert be given another six-month COVID extension from 1 May 2021 to 31 October 2021, and that Peter be given his first six-month COVID extension from 11 April 2021 to 10 October 2021. This would allow time for a recruitment campaign to take place over the summer, advertising all three posts. Mindful of the need for diversity among Committee Members, the Director for Wales planned to engage over the coming months with the Welsh Government, the Equality and Human Rights Commission, Disability Wales and Older People's Commissioner to widen the field of applicants.

#### Advisory Committee for Northern Ireland (ACNI)

5. Alan Meban, Kathy Graham and John Ellison's original terms were from 1 September 2017 to 31 August 2020. They were extended for six months due to COVID to 28 February 2021. Paul Wilson's original term was from 1 September 2014 to 31 August 2017. He was renewed for a second three-year term to 31 August 2020 and this had been extended for a further six months due to COVID to 28 February 2021. The Board **AGREED** that all four Members should be given a further six-month COVID extension through to 31 August 2021, allowing time for a recruitment campaign ahead of recommendations for appointments being made to the Board in July 2021.

#### Proposed Board Workshops 2021

6. The Chair thanked Members for their helpful contributions to developing the proposed programme of Board Workshops for 2021 (Board Paper 11(21) under item 14 refers). In addition to the Workshops to be held immediately after the formal Board meetings, two separate workshops would be organised on (i) Security risks for critical functions of government, including telecoms security requirements; and (ii) Regulation of the tech giants. The Board welcomed a suggestion from Martin Ballantyne that session (ii) should include some contextualising background on the law as it relates to Freedom of Expression.

#### **Item 3: Minutes of the meeting held on 9 December 2020 and Matters Arising – Board Minutes 278(20) and Note of Action Points**

7. The minutes of the Ofcom Board meeting held on 9 December 2020 were **APPROVED** for signature by the Chair as an accurate record.

8. The Board **NOTED** approval given by written resolution between meetings (Board Paper 104(20) refers) of the appointment of Christopher Holmes MBE as Deputy Chair of the Channel Four Corporation Board, subject to final approval by the Secretary of State which was awaited.

9. 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 1(21)**

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

11. Work Prioritisation: The new lockdown effective from 26 December 2020, and in particular the closure of schools across all the nations, had created new and serious pressures for many of Ofcom's staff. An exercise had been undertaken during January 2021 to look at what work could be rescheduled or cut back. The results had been communicated to colleagues on 4 February 2021, and the Board had received a separate update. At the March 2021 meeting the Board would be asked to approve the Plan of Work and Budget for 2021/22, alongside an outline of the process and timings to be followed to develop Ofcom's three-year business plan.

12. 700MHz and 3.6-3.8GHz Spectrum Auction: Following a pause in the auction process, caused by the COVID-19 pandemic, the principal stage of the auction (the bidding process) was now planned to start in March 2021 and would be undertaken by virtual means.

13. Mobile: On 27 January 2021 Vodafone, O2 and Three had announced significant progress on the Shared Rural Network with plans to build and share the use of 222 mobile masts across the UK. Construction should be completed by 2024, which was when the mobile network operators' commitment to deliver 88 per cent UK geographic coverage in areas of partial not-spots would fall due.

14. Broadcasting: Ofcom's consultation on the future of public service media (PSM) had been published on 8 December 2021 and had been well received as a comprehensive contribution to the debate. Focus was now turning to preparing detailed recommendations on PSM for publication in the summer. Reference was made during Board discussion to the scope for closer working between the broadcasters to strengthen their commercial position, which could be underpinned by a future regulatory framework.

15. Facebook Oversight Board: On 28 January 2021 the Facebook Oversight Board had announced its first case decisions and recommendations.

16. Video-Sharing Platforms: A first complaint had been received under the new VSP regime and was proving to be a helpful case study. A consultation would be published in the coming weeks on Ofcom's draft guidance for VSPs, setting out the measures they would need to take to protect users from harm. Ofcom's focus in looking at VSP and online harms complaints more widely would be on investigating procedures in place rather than individual material in order to determine whether further action needed to be taken. An appropriate system of filters would be needed to cope with what could potentially be a large number of complaints under the new online harms regime.

17. Joint Working between Ofcom, the Information Commissioner's Office (ICO) and the Competition and Markets Authority (CMA): At the end of February 2021, Ofcom, the ICO and CMA would submit joint advice to Government on how the partnership across the three agencies might work in future. At the same time a joint workplan would be published under the auspices of the Digital Regulation Cooperation Forum (DRCF). The Board was updated on Melanie's recent engagement with the Chief Executives of both the Financial Conduct Authority and the Advertising Standards Authority and their perspectives on potential future engagement with the DRCF.

18. Network Security: In answer to a question from the Board, Lindsey Fussell provided an update on the current position regarding the Telecoms Security Bill and framework and the perspectives of the different operators, dependent on which of the three Tiers of requirements they would be subject to. Government had not yet published for consultation the Code of Practice that would provide guidance as to the measures to be taken by the telecoms operators to meet the security requirements.

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

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

20. Kevin Bakhurst reported that Government was keen to develop new policy on the advertising of products that were high in fat, sugar and salt, with potentially significant implications for the commercial broadcasters, and to extend that policy to online advertising of HFSS products. Consideration was being given to the advice to be provided to Government in this area, and discussions with DCMS were ongoing. Kevin Bakhurst referred to several ongoing content standards and licensing cases.

21. Lindsey Fussell reported on the impact that the COVID-19 pandemic had had on Royal Mail's quality of service/delivery and the reasons for that; the steps Royal Mail was taking to address the service issues; and that Ofcom was monitoring the position and undertaking regular engagement with Royal Mail. Ofcom was encouraging Royal Mail to be transparent in its public communications about the issues it was currently facing, including providing information at a local level. Royal Mail had reached agreement in December 2020 with the Communication Workers Union on a new settlement, some elements of which were conditional on reformed working practices being achieved. Publication of Royal Mail's third quarter trading statement was due on 11 February 2021. Ofcom continued to monitor the sustainability of the universal postal service and had published the Review of Postal User Needs in November 2020.

22. Lindsey Fussell reported that in September 2020 John Penrose MP had been asked to lead a review considering how the UK's competition regime could be enhanced in the context of recovery from the COVID-19 pandemic and the end of the Brexit transition period. The report was expected to be published around the time of the Budget Statement in early March 2021.

23. Martin Ballantyne provided a litigation update.

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

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

25. Tim Suter provided his report as Chair of the Content Board. Matters discussed at the Content Board meeting held on 26 January 2021 had included an update on the online harms regime (due to be discussed at this meeting under agenda item 8), and the Content Board's programme of work for 2021/22 (due to be discussed at this meeting under agenda item 12).

26. The Board **NOTED** the oral update provided by Tim Suter on the Content Board.

**Item 7: Reports from Non-Executive Members – oral**

27. Bob Downes reported on matters discussed at a recent meeting held with the Chief Executive of STV. Bob Downes also updated the Board on the impact being felt in Northern Ireland following the implementation of the Northern Ireland Protocol with effect from 31 December 2020.

28. David Jones referred to the launch event in Wales for the Ofcom Plan of Work 2021/22 which he considered had gone well. He also referred to a helpful briefing that he and Bob Downes had received between Board meetings on the prospects for Gigabit rollout in the nations ahead of the discussion under agenda item 11 of the Wholesale Fixed Telecoms Market Review 2021-2026.

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

**Item 8: Online Harms Update – Board Paper 2(21)**

30. The Board was updated on Ofcom's Online Harms work. Board Paper 2(21) provided an overview of external developments since the update provided to the Board in December 2020; an overview of the external consultant's report on Ofcom's operational planning and its recommendations; and an introduction to the five main areas of focus of Ofcom's Online Harms work, objectives and deliverables for the next 12 months. The presentation and discussion focused on the following areas:

- How Ofcom was working with Government to support the legislative process.
- Preparing and promoting Ofcom's regulatory approach.
- Building public trust and awareness through external communications.
- Setting up Ofcom's internal operational arrangements.
- Investing in technology, data and sector knowledge and capability.

31. The Board discussed:

- current stakeholder concerns about what might be included in the forthcoming legislation;
- how online harms and legal but harmful content might be defined;
- a suggestion that the narrative should focus on online standards rather than online harms;
- the speed at which new types of activity and technology developed and the need for legislation to be drafted in a way which allowed the regulatory regime to keep pace;
- the need to manage expectations about what Ofcom as the regulator could deliver;

- the need to introduce a different way of working to deal with online issues in an agile way and use resources very flexibly, with a much less hierarchical approach than Ofcom had adopted hitherto; and
- the appropriate governance structures for taking regulatory decisions on online standards issues.

32. The Board **NOTED** the update provided in Board Paper 2(21) and reported orally at the meeting.

**Item 9: One Ofcom Full Programme – Board Paper 3(21)**

33. Introducing the recommendations set out in Board Paper 3(21), Melissa Tatton commented that Ofcom was already a strong organisation, and the One Ofcom programme was designed to build on the success achieved to date. It was intended to be a transformational rather than an incremental programme, aiming to make the organisation stronger for the future, given the forthcoming significant expansion in Ofcom's role to include online harms regulation, and the need to keep pace with significant change in the markets Ofcom regulates. The Board was taken through the eight priority areas that had been identified to be addressed within the One Ofcom programme, namely:

- Embedding Ofcom's new organisational structure with clear accountabilities.
- Significantly improving Ofcom's career and performance management.
- Strengthening senior leadership oversight of the totality of Ofcom's work.
- Delivering the new Diversity and Inclusion Strategy.
- Transforming Ofcom's ways of working post COVID and rebalancing Ofcom's locations across the UK.
- Developing and implementing plans to grow Ofcom by a third, ready to regulate online harms.
- Delivering step change in understanding and skills in digital markets, online technologies and data analytics.
- Strengthening Ofcom's understanding of the commercial priorities and incentives of all the markets we regulate.

34. In discussion, the Board was provided with further information about the approach being taken to developing Ofcom's location strategy and the fit with new skills needed and more flexible ways of working, and the investment being made in developing leadership and management skills.

35. Following discussion, the Board **APPROVED** the One Ofcom Transformation Programme, as set out in Board Paper 3(21) and the accompanying annex.

**Item 10: Recommended Response to the Stakeholder Review – Board Paper 4(21)**

36. An externally facilitated Stakeholder Review had been undertaken between June and August 2020, with the outcome reported to the Board in September 2020 and a further update in December 2020. The Executive had considered the Stakeholder feedback received and had identified four strategic areas of focus. The recommendation was that the actions should be taken forward as part of the One Ofcom programme, as set out in Board Paper 4(21).

## 37. The Board

- **AGREED** the actions that formed the recommended response to the Stakeholder Review, set out in the accompanying annex to Board Paper 4(21).
- **NOTED** that the response to the Review would be delivered primarily through the One Ofcom programme which was considered under item 9 at this meeting (Board Paper 3(21)).
- **NOTED** the engagement with stakeholders since the Review was undertaken (as set out in paragraphs 2.15 to 2.17 of Board Paper 4(21)) and **AGREED** the recommendation to undertake Reviews on a regular basis, commencing in 2022. This would include seeking further feedback on the strategic areas identified in the 2020 Review to assess if there had been any improvement.

**Item 11: Wholesale Fixed Telecommunications Market Review 2021-2026 Update – Board Paper 5(21)**

38. At the December 2020 meeting the Board approved final decisions on the Wholesale Fixed Telecommunications Market Review 2021-26. The statement was due to be published in mid-March. Board Paper 5(21) provided an update on the current deployment of Gigabit capable networks; future commercial and state funded build plans; and investor sentiment. The Board was provided with an oral update on relevant details from BT's third quarter results which had been published on 4 February 2021.

39. The Board **NOTED** the update provided in Board Paper 5(21) and reported orally at the meeting.

**Item 12: Content Board Annual Work Programme 2021/22 – Board Paper 6(21)**

40. The Content Board's proposed Annual Work Programme for 2021/22 was set out in Board Paper 6(21) and had been agreed by the Content Board at its meeting on 26 January 2021. The work in the annual work programme for 2021/22 would be conducted through a combination of discussion at formal meetings and more flexible engagement with the Executive. For some work areas, sub-groups made up of Content Board Members with particular experience or expertise would be the most appropriate form of engagement and the Executive would explore making more use of such sub-groups, as appropriate.

41. The Chair referred to item 2 on the Work Programme, "Evolution of Content Standards and Audience Expectations" and asked that the opportunity should be taken to look at the broader strategy for how content standards would be regulated across broadcasting and online. The Board **APPROVED** the Content Board's Annual Work Programme for 2021/22, attached at Annex 1 to Board Paper 6(21). In doing so, the Board also **AGREED** the means by which the Content Board would contribute to certain policy areas set out in Ofcom's Plan of Work.

**Item 13: National Advisory Committee for Scotland Recruitment and Appointment of Chair – Board Paper 7(21)**

42. The Board **APPROVED**:

- the appointment of Gerry Crawley to the Advisory Committee for Scotland for a period of three years from 1 March 2021 to 29 February 2024 inclusive; and
- the appointment of Elizabeth Partyka as the Chair of the Advisory Committee for Scotland until the end of her current appointment term on 31 August 2023.

**Item 14: Information Items**

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

- Broadband Universal Service Obligation (USO) Update – Board Paper 8(21)
- Quarterly Performance Report – Board Paper 9(21)
- Board Work Programme/Forward Agendas – Board Paper 10(21)
- Proposed Board Workshops 2021 – Board Paper 11(21)
- Minutes of the Communications Consumer Panel/ACOD (meetings held on 12 November 2020 and 10 December 2020)
- Minutes of the Advisory Committee for England (meeting held on 3 December 2020)
- Minutes of the Advisory Committee for Northern Ireland (meeting held on 25 November 2020)
- Minutes of the Advisory Committee for Scotland (meeting held on 1 December 2020)
- Minutes of the Advisory Committee for Wales (meeting held on 16 December 2020).

**Item 15: Any Other Business**

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

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

45. The next scheduled Board meeting will be held on Wednesday, 17 March 2021.