

**MINUTES OF THE TWO HUNDRED AND FIFTY-SECOND MEETING OF  
THE OFCOM BOARD HELD ON 22 MAY 2018**

**Present**

Terry Burns	Chairman
Sheila Noakes	Deputy Chairman (minutes 1-18)
Sharon White	Chief Executive
Bob Downes	Member
Graham Mather	Member
Jonathan Oxley	Executive Member and Group Director, Competition
Tim Suter	Member
Steve Unger	Executive Member and Group Director, Strategy, International, Technology and Economists
Ben Verwaayen	Member (minutes 1-24)

**In attendance**

Kevin Bakhurst	Group Director, Content Media Policy (minute 1-2 and 20-23)
Philip Marnick	Group Director, Spectrum (minute 14-16)
Polly Weitzman	General Counsel
Ian Vaughan	Head of Governance
Jenny Leyland	Assistant Secretary to the Corporation

Other Ofcom Colleagues

**Public Interest Test “Project Aspen” – Board Paper 59(18)**

1. On 1 May 2018 the Secretary of State had asked Ofcom to conduct a public interest assessment of the acquisition of Northern & Shell’s publishing assets by Trinity Mirror. Ofcom had been asked to consider two public interest grounds, relating to i) plurality and ii) the free expression of opinion. The paper provided a summary of the analysis undertaken of each of the two public interest grounds, with the emerging conclusions set out in Annex 1.

2. Following a discussion of the analysis, emerging conclusions and points to be covered in the report, the Board **AGREED** to delegate approval of the final report to the Chairman and Chief Executive. The report was due to be submitted to the Secretary of State by 31 May 2018.

**Declaration of Members’ Interests – oral**

3. Tim Suter was already a member of the Steering Board of the Intellectual Property Office. He reported that with effect from 23 May 2018 he would take on the chairmanship of the Steering Board.

**Board and Committee Membership**

4. **Sheila Noakes**: This was Sheila Noakes’ last Board meeting as her term as Deputy Chairman would end on 31 May 2018. The Chairman thanked Sheila for all she had done as Deputy Chairman of Ofcom, Chairman of the Risk and Audit Committee and Chairman of the Remuneration Committee. The Chairman said that Sheila had played a vital role during her term with Ofcom.
  
5. **Nick Pollard**: Nick Pollard’s term as a member of the Ofcom Board had expired on 13 May 2018. His membership of the Content Board continued to March 2019. Nick had decided to stand down from the Content Board. The Chairman recorded appreciation for the important contribution Nick had made to the Board of Ofcom and the Content Board.
  
6. **Ofcom Board recruitment**: The Chairman updated the Board on recruitment which DCMS was undertaking for two Ofcom Board Members - a Deputy Chairman and a Board Member with the appropriate expertise in financial accounting or auditing needed to be Chairman of the Risk and Audit Committee. The process for appointing a Board Member for Wales was also underway.
  
7. **Content Board**: The Board **APPROVED** the appointment of Tim Suter as interim Chairman of the Content Board, and Bob Downes as a member of the Content Board on an interim basis.
  
8. **Risk and Audit Committee**: The Board **APPROVED** the appointment of Bob Downes as interim Chairman of the Risk and Audit Committee.

**Minutes of the meeting held on 17 April 2018 and matters arising – Board Minutes 251(18)**

9. The minutes of the Ofcom Board meeting held on 17 April 2018 were **APPROVED** for signature as an accurate record. There were no matters arising.

**Chief Executive’s Report – Board Paper 60(18)**

10. Sharon White presented her report which included key developments since the last Board meeting. These included the following:
  - 10.1 **BT**: The Chairman updated the Board on a recent meeting he had had with the Chairman of BT following the announcement of BT’s full year financial results. At that meeting BT’s commitment to fibre had been emphasised but also its shareholders’ calls for greater regulatory certainty/assurance.
  - 10.2 **Vodafone**: Vodafone had agreed to acquire Liberty Global’s cable operations in Germany, the Czech Republic, Hungary and Romania. The deal would leave Virgin Media as Liberty’s main European asset.
  - 10.3 **Cost of Directory Enquiries**: In June Ofcom would publish a consultation setting out next steps on the 118 call review – the number range used exclusively for Directory Enquiries.
  - 10.4 **Emergency back-up for landline users**: Ofcom was about to publish a consultation on new guidance to ensure telcoms operators are in compliance

<p>with General Condition A3.2(b) which relates to emergency services.</p> <p>10.5 <u>Diversity in Radio Report</u>: Ofcom would publish the first report into diversity in the radio industry in June.</p> <p>10.6 <u>Scottish TV</u>: STV had announced the closure of STV2. The Cabinet Secretary for Culture, Tourism and External Affairs in the Scottish Government had written to Ofcom raising concerns about media plurality in Scotland. Reference was made to a statement by the Scottish National Party (SNP) raising concerns that STV was downgrading its current affairs provision.</p>
<p><b><u>Report on the Content Board (meeting held on 24 April 2018) – oral</u></b></p> <p>11. Tim Suter reported on matters discussed at the Content Board on 24 April 2018. The policy issues discussed had been the BBC Thematic Review of Representation and Portrayal; Ofcom’s response to Channel 4 Corporation’s Statement of Media Content Board (a draft of which had been provided to the Board for information as Board Paper 69(18)); the prominence regime on the Electronic Programme Guide (EPG); and the Review of Children’s Programmes. The Chief Executive of the Advertising Standards Authority (ASA) had joined the meeting to discuss the ASA’s co-regulatory role (designated by Ofcom) to regulate broadcast advertising, and how in particular they were dealing with on-line advertising and on-line influences. The Content Board had bid a fond farewell to Nick Pollard as Chairman.</p>
<p><b><u>Report from the Chairman of the Risk and Audit Committee – oral</u></b></p> <p>12. Sheila Noakes reported on the Risk and Audit Committee meeting held on 14 May 2018. The Committee had approved the release of the draft accounts for 2017/18 to DCMS so that DCMS could consolidate Ofcom’s results and continue preparation towards laying its Annual Report and Accounts before Parliament in advance of the summer recess. The National Audit Office had substantially completed their work with one outstanding issue to be resolved. The Committee had commented on a draft of the Annual Report and Accounts.</p>
<p><b><u>Reports from other Non-Executive Members – oral</u></b></p> <p>13. There were no reports made.</p>
<p><b><u>Mobile Coverage Policy and Advice to DCMS – Board Paper 61(18)</u></b></p> <p>14. Government had requested that Ofcom provide advice during June 2018 on options for improving mobile coverage. The paper set out today’s levels of coverage; where the coverage obligations in the 700 MHz auction were likely to get to in terms of mobile coverage; and what further levers there might be to improve coverage beyond that, focusing on potential public subsidy; planning reform and other cost reduction measures; and roaming. It was noted that the primary lever held by Ofcom was the ability to set coverage obligations in the 700 MHz auction. Beyond that Ofcom’s role was to draw on its technical expertise and the data held to set out potential options and costs.</p>

15. Reference was made to the Scottish Government's 4G infill programme which was already underway, and which might be helpful experience to draw on in other parts of the UK.

16. *[Withheld from published minutes.]* The Board was content for the analysis that had been presented in Paper 61(18) to form the basis of advice to Government which would highlight the costs and benefits of the proposed options. It would be a matter for Government to decide if and when to publish Ofcom's advice.

#### **Access Market Review – Board Paper 62(18)**

17. The Board discussed a paper which looked at the access market and a proposed new approach which would better support Ofcom's strategy of promoting more investment in fibre. The overarching part of the Digital Communications Review (DCR) strategy was to promote duct and pole access via unrestricted access to BT's ducts and poles across the whole of the UK to lower the costs of building out fibre. The review of access markets would also consider how different remedies downstream to duct access could be appropriate for competitive, prospectively competitive and non-competitive areas of the UK. The intention was to simplify the existing regulatory approach, removing the distinction between business and residential markets, and to develop a clear set of rules to define markets and the downstream remedies applicable to a geography. Reference was made to the points BT had raised, as set out in the paper, seeking certainty on several elements of existing regulation in order to be able to invest more in full fibre. There was some discussion of the approach to be taken to defining geographic markets. The aim was to publish a strategic policy position on the review of access markets in July, setting out how it fits with the Wholesale Local Access Market Review and Business Connectivity Market Review, with a consultation to be published on the latter. The Board noted that the Government was intending to publish its "Future Telecoms Structure Review" in the summer.

#### **Brexit Forward-Looking Strategy and Action Plan – Board Paper 63(18)**

18. The Board discussed a paper which set out the current context and stages of Brexit; what Brexit might mean for communications policy; how Ofcom could deliver consumer outcomes both shorter and longer term; and how Ofcom could progress its Brexit work. There was some discussion of the likely policy position at the end of the transition on the broadcast licensing system and the possible implications of different outcomes. The UK's future regulatory framework outside the EU was also discussed. It was noted that Ofcom was providing technical advice on various issues. There was some discussion of the role Ofcom could play in pulling together a common understanding of the facts and presenting them to Government and others on behalf of the communications sector.

#### **Openreach Commitments: Update and Implementation Report – Board Paper 64(18)**

19. In March 2017 BT notified Ofcom of voluntary commitments to reform Openreach. The Board discussed an update on BT's implementation of the Commitments. The draft Implementation Report which was due to be published in early June 2018 was annexed to the paper. An oral update was made relating to BT's intentions to move the Northern Ireland networks into Openreach. The team had proposed an interim report in six months' time and

then moving to an annual cycle. The Board suggested monitoring the position with a view to omitting the interim report unless there were issues of concern at that point.

**The Future Role of the Content Board - Board Paper 67(18)**

20. The Board discussed a revised role for the Content Board with the remit more focused on editorial issues, consistent with the requirements of Section 13 of the Communications Act 2003 which sets out the functions of the Content Board. The team was asked to draw up revised terms of reference based on the proposals set out in Board Paper 67(18).

21. The Board **APPROVED** the two appointments to the Content Board, as recommended in Board Paper 67(18).

22. The Chairman asked that the Board be provided with six monthly reports on the key themes emerging and lessons learned from the Content Board’s editorial standards work, noting that in recent times privacy issues had risen to the fore.

**Harmful Content Online – Board Paper 65(18)**

23. The Board discussed a paper which sets out a potential role for an independent regulator to address harmful content on social media platforms. The exercise had been conducted in response to public debate around the need for regulation of content in online platforms. The Government had announced plans to introduce legislation. The initial thinking set out in the paper had been focussed on social media platforms, rather than the wider internet ecology. The paper did not advocate that a role be given to Ofcom as online content regulator; rather, it was seeking to inform what any such role might entail (for Ofcom or for another regulator), to inform any interactions that Ofcom may need to have as part of the wider policy debate. The Board asked that further time be allocated to continue the discussion at a future meeting.

**Information Security for Members – Board Paper 66(18)**

24. The Board **APPROVED** the recommended approach to information sharing with the Ofcom Board, Content Board, Communications Consumer Panel and Advisory Committees, as set out in Board Paper 66(18).

**Board Forward Look – Board Paper 68(18)**

25. The Board Forward Look was noted without discussion/comment.

**Information items**

26. The following information items were noted without discussion/comment:

- Ofcom’s Response to Channel 4 Corporation’s Statement of Media Content Policy 2017/18 – Board Paper 69(18)
- Minutes of the Content Board (6 March 2018) and Communications Consumer Panel/ACOD (22 March 2018).

**Any Other Business**

27. There were no other matters raised.

**Date of the Next Meeting**

28. The next scheduled Board meeting will be held on Tuesday, 19 June 2018.