

Note of the 291st Meeting of the Ofcom Board, held on 9 February 2022

Members were welcomed to the 291st meeting of the Ofcom Board. Martin Ballantyne (General Counsel); Jacqui Gregory (Corporation Secretary), and David Edwards (Assistant Corporation Secretary) attended throughout.

Declaration of Members' Interests – oral

1. There were no new declarations of interest raised by Members at the the meeting.

Chair's Report

2. Non-Executive Ofcom Board Member Appointments: An update on Non-Executive Board Member appointments had been included in the action points note which had been provided ahead of the meeting.
3. Channel 4 Corporation Chair Appointment: The Board was updated on the process for recruiting a new Chair of Channel 4 and approved the Recruitment Panel's recommendations for the appointments of a Chair and of a new NED to the Channel 4 Board. The Chair confirmed that she would write to the Secretary of State for DCMS recommending the two appointments for approval. The Board discussed the current minority ethnic balance on the C4C Board and this would be a consideration in the recruitment campaign to fill two existing C4C Board Member vacancies and those that would become vacant in the near future.
4. Board Workshop on Platform Metrics Pilot: An interesting and engaging workshop had been held for Board Members on 31 January 2022.

Minutes of the meeting held on 15 December 2021 and matters arising

5. Subject to minor amendment, the minutes of the Ofcom Board meeting held on 15 December 2021 were approved for signature by the Chair as an accurate record.
6. The Board noted the approval obtained by Written Resolution for the appointment of the new Corporation Secretary from 28 March 2022.

7. A summary of progress against action points had been circulated. Status updates against each of the actions were duly noted.

Chief Executive's Report

8. Melanie Dawes presented her report, which covered key developments since the last Board meeting.
9. The Board noted the report from the Chief Executive.

Executive Member Updates

10. Kevin Bakhurst referred to the upcoming appointment of a new Online Safety Director, who would lead Ofcom's work on Video Sharing Platforms. He reported on a meeting with the Chief Executive of ITV. Kevin further advised that the BBC had re-launched BBC3 as a linear channel. In addition, the Executive would be holding a number of sessions to engage with external online safety experts and invitations to these sessions would be extended to Board Members. Kevin also reported on a meeting with the COO of Arqiva on the Bilsdale mast fire.
11. The General Counsel provided a short litigation update.
12. The Board noted the updates presented orally at the meeting.

Report from the Interim Chair of the Content Board

13. Bob Downes reported on issues discussed at the Content Board meeting held on 25 January 2022. These had included the Content Board Annual Work Programme 2022/23; Ofcom's internal Beyond Broadcast research; and due impartiality in broadcast standards cases. The latter had been complemented by a useful 'teach-in' for Content Board Members held earlier in January.
14. The Board noted the oral update provided by Bob Downes.

Reports from Non-Executive Members

15. The Board noted the oral reports from Non-Executive Members.

Update on the Ofcom Three-Year Plan

16. The Board discussed the approach to delivery of Ofcom's three-year plan (3YP). Primary aims were to deliver on its multi-year vision, recognising the financial and resourcing implications for the organisation. Three priority outcomes alongside other important duties, would drive Ofcom's work: "internet we can rely on"; "media we trust and value"; and "we live a safer life online". The 3YP would allow Ofcom to develop sector visions and be a plan for professional supporting functions, notably in technology and research.
17. The Board:

- noted the approach to delivering the 3YP and findings of a current state assessment of the organisation and next steps to develop the 3YP to include a strategic workforce plan and financial forecast;
- noted the update provided and that there would be further engagement with the Senior Management Team and Senior Leadership Group, and with the Ofcom Board at the May 2022 Board meeting.

Telecoms Security Framework: regulatory strategy and operational readiness

18. The Board was updated on matters related to the Telecommunications (Security) Act 2021, which had received Royal Assent in November 2021, and views were sought on Ofcom’s regulatory strategy for the telecoms security regime (TSR) and the high risk-vendor (HRV) regime. The TSR was based on a supervisory model with proactive, upfront engagement with industry. An update was also provided on Ofcom’s operational readiness for the framework and the HRV regime, including team responsibilities, secure tools and systems, funding, recruitment and operational risk.
19. Attention was drawn to the complexity of the new regime and the practical limitations of Ofcom’s role. With technical measures evolving, compliance and regulation were seen as an ongoing cyclical journey, which would ramp up over time, rather than be a linear process. Other issues discussed included timescales, monitoring and information gathering.
20. The Board:
 - noted the regulatory strategy for the new telecoms security framework and for the HRV regime; and Ofcom’s operational readiness for the telecoms security framework and HRV regime.

Approach to Network Resilience

21. The Board noted that three main challenges had been identified in relation to Ofcom’s approach to network resilience in the UK, these being (i) that communications providers might lack incentives to invest sufficiently; (ii) that following PSTN switch off there would be no obvious replacement for the “network of last resort”; and (iii) the internet was a complex landscape with multiple points of failure and regulation was piecemeal.
22. In addition, there was a nexus of issues relating to “always on” services, the risks to be mitigated and ultimately how much consumers would be willing to pay for this. The Board noted that the Executive had a workplan to focus effort and to build understanding of the issues involved, including whether Ofcom’s approach was correct and whether Government intervention could be needed and what that could mean in terms of powers for Ofcom. Further considerations were that the Government was already working on a cross-sector National Resilience Strategy, there was increased reliance on communications services in other sectors and the recent storms meant that there were important lessons to be learned.

23. Issues discussed by the Board included the urgency of improving network resilience; engagement with network operators and their ability to respond to Storm Arwen scenarios; the costs involved, and whether some form of public intervention would be required; and growing dependence on and the financial and other benefits of the internet were acknowledged. As a converged regulator, the Board felt that Ofcom was well placed to add value to debates, including the question of whether regulation was required or whether commercial incentives would be the solution, and Ofcom was also able to bring interested parties together and that extended to other sectors, including energy. It was noted that consideration of climate change would also an important dimension to building resilience.
24. The Board noted and agreed the approach proposed by the Executive.

Update on Media White Paper and Future of BBC Regulation

25. The Board was updated on several strands of policy work in the Broadcast and Online Content Group, including key external developments, such as the Licence Fee settlement and updates to the BBC Framework Agreement, and projects/programmes of work on Future Regulation of the BBC, BBC Studios and a potential White Paper and Media Bill.
26. Issues discussed included the approach DCMS wished to take in relation to 'designation' of PSM providers. Ofcom was continuing to work with DCMS on what this might look like and was keen for the right level of ambition to be captured in the White Paper. The Board recognised that the timing of a White Paper would likely be driven by a decision on the future ownership of Channel 4, and that there was much expected in a Media Bill that Ofcom would welcome.
27. In relation to BBC Studios the Board continued to emphasise the importance of transparency. The Board noted the impact of significant competition on the BBC and it was recognised that the BBC was operating in conditions that were different from those when the existing Charter had been granted, in the online space for example. Trust was an important element of Ofcom's relationship with the BBC and better BBC engagement with stakeholders about the changes it was planning to make was also necessary to allow Ofcom to rationalise some of the regulatory processes.
28. The Board:
 - noted key policy developments in Ofcom and externally; and relevant Ofcom projects/programmes of work;
 - and that a paper would be submitted to the April Board on the Review of the Future of BBC Regulation.

Content Board Annual Work Programme 2022/23

29. The Board reviewed and approved the Content Board's proposed work programme for 2022/23. The Content Board had agreed the work programme at its meeting on 25 January 2022. As was the case in 2021/22, the work 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 use of such sub-groups, as appropriate.

Space Spectrum Strategy consultation

30. The Board reviewed Ofcom's proposed updated Space Spectrum Strategy. Its purpose was to ensure that Ofcom had the right focus in its spectrum management work to respond to changes in the space sector. The Executive intended to consult on the Strategy shortly.
31. Issues discussed included the extent to which the UK's departure from the EU had consequences for Ofcom's Space Spectrum Strategy. The Board was assured that the UK was not constrained and that discussions took place and important decisions were made at the International Telecommunication Union (ITU) and at the ITU's World Radio Conference. In addition, the UK was able to make its own domestic decisions about spectrum access and issue licences regardless of the EU. The Board noted that the Government considered space to be a key economic area, that it was seen as a potential sector for growth and in job creation and that the Government wished to see the UK an important base for the industry.
32. The Board NOTED the updated Space Spectrum Strategy.

Board & Committee Evaluation Review 2021/22 – Outcomes

33. The Board noted that an External Review had been conducted by Lintstock Review Service during December 2021/January 2022 and that proposed actions (acknowledging that some actions were already in train) would be discussed with the Interim Chair and the Chief Executive, with a view to a paper being presented on these to a future Board meeting.

Reappointment of the Chair of the Advisory Committee for England

34. The Board approved the reappointment of Paula Carter as the Chair of the Advisory Committee for England for a further three-year term to run from 1 June 2022 until 31 May 2025.

Appointment to the Content Board: Member for Wales

35. The Board approved the appointment of Dr Ruth McElroy to the Content Board as the Member for Wales for a three-year term to run from 1 March 2022 until 28 February 2025.

Information items

36. The Board noted the following information items without discussion:
 - Finance Report

- Board Work Programme/Forward Agendas
- Publications Schedule
- Minutes of the Content Board (meeting held on 30 November 2021)
- Minutes of the Risk and Audit Committee (meeting held on 1 December 2021)
- Minutes of the Communications Consumer Panel/ACOD (meetings held on 18 November and 16 December 2021)
- Minutes of the National Advisory Committee for Wales (meeting held on 24 November 2021)
- Minutes of the National Advisory Committee for Northern Ireland (meeting held on 7 December 2021)
- Minutes of the National Advisory Committee for Scotland (meeting held on 8 December 2021)
- Minutes of the National Advisory Committee for England (meeting held on 9 December 2021)

Any other business

37. Melanie Dawes reminded the Board that, as at the time of the Grenfell fire and during its aftermath she had been Permanent Secretary at the Department for Communities and Local Government, she would be giving oral evidence to two modules of the Grenfell Tower Inquiry. Timing remained to be confirmed.

Date of the next meeting

38. The next Board meeting will be held on 9 March 2022.

9 February 2022