

**MINUTES OF THE ONE HUNDRED AND SEVENTIETH MEETING OF THE OFCOM  
CONTENT BOARD HELD VIRTUALLY VIA MICROSOFT TEAMS  
ON TUESDAY 4 MAY 2021**

**Members Present:**

Tim Suter	Chairman
Dekan Apajee	Member
Jonathan Baker	Member
Kevin Bakhurst	Executive Member
Rachel Coldicutt	Member
Maggie Cunningham	Member
Bob Downes	Member
Aled Eirug	Member
Robin Foster	Member
Angelina Fusco	Member
Anna-Sophie Harling	Member
Peter Horrocks	Member
Tobin Ireland	Member
Sophie Morgan	Member
Stephen Nuttall	Member
Monisha Shah	Member
Kim Shillinglaw	Member

**In Attendance:**

Adam Baxter	Director, Standards and Audience Protection
David Edwards	Assistant Corporation Secretary
Other Ofcom colleagues attending for specific items	

**Introduction & Welcome**

1. The Chairman welcomed all present to the one hundred and seventieth meeting of the Content Board. Members noted that this would be Angelina Fusco's last meeting. The Chairman thanked Angelina for the valuable contribution she had made to the work of Ofcom and to the Content Board.
2. At the March Content Board meeting the Chairman had requested that an Ofcom Board workshop on Freedom of Expression be re-run for the Content Board. The workshop was to have taken place at the end of today's Content Board meeting but would now be rescheduled to allow the Election Committee to meet at that time. [The workshop took place via Teams on 22 June 2021.]

**Members' interests**

3. Rachel Coldicutt reported that she had been asked to submit written evidence to the House of Lords Communications and Digital Committee inquiry into freedom of expression online. She would do so in her capacity as Director, Careful Industries. Her company was also delivering an audit of a community broadband pilot in South London for Impact on Urban Health.
4. Maggie Cunningham declared participation and earnings in relation to five Radio nan Gaidheal discussion programmes and to the provision of a voice over for a BBC Alba retrospective documentary on Charles Kennedy, the former MP.

**Minutes of the Content Board Meeting held 30 March 2021 – CB Minutes 169(21), Actions List and Matters Arising**

5. The minutes of the Content Board meeting held on 30 March 2021 were agreed as a true and accurate record for signature by the Chairman.
6. The proposed session for members to discuss PSM prominence and availability would take place on 14 May. A session for Nations Content Board members on PSM in the nations and regions would take place before the next meeting [It took place on 2 June].
7. There remained two outstanding actions, to schedule discussions about due impartiality and on broadcasting strategy.
8. There were no other matters arising.

**Chairman's update**

9. The Chairman reported on recent discussions of the Ofcom Board and focussed on the main areas of work.

**Broadcast and Online Content Group Policy updates – CB 13(21)**

10. Members had received a paper providing an update on key policy and project areas in the Broadcast and Online Content Group.
11. Members were updated further on a wide range of topics, including:
  - Online harms; the Draft Online Safety Bill was expected to be presented to Parliament in the next week, following soon after the Queen's Speech.
  - It was noted that DCMS had been minded to remove a planned Bill exemption for financial harms, with potential implications for both Ofcom and the Financial Conduct Authority.
  - In relation to Ofcom's online safety work programme, good progress was being made in recruitment of additional Ofcom colleagues.
  - Standards and Audience Protection; it was noted that Ofcom had imposed a further sanction on Loveworld, a religious television service, for breaching broadcasting rules.
  - A pre-action protocol letter had been received from China Global Television Network Corporation (CGTNC) stating that it was considering applying to judicially review Ofcom's decision not to transfer the Star China Media Limited licence to CGTNC. Ofcom had replied disputing the merits of any such action.
  - The Ofcom Election Committee had convened on 23 April 2021 to consider a due impartiality complaint from the Alba Party in relation to the BBC's coverage of the Scottish Parliamentary Election. The complaint was not upheld and the decision published on 28 April.
  - It was noted that an invitation to tender had been sent to academics for research into TV coverage of devolved and national issues in the main news bulletins during the course of the pandemic, including the reporting of COVID and health measures.
  - Local TV; it was noted that during the pandemic local content had diminished on most local TV stations.

**Key themes and emerging lessons learned from the Content Board's input on editorial standards work – CB 14(21)**

12. The Content Board was invited to discuss the latest update, to be provided to the Ofcom Board at its June 2021 meeting, on key themes and emerging lessons from editorial standards work up to 31 March 2021. The updates

were designed to inform the Ofcom Board of ongoing activity in this area and to seek its views on any proposed changes going forward.

13. Members discussed a range of issues including:
- whether an increase in volumes meant that Ofcom needed to re-think its approach to handling standards complaints, whilst noting that the issues most complained about were sometimes found to be without merit and therefore not pursued (whilst still requiring Ofcom resource) and perhaps reflecting a mis-match between public perceptions and Broadcasting Code rules;
  - the need to keep the approach to broadcast complaints in mind as Ofcom assumed online safety responsibilities;
  - in relation to the Broadcasting Code, work could be required to enhance public understanding of the rules;
  - it was suggested that it could be a good time to **consider** re-designing the complaints interface, including providing answers to common queries before a complaint was made and thinking about how complaints were acknowledged, eg to explain when a complaint was outwith the Code, and monitoring the Ofcom landing page could help provide data on who complained and why;
  - it was noted that digital communication made complaints/campaigns easier and could sometimes encouraged a 'cancel culture', ie some viewers or listeners did not like something and so felt it should not be 'on air';
  - freedom of expression needed to be taken into account, and whilst some people might find something unacceptable that did not mean that it could not be said;
  - the use of technology to help understand/analyse complaints; and
  - the positive value of Ofcom publishing its full reasoning in 'not pursued' decisions and giving Ofcom's rationale for not investigating an issue in plain English.
14. Members comments were noted and would be taken into account in any revision of the update to be submitted to the Ofcom Board.

#### **Future of Public Service Media – Small Screen: Big Debate – CB 15(21)**

15. The Executive provided members with details of the 100+ consultation responses to the SS:BD consultation, which closed on 16 March 2021, and discussed emerging thinking on what was likely to be included in a statement of recommendations to the UK Government, in the Summer.
16. Issues raised and discussed by members included:
- the need to consider the language and tone of the statement, in the context of Ofcom's duty to maintain and strengthen public service broadcasting; it was noted that accessibility and discoverability would be key elements;
  - 'rights' for producers and for PSBs (on linear TV and increasingly VoD rights)
  - the funding of PSM;
  - it was noted that younger audiences were engaging less with PSB, there was a discussion about whether this was a long term trend and agreement that now was a good time to think about this;
  - the significance of supporting the creative economy in the Nations and regions;
  - the future of radio and a need to be mindful of the ongoing DCMS Digital Radio and Audio Review;
  - and other matters touched on included PSM in an increasingly competitive environment; production quotas and the need for accountability and

- transparency, eg in relation to BBC Studios.
17. Final proposals for the SS:BD statement were expected to be submitted for discussion at the Ofcom Board meeting in June.

**Ofcom's first Periodic Review of the BBC and Review of the BBC Operating Licence – CB 16(21)**

18. Members were briefed on the plans, approach, and timings for Ofcom's first Periodic Review of the BBC, including the review of the BBC Operating Licence. The scope of the review was wide and would include looking at the BBC First complaint process, along with whether Ofcom's levers and processes remained appropriate. The Periodic Review would set out Ofcom recommendations to the Government at mid-Charter (alongside changes Ofcom might wish to make to its own processes) and also how Ofcom might approach the regulation of the BBC looking ahead to the next Charter Period.
19. Issues raised and discussed by members included the risk that the Periodic Review could look like a technocratic exercise, and that it would need to show how regulation allowed Ofcom to deliver benefits for audiences; the importance of a strategic forward look and assessment of public value; allowing the BBC greater flexibility to decide where to reach audiences, whether through linear or online services, and how to measure that; evolving media markets and regulation; the need for Ofcom to have the means to step in if the BBC was not delivering on its key purposes; a need for the BBC to provide evidence that it was reaching all audiences; and the use of quotas as a measure of quality.
20. Terms of Reference for the Periodic Review were expected to be published in July along with a Call for Inputs related to the review of the BBC Operating Licence.

**Media Ownership Review – CB 17(21)**

21. Ofcom was required to review the Media Ownership Rules every three years and make recommendations to the Secretary of State. The previous review was in 2018, when the external context (including the ongoing Fox/Sky Public Interest Test, the Cairncross Review, and the Online Harms White Paper) meant that it was not appropriate to make recommendations for changes to the Rules. A two-phased review was proposed. Phase 1, approved by the Ofcom Board, would involve a narrow set of changes to the existing Rules, to update them as far as was practicable. Phase 2, also approved by the Ofcom Board, would be a wider review to look at plurality issues.
22. Issues discussed by members included the timing of Phase 2, it being suggested that a review of plurality was needed several years ago; 'sufficiency of plurality' was raised as a topic to be explored; and whether it would be possible to create standards for a public service algorithm (algorithms were used, for example, by online news providers and distributors to maximise user engagement).
23. It was noted that the Executive planned to consult on proposals for the Rules and issue a call for inputs on wider media plurality questions in June 2021.

**Information items**

24. The following items were noted:
- Children's media literacy reports 2020/2 – CB 18(21);

- Minutes of the Ofcom Board (17 and 22 March 2021); and
- Minutes of the Communications Consumer Panel/ACOD (18 March 2021).

**Any Other Business**

25. The Chairman commented that it was possible that the next meeting could take place at Riverside House, depending on the easing of COVID restrictions, and that in future it would be necessary to consider hybrid meetings, ie attendance being a combination of in-person and remote.
26. There was no other business.

**Date of the Next Meeting**

27. The next meeting of the Content Board was scheduled to take place on 6 July 2021.