

**MINUTES OF THE ONE HUNDRED AND FIFTY-SIXTH MEETING OF THE OFCOM
CONTENT BOARD HELD AT RIVERSIDE HOUSE, LONDON,
ON TUESDAY 26 FEBRUARY 2019**

Members Present:

Tim Suter	Chairman
Jonathan Baker	Member
Kevin Bakhurst	Executive Member
Tony Close	Executive Member
Maggie Cunningham	Member
Bob Downes	Member
Aled Eirug	Member
Robin Foster	Member
Angelina Fusco	Member
Sophie Morgan	Member
Stephen Nuttall	Member
Monisha Shah	Member
Janey Walker	Member

In Attendance:

Laura Cole	Senior Associate, Standards and Audience Protection
Vikki Cook	Director, Standards and Audience Protection
Ali Marsden	Director, Standards and Audience Protection
Siobhan Walsh	Director, Content Policy
David Edwards	Assistant Corporation Secretary
Other Ofcom Colleagues	

Introduction & Welcome

1. The Chairman welcomed all present to the one hundred and fifty-sixth meeting of the Content Board.

Chairman's update

2. The Chairman reported on discussions at the February 2019 Ofcom Board meetings and focussed on the main areas of work.
3. It was noted that the Ofcom Board had approved changes to the Content Board Code of Conduct, copied to members for information.

Minutes of the Content Board Meeting held 18 December 2018 - CB Minutes 155(18), Actions List and Matters Arising

4. The minutes of the Content Board meeting held on 18 December 2018 were agreed as a true and accurate record for signature by the Chairman.
5. A list of completed and ongoing actions had been copied to members. There were no matters arising that were not covered by the meeting agenda.

Members' interests

6. Jonathan Baker declared work that he was undertaking for the BBC related to its Editorial Guidelines.

Content and Media Policy updates - CB 1(19)

7. Members noted the contents of a paper providing an update on key policy

and project areas in the Content and Media Policy Group.

8. Members were updated on and discussed a wide range of topics, including:
- iPlayer proposed changes; which Ofcom had found to be material and had directed the BBC to undertake a Public Interest Test (PIT). The PIT had been launched by the BBC in January 2019, including a consultation exercise that had closed on 15 February. Ofcom expected to receive final proposals from the BBC and to complete a BBC Competition Assessment by early August.
 - BBC Sounds; given uncertainties over what Phase 2 of Sounds would involve review of the BBC's proposals had been paused. Ofcom would re-engage when the BBC had provided a supplementary materiality assessment, which it had committed to do when proposals have been finalised.
 - Ofcom had published a statement on changes to the requirements and guidance for the BBC's commercial and trading activities on 11 February; it was noted that the BritBox streaming service, a BBC Studios and ITV plc joint venture, was expected to be announced shortly.
 - BBC News review; Content Board members had engaged with the Executive to scope the review and related research. Terms of Reference would be published the following week. The review would examine relevance to audiences, trust/impartiality and quality/depth of analysis in news and current affairs and assess all platforms, ie TV, radio and online.
 - Standards investigations; it was noted that Ofcom continued to experience a high volume of casework relating to Section Three of the Broadcasting Code, which included rules covering hate speech.
 - RT investigations; Ofcom had published its Decisions on ten cases involving RT and had found that seven had breached due impartiality rules. The seven breaches amounted to a serious failure of compliance and Ofcom was now considering an appropriate sanction. It was noted that RT had indicated that it was seeking judicial review.
 - Brexit; the exiting the EU broadcasting SI had been approved in both Houses of Parliament in early February and Ofcom was also preparing for a no-deal scenario (template licences had been drafted; updated application forms and accompanying guidance notes were being drafted).

PV and Decision/Adjudication refresher

9. The Executive summarised Ofcom's processes and procedures for reaching decisions in the investigation of complaints related to content standards in programmes and in consideration and adjudication of fairness and privacy complaints about how broadcasters have treated individuals or organisations. Content Board members take part, in rotas, as members of separate PV (Preliminary View) and Decision panels before final decisions are taken by a senior member of Ofcom's Executive.
10. Discussion also covered the sanctions that sometimes follow from a breach decision and the consequences of maintaining separate PV and Decision panels, one of which could be to limit discussion of the issues arising from an investigation, including when all members come together at Content Board meetings.
11. It was requested that a session/ "teach-in" be held to go over fairness and privacy investigations and to understand how Ofcom had considered a range of issues to date. It was requested also that members receive regular information about cases under consideration, including notable new investigations and the status of current investigations.

Thematic standards discussion: audience expectations in shock jock interviews

12. Discussion focused on recent offence complaints about the *James Whale Show*, broadcast on TalkRadio on 30 July 2018. Ofcom had received 38 complaints about an interview with an author/journalist and expressing concern that the interviewee, who had revealed on-air that she had been sexually assaulted, was treated dismissively and insensitively and “victim blamed” for the assault. Talksport Limited, the licensee, had been found to have breached rule 2.3 of the Broadcasting Code.
13. Issues raised in discussion included the fine judgements that sometimes need to be made by Ofcom in reaching decisions in investigations, including consideration of a broadcaster’s rights to freedom of expression; issues of generally accepted standards and of offence; and audience expectations of ‘shock jock’ programming of this kind.

Ofcom’s online work programme - CB 2(19)

14. Members had received a paper to update them on Ofcom’s online work programme and on public policy developments around online regulation. It was noted that a White Paper was expected in mid-March. The paper also provided some details on Ofcom’s plans for a stronger media/digital literacy strategy.

Beyond Broadcast - CB 3(19)

15. Members were briefed on findings from a programme of work run by Ofcom’s Market Intelligence team, its purpose being to further Ofcom’s understanding of the wider audio-visual sector and the impact video on demand could have on traditional TV models and to inform policy discussions. Where permissible the data would be incorporated and published in Ofcom’s Media Nations 2019 report due for publication in August.

Information items

16. The following information items were noted:
 - Content Board Code of Conduct - CB 4(19)
 - Minutes of the Ofcom Board (11 December 2018)
 - Minutes of the Communications Consumer Panel/ACOD (15 November and 13 December 2018).

Any Other Business

17. There was none.

Date of the Next Meeting

18. The next meeting of the Content Board was scheduled to take place on 2 April 2019.