

**MINUTES OF THE ONE HUNDRED AND FIFTY-EIGHTH MEETING OF THE OFCOM
CONTENT BOARD HELD AT RIVERSIDE HOUSE, LONDON,
ON TUESDAY 21 MAY 2019**

Members Present:

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

Apologies

Kevin Bakhurst	Executive Member
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In Attendance:

Caroline O'Dwyer	Senior Standards Executive
Siobhan Walsh	Director, Content Policy
Katherine Warne	Standards Executive
David Edwards	Assistant Corporation Secretary
Other Ofcom Colleagues	

Introduction & Welcome

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

Chairman's update

2. The Chairman reported on discussions at the April 2019 Ofcom Board meeting and focussed on the main areas of work.

Minutes of the Content Board Meeting held 2 April 2019 - CB Minutes 157(19), Actions List and Matters Arising

3. The minutes of the Content Board meeting held on 2 April 2019 were agreed as a true and accurate record for signature by the Chairman.
4. It was noted that Ofcom planned to publish a landing page for its PSB work programme on the Ofcom website at the end of June. It would include a short 'roadmap' on Ofcom's approach to the review, set the context for and help to draw together existing Ofcom work on children's programming, PSB prominence and content made outside London.
5. 2020 Ofcom Board meeting dates were close to being finalised, Content Board dates would then be agreed.
6. There were no other matters arising that were not covered by the meeting agenda.

Members' interests

7. There were no interests to declare.

Content and Media Policy updates - CB 10(19)

8. Members noted the contents of a paper providing an update on key policy and project areas in the Content and Media Policy Group.
9. Members were updated on and discussed a wide range of topics, including:
- The Jeremy Kyle Show; ITV had axed the show after a guest had been found dead following a suspected suicide at his home shortly after recording an episode (not broadcast). ITV was conducting an internal investigation and Ofcom had requested information, which was due by the end of the week.
 - Welfare of adult participants in reality programming; following discussion of members' concerns at the April meeting, the Executive had begun to consider whether further protection measures were required in this area. The Executive now planned to engage with broadcasters and other relevant stakeholders, such as production companies and former participants in reality programmes, and with psychologists working in this area.
 - Inquiry into reality TV; in the previous week the DCMS Committee had announced an inquiry to consider production companies' duty of care to participants, whether enough support was offered both during and after recording and whether there was a need for further regulatory oversight. Ofcom expected to give oral evidence in due course.
[Note: On the day of the Content Board meeting the Ofcom Chief Executive gave oral evidence to the DCMS Committee on the work of Ofcom. The Jeremy Kyle Show and questions about the regulation of reality TV were raised by the Committee.]
 - Sanctions; following seven breach decisions, RT's application for judicial review (JR) had been refused on the papers but it could seek a full oral hearing. The Executive was proceeding with a sanctions process but not to enforcement until the JR was decided. Talk Radio and Baltic Media Alliance had been informed that Ofcom would proceed with sanctions, in relation to the *George Galloway* programme and to a news bulletin broadcast on NTV Mir Baltic, respectively. Following the conclusion of sanctions cases, the Content Board would have a substantive discussion about due impartiality and on lessons learned from these investigations.
 - Commercial radio; guidelines were amended recently to allow greater flexibility to local stations. Some stakeholders, including from devolved administrations, had expressed disappointment at the reduction in local services and the Executive was engaging with them to set out the evidence and rationale for Ofcom's decisions.
 - BBC iPlayer changes; on 25 April the BBC had published its PIT and Ofcom had launched a BBC Competition Assessment (BCA), to consider whether the public value of the iPlayer proposals would justify any impact on fair and effective competition identified, and had published a 'call for evidence' (which ended on 10 May). Ofcom was considering the views from stakeholders as part of its BCA. A member asked about the potential impact on independent producers arising from iPlayer changes and development of the BritBox SVOD service.
 - BBC News review; the Executive was in the information gathering phase of the project, involving both original research and stakeholder engagement.

- BBC Studios; Ofcom was engaging with the BBC on reporting.
- *Sunday Politics*; on 29 April Ofcom published a breach decision concerning an edition of the BBC programme broadcast during the 2017 Scottish local election period.

Key themes standards report to Ofcom Board: further discussion - CB 11(19)

10. Members were invited to consider the content of the six-monthly update expected to be provided to the Ofcom Board, for its June 2019 meeting, on key standards themes and emerging lessons for the second half of FY 2018/19. A theme for inclusion, previously identified by the Content Board, was the welfare of participants in reality programming.
11. Members noted plans for increased monitoring of harmful content, involving small broadcasters aimed at specific minority UK communities, and a streamlined approach to some issues of lower concern, eg minutage of advertising.
12. Issues discussed by members included impartiality and speech radio; plurality and audience expectations of news sources; Ofcom resource to deal with BBC complaints, which the Chairman requested be tracked; and monitoring of religious content. Members agreed the report format proposed by the Executive.

Fairness and Privacy Teach-in

13. The Executive summarised the legal framework and Ofcom's approach when considering and adjudicating on complaints of unwarranted infringement of privacy in programmes or in connection with the obtaining of material included in programmes. That included whether a person had a right to privacy; if they did, whether they consented to the material being obtained and broadcast; and if there was no consent, whether there was any justification for infringing a person's privacy.
14. Factors which might be considered include the degree of the private information revealed, eg concerning health or family life; the age of the person; the circumstances in which the person was filmed, someone who knew they were being filmed may have a very different right to privacy than someone who was secretly filmed; and where the filming took place, eg in a public place or in the person's home or place of work.

Radio Diversity Report - CB 12(19)

15. Members were briefed on Ofcom preparations to publish its second report on diversity and equal opportunities in the UK radio industry, based on 2018 calendar year data, and which would include analysis of progress, with a focus on the main three radio broadcasters: the BBC, Global, and Bauer.
16. [Withheld from published minutes.]
17. Although Ofcom had been encouraged that data collection from other broadcasters had improved, gaps remained in areas including information on freelancers; and the data revealed that there continued to be under-representation of women at senior levels in the radio sector, of disabled people and of minority ethnic groups.

Online Harms White Paper - CB 13(19)

18. Members had received a paper setting out a high-level summary of Online Harms White Paper proposals; Ofcom plans for engaging with Government; initial stakeholder reactions to the White Paper; and providing a brief update on Ofcom's wider online work programme, including development of the

'making sense of media' programme, ie an increased focus on digital literacy.

19. An issue to resolve as part of the Government consultation on online harms would be Ofcom's future role in online regulation, both on an interim basis and in terms of the delegated final regulator, which includes options to create a new regulatory body or to alter the remit of an existing organisation.
20. Issues discussed by members included the possible scope of online regulation; the need for a risk-based and proportionate approach; expectations about the protections that could be achieved; and stakeholder reactions.

Information items

21. The following information items were noted:
 - Minutes of the Ofcom Board (20 March 2019).
 - Minutes of the Communications Consumer Panel/ACOD (21 March 2019).

Date of the Next Meeting

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