

**Minutes of the 80th meeting of
the Advisory Committee for England, held at
Birmingham City University and via Teams
on 9 June 2022**

Present

Paula Carter	Chair
Aaqil Ahmed	Member
Emma Davison	Member (via Teams)
Matthew Littleford	Member (via Teams)
Alan Nunn	Member (via Teams)
Mark Smith	Member

In attendance

Angela Dean	Ofcom Board Member for England
Emma McFadyen	Director, England
Monisha Shah	Content Board Member for England (via Teams)
Richard Spencer	Consumer Panel Member for England (via Teams) (minutes 24 - end)
Amit Kamal	Next Gen NEDs observer
David Edwards	Committee Secretary
Colleagues from the Sir Lenny Henry Centre for Media Diversity, (minutes 15-17)	
Colleagues from the Advertising Standards Authority (ASA) (minutes 18-20)	
Other Ofcom colleagues	

Introduction

1. The Chair welcomed Members and attendees to the 80th meeting, held at Birmingham City University at the invitation of the Sir Lenny Henry Centre for Media Diversity. Colleagues from the Sir Lenny Henry Centre would be joining the Committee for discussion later in the meeting.

Declaration of Members' Interests – Oral

2. In the context of today's meeting agenda, Aaqil Ahmed declared that he was an ASA Council Member and a member of the Editorial Board of Representology, the journal of media and diversity published by the Sir Lenny Henry centre. Matthew Littleford reminded Members that he was the Chair of the Trustees of The Reading Agency, some of its work being funded by DCMS.

3. There were no other interests declared by Members or attendees.

Minutes of the meeting held on 3 March 2022 and matters arising – Minutes 79(22)

4. At the March meeting the reappointment process for Members of the Committee had been discussed. Subsequently the Ofcom Board reviewed options for Advisory Committee and Content Board (NED) reappointments and agreed that these would be made for three-year terms, with the possibility of a second three-year term, as long as certain criteria were met, including agreement by the respective committee and the

Board that it was right for Ofcom for the respective member to serve a second term; and without the individual needing to formally re-apply.

5. The Chair had engaged with the operations team at the office of the Mayor of the West Midlands but lack of availability meant that a discussion at today's meeting about communications issues affecting the region had not been possible.

6. Channel 3 and Channel 5 relicensing had been discussed at the previous meeting¹. It was noted that it was Ofcom's view that there was a good case to proceed with renewal of the licenses and the Executive would communicate that in a report to the Secretary of State later in the month.

7. Subject to minor amendment, the minutes of the meeting held on 3 March 2022 were **APPROVED** for signature by the Chair as an accurate record.

Ofcom Board update

8. Angela Dean expanded further on the Board's review of NED reappointments, referred to earlier. As a result of that review, Aaqil Ahmed and Matthew Littleford had been reappointed to the Committee. Angela Dean extended an apology from the Board for any confusion the previous process has caused.

9. Angela reported and the Advisory Committee noted recent topics discussed by the Board (minutes and notes of Board meetings being available on the Ofcom website). In addition, it was noted that Ofcom had a new Chair and, for the first time, a Board member for Northern Ireland.

10. It was further noted that reviews had been undertaken and presented to the Board in response to the fire at the main Bilsdale TV and radio transmitter on 10 August 2021 and, separately, the release of fire suppressant gas at Red Bee Media's Broadcast Centre on 25 September 2021, which had resulted in interruptions to TV access services provided by some PSBs and disruption to Channel 4 until November 2021. A Member queried whether decisions to spend less had been factors that led to these events (it was confirmed, following the meeting, that this was not the case) and there was brief discussion about the importance of risk assessment of possible service failure. [Note: Later in June Ofcom published separate incident review reports.]

Content Board Update

11. Monisha Shah reported and the Advisory Committee noted recent topics discussed by the Content Ofcom Board (minutes of meetings being available on the Ofcom website). These had included Channel 4 Corporation's Statement of Media Content Policy 2021 and the regular 6-month progress update on key themes/lessons from Content Board's Editorial Standards Work, which would be submitted to the Ofcom Board shortly.

¹ All 16 Channel 3 licences are held by subsidiaries of either ITV plc or STV plc. The Channel 5 licence is held by Channel 5 Broadcasting Limited (a subsidiary of Paramount Global). Ofcom has a duty to submit a report to the Secretary of State and to give its opinion on the ability of the Channel 3 and Channel 5 licensees to contribute to the fulfilment of the purposes of public service broadcasting (PSB), at a commercially sustainable cost, over the next ten-year licence period.

12. There was brief discussion about *We are England*, the new regional current affairs series first shown on BBC One in January 2022 and a result of editorial decisions by the BBC to replace the older regional format *Inside Out*. Members felt that it would be important to track viewing figures and the success or otherwise of the new format in delivering what local audiences wanted and a further discussion point was what investigative journalism meant for different communities and in different geographical areas.

Public Policy update – ACE 10(22)

13. Members had been provided with a paper to update them on key public policy developments since the last meeting. Given the Queen's Speech in May, the majority of the update was focused on legislative developments and the beginning of a period of unprecedented Parliamentary activity for Ofcom.

14. Discussion focussed on the Media Bill, which would provide the basis for many of the reforms Ofcom had sought in its *Small Screen: Big Debate* review of public service media (published in July 2021) and also dealt with the sale of Channel 4. The Committee was not entirely convinced that privatisation would necessarily lead to improvements in Channel 4's offering and performance.

The work of the Sir Lenny Henry Centre for Media Diversity

15. Aaqil Ahmed had helped to facilitate this session. Professor Diane Kemp, as Director, explained the background to the launch the Centre at Birmingham City University (BCU), in March 2020, as a new research hub, bringing together the expertise of established media professionals and academics. Part of its role was to collect data and evidence and to act as a trusted critical friend. To date the Centre had received many offers to partner initiatives.

16. Marcus Ryder, visiting Professor in Media Diversity at BCU, took the Committee through a slide deck. He spoke about the importance of creating evidence-based diversity policies; the value of academic work to help avoid policy mis-steps; the need for consistency in data gathering, language and for standardised terminology and definitions in relation to "diverse-led" indies. He also spoke about the need for intersectional metrics; data by nation/region including 'capacity assessment' in relation to local workforces, and the need for standardised quality assessment of data.

17. In discussion, the Chair queried whether there needed to be complete agreement about definitions, which could take time to achieve, when the priority was about forcing change in the industry. A Member commented that whilst ITV was seeking to implement criteria for its diversity commissioning fund, including diverse company ownership or leadership, it was not leading from the top in this regard; questioned the suitability of certain terminology, such as "LGBT community" to describe what was a diverse and loosely defined group of people; and that much work remained to be done to challenge heteronormative views of society. He was invited to engage further with the Sir Lenny Henry Centre outside the meeting.

Advertising Standards Authority (ASA)

18. The Chairman and Chief Executive of the ASA joined the meeting to discuss issues affecting vulnerable consumers and Members noted that online advertising had become

an increasing area of focus for the ASA, including material on video-sharing platforms. It was further noted that the Government's Online Advertising Programme consultation had closed the previous day, the three options under consideration being a self-regulatory approach whereby the ASA would continue to be the regulator; the introduction of a statutory regulator to backstop more fully the self-regulatory approach; and a full statutory approach.

19. Whilst there was a well understood and mature market in broadcast advertising this was less so in the online space. A particular concern was inappropriate online advertising that targeted children. To investigate this further, the ASA had used avatar technology to mimic browsing behaviour, to gain visibility and investigate websites with inappropriate ads, some being ads for gambling sites and often the result of sloppy practices rather than deliberate targeting. Age verification measures provided some safeguards but relied on honest age declarations. Other challenges included national boundaries, global reach and jurisdiction. Influencer marketing and proper labelling of ads were issues highlighted. Good relations with other UK regulators were clearly important and with bodies in other countries.

20. It was noted that there were already strong links between Ofcom and the ASA and these were likely to increase with the anticipated introduction of legislation for online safety. The Chair thanked colleagues from the ASA and Aaqil Ahmed for assisting to facilitate today's discussion.

Media Nations Report – ACE 11(22)

21. Media Nations 2022 comprised an annual set of research reports providing Ofcom's latest data and insight into the radio and TV sectors, including on-demand services, in UK, Northern Ireland, Scotland and Wales reports, as well as in an interactive data report, indicating trends, providing subscriber numbers and details on market dynamics. Public Service Media, including revenue and spend, would be a particular focus of the reports which were due to be published in August 2022. The Executive presented some early, high-level findings from the research and also invited views on the positioning of those findings and feedback to help to inform the final narrative for the UK report.

22. A Member queried the lack of an England report, whilst noting that, due to its population size and characteristics, trends in England tended to mirror those for the UK as a whole, and suggested that the position be reviewed. It was further noted that the interactive data report would include England splits of data. [Note: Media Nations 2022 would be the fifth such annual report and in previous years there had not been a separate England report.] The Chair commented that it would be important not to position England as being homogenous and, whilst being noted that robust samples would be required, it would be useful to see audience satisfaction data for national and local services, including news, and for different regions

23. The data prompted a number of questions about what was driving trends and analysis was currently being drafted for the report. Over previous years of reporting, as viewing of broadcast TV had declined (except for 2020 due to the pandemic), viewing to streaming and on-demand services had increased, raising the question of whether this was indeed a systemic trend. The most listened to radio stations varied by regions within

England but often national stations were the preferred service, raising questions about preferences and the adequacy of local services.

mmWave Spectrum Proposals – ACE 12(22)

24. Ofcom was consulting on proposals to make a large amount of millimetre wave (mmWave) spectrum available in the 26 GHz and 40 GHz bands for new uses by mobile network operators, fixed wireless access operators and local/industrial users. Such uses would be localised. Spectrum in the mmWave range can carry large amounts of data but typically limited to short distances as it was easily blocked by obstacles such as buildings and trees.

25. Members provided feedback to the Executive by raising issues including the scope for urban and rural uses of mmWave spectrum to improve coverage and connectivity; the availability of spectrum for trial purposes; learning from mmWave deployments in other countries, such as South Korea and the United States; the need to set appropriate licence duration periods to provide certainty and also encourage investment and innovation; and the process to identify high density areas of the UK, ie the major towns and cities where deployment was expected to be more widespread, including data traffic.

Consumer Panel update – ACE 9(22)

26. Members noted recent Consumer Panel activity and current priorities (minutes of Panel meetings being available on the Panel’s website). The update focussed on issues including affordability of communications services in the context of cost living pressures; Panel support for regular reporting on the Fairness for Customers commitments that broadband, phone and pay TV companies had signed up to in 2019; VoIP migration; postal issues including Royal Mail quality of service and its stamp ‘swap-out’ scheme with the introduction of new bar-coded stamps; and take-up and awareness of telco’s social tariffs.

27. There was discussion about reporting on Fairness commitments and whether this area of work was being dialled down by Ofcom. Angela Dean agreed to make enquiries. [Note: The most recent progress review report on Fairness Commitments was published in May 2021. Ofcom would continue to maintain an emphasis on the commitments and would report periodically on progress, if not annually.] A second talking point was the importance of a ‘single social tariff’ to replace individual telco schemes and to reduce complexity. It was noted that a single social tariff had been proposed for water.

Members’ open session

28. A Member flagged an issue raised at techUK, the interoperability of roaming between numbers dialled overseas, eg when making emergency calls, and whether this had been thought through in the context of 2G switch-off. It was suggested that the GSMA² would have a view and another member agreed to share relevant GSMA contact details.

² *Groupe Spécial Mobile Association*, an international organisation that represents mobile network operators.

29. Referring to recent Ofcom Connected Nations data, a Member reported that there were some areas in the UK where 4G coverage was inferior to 3G. This suggested that 3G switch-off would result in a worsening of mobile coverage for some consumers.

Future agendas – ACE 13(22)

30. Following the previous item, 2G/3G switch-off was a proposed agenda item for the next meeting, along with an update on VoIP migration. It was reported that DCMS had asked to speak with Ofcom’s Nations Advisory Committees, as part of stakeholder engagement on the Mid Term BBC Charter Review. For the Committee, that engagement could be DCMS attendance at the October meeting or as part of a smaller grouping of interested Advisory Committee members in late summer. It was stressed that the Committees would give their own views, rather than the view of Ofcom. Ofcom’s BBC Annual Report and Performance Report would also be an agenda item at the next Committee meeting. The Chair commented that affordability was a theme that the Committee should keep in mind.

31. Offline, the Chair would seek feedback from Members about holding further Committee meetings outside London and emphasised that these would work best when most/ all Members could take part in person (along with engagement with local stakeholders). The current proposal was to hold the December Committee meeting at Ofcom’s office in Manchester.

Information Items

32. Broadcast, Postal and Telecoms data (England) – ACE 14(22): The paper was noted.

Any Other Business

33. The Chair and Aaqil Ahmed had met with members of Ofcom’s future of BBC regulation team on 9 February 2022. Members confirmed that they were happy for Ofcom, in its forthcoming consultation (Modernising the BBC’s Operating Licence, published on 22 June) to disclose the Committee’s view that stakeholders had called for additional transparency on how the BBC was delivering for less satisfied groups.

34. There was no other business.

Date of the Next Meeting

35. The next scheduled Committee meeting would be held on 6 October 2022.