**PUBLICATION MINUTES OF THE ONE HUNDRED AND SEVENTY-SEVENTH MEETING OF
THE CONTENT BOARD HELD ON 5 JULY 2022
CONNECTED MEETING HELD AT RIVERSIDE HOUSE AND VIA MICROSOFT TEAMS**

Present

Maggie Carver	Chair
Dekan Apajee	Member
Jonathan Baker	Member
Kevin Bakhurst	Executive Member
Rachel Coldicutt	Member (items 1 – 8)
Maggie Cunningham	Member
Bob Downes	Member (items 1 – 8)
Peter Horrocks	Member
Tobin Ireland	Member (items 1 – 6)
Ali Marsden	Executive Member
Stephen Nuttall	Member
Monisha Shah	Member

Apologies

Ruth McElroy	Member
Kim Shillinglaw	Member

In attendance

Karen Baxter	Ofcom Board Member for Northern Ireland
Adam Baxter	Director, Standards and Audience Protection (items 1-5 and 9)
David Edwards	Committee Secretary
Gill Whitehead	Chief Executive, DRCF
Other Ofcom colleagues attending for specific items	

Item 1: Welcome and introduction – oral

1.   This was Maggie Carver's first Content Board meeting as Chair since being appointed on 18 May 2022 by the Ofcom Board, of which she was already Deputy Chair. She thanked Bob Downes for acting as interim chair of the Content Board (he would revert to being a member); and David Jones for acting as an interim member, both for the past twelve months.

2.   The Chair introduced Ofcom Board member Karen Baxter, who was attending to bring a Northern Ireland perspective to discussion pending the recruitment of a Content Board Member for Northern Ireland.

3.   It was noted that the names of four appointable candidates for an Ofcom Board Member with Broadcasting experience were with the Secretary of State for consideration but a decision remained outstanding. It was further noted that the Content Board online safety (OS) sub-group had met with the Executive on 23 May to input on the 3-year strategic priorities for the OS regime.

Item 2: Members' interests – oral

4.   No new declarations of interest were notified.

Item 3: Minutes of the meeting held on 3 May 2022 and matters arising – Content Board minutes 176(22) and note of action points

5.   The minutes of the Content Board meeting held on 3 May 2022 were **APPROVED** for signature by Bob Downes as an accurate record. Bob Downes had chaired that meeting in his capacity as Interim Chair.

6.   A summary of progress against action points had been circulated. Status updates against each of the actions, as set out in the summary, were **NOTED**. There remained an outstanding action to schedule research items/deep dives as part of Content Board agendas planning and which the Chair would return to under the next item.

Item 4: Chair's update – Oral

7.   Maggie Carver thanked Members for meeting her individually and for sharing their thoughts about the Content Board. She planned to discuss that thinking with the Executive, to refresh the format of Content Board meetings, including a shared desire to devote more time to debates and this would link to the inclusion of any future research agenda items. Members were invited to feel free to share any other ideas going forward.

8.   The Chair reported on recent discussions of the Ofcom Board and focussed on the main areas of work. These had included: approval of Ofcom's Three-Year Plan; the 'Roadmap' to regulation of OS and strategic aims; the strategic approach to regulating postal services for the period 2022-27; and discussion of effective competition in digital communications markets.

9.   The Content Board **NOTED** the report from the Chair.

Item 5: Broadcast and Online Content Group Policy Updates – Paper CB 14(22)

10.   Members had received a paper providing an update on key policy and project areas in the Broadcast and Online Content Group. Members were updated further on a wide range of topics, including:

- Online Safety: Ofcom had given evidence to the OS Bill Committee and that stage of the Bill process had concluded. DCMS had decided to bring forward measures to protect children (adding to the face of the Bill rather than via secondary legislation). The 'Roadmap', referred to earlier, would be published the next day. The Executive would be providing a paper for the July Ofcom Board meeting on platforms' responses to the live streaming of the mass shooting in Buffalo. The latter could provide a good case study, perhaps for discussion at a future Content Board meeting, and an indication of how Ofcom might operate under the OS regime in dealing with platform systems (not individual pieces of content).
- A Member commented that it would be useful to compare responses to Buffalo with the 2019 Christchurch mosque shootings and the Chair highlighted the tail of smaller platforms, some of which could conceivably stream such incidents to gain wider audiences.
- Diversity: A separate information paper had been provided to update the Content Board. A statement would be published in the Autumn on the responses to a recent Call for Inputs, as well as the new questionnaires for 2023 (and beyond) on quantitative and qualitative data collection. Retention of under-represented groups

was important and the Executive was pushing broadcasters to agree an industry-wide framework around exit interviews.

- A Member commended the Executive's engagement with the BBC to secure provision of BBC workforce diversity data for each of the nations for 2021 and which would be published by Ofcom in a workforce data report in the Autumn. He referred also to an Ofcom event held in September 2020 that brought together the main broadcasters in Scotland and Screen Scotland to discuss minority-ethnic diversity in the Scottish broadcasting sector. He suggested that broadcasters could voluntarily provide information about commissioning and that Ofcom could again use its convening authority to facilitate this. The Executive would follow-up with him the connections between diversity in the nations and broadcasters' commissioning teams.

- Standards and Audience Protection: In the previous quarter complaints and cases had been fewer than in the period last year but current cases continued to create a large amount of work; a trial of a new approach to assess offence complaints was in progress; and in relation to the BBC, on 22 June 2022 a set of documents had been published to set out Ofcom's view of the future of BBC regulation, including research on audience perceptions of the BBC First complaints system and on drivers of perceptions of due impartiality. In terms of notable standards investigations, some of the most serious breaches recorded involved content broadcast by small broadcasters.

- Regarding BBC First, the Chair flagged that amongst those that had cause to complain, many felt it was a futile exercise and this was concerning. She added that: the BBC needed to adopt greater transparency in its approach to editorial standards complaints, including provision of information to Ofcom; when it regulated online safety, Ofcom would be reliant on people being prepared to make complaints to platforms; and another aspect of the complaints landscape was a lack of visibility in relation to the commercial PSBs. A Member requested a deeper discussion about transparency and emphasised that Ofcom's strength lay in its evidence-based approach to regulation.

- BBC work areas: A consultation on modernising its operating license had been published alongside the 22 June 2022 report on how Ofcom regulates the BBC. The need for transparency, assessment of digital services and efforts to give the BBC more flexibility on how it delivered across its services were all elements of Ofcom's review.

- Media Bill: The Executive was assisting DCMS officials drafting the Bill, including clauses to give Ofcom powers to draft a new 'VOD Code', bringing large streaming services into remit. Privatisation of Channel 4 was a key element of the Bill and, arising from its sale, there was a discussion among Members about the implications for commissioning across the Nations and regions of the UK

11. Members **NOTED** paper CB 14(22) and the additional oral updates provided.

Item 6: DRCF and joint work with Ofcom on Online Safety priorities – Paper CB 15(22)

12. The Content Board had expressed interest in the issue of 'boundaries' in relation to Ofcom's role as OS regulator, ie with respect to the work of the Competition and Markets Authority, the Financial Conduct Authority and the Information Commissioner's Office. Gill Whitehead explained the role of the Digital Regulation Cooperation Forum (DRCF), that brought together the four regulators to work together on areas of mutual importance. The DRCF had published its second workplan (2022-23) in April, setting out key priorities for the year ahead

under the broad goals of coherence between regimes, collaboration on projects and capability building across the four regulators.

13.   During discussion, issues raised by the Content Board included:

- Whether the DRCF made joint approaches to Government: Each regulator had its own team and the DRCF sought to complement their work with Government departments (DCMS, BEIS and Treasury).
- When instances could arise where the four regulators had different imperatives and contradictions would need to be resolved. One such example was OS and data protection, related to end-to-end encryption. There was a risk that achieving a consensus could mean accepting the lowest common denominator option and there could be differing risk appetites amongst the regulators. The DRCF could act as an enabler and help to facilitate dialogue.
- The different size and scale of the four regulators needed to be managed. The respective CEOs were aware of this asymmetry and each regulator had a DRCF lead. The current set-up was working well and joint projects were adequately resourced.
- The extent to which tech firms were engaging with the DRCF, eg by responding to its discussion papers on algorithms, was raised. To date there had been a positive response from firms big and small, and from consumer organisations, and meetings with stakeholders had been beneficial.
- A note of caution was sounded in that platforms could attempt to play one regulator off against another.
- There was a need for international collaboration and awareness that some jurisdictions had very different approaches to how to regulate the digital world, China for example.

14.   Members **NOTED** paper CB 15(22).

Item 7: Online Safety – Strategic aims 2023/24 – 2025/26 – Paper CB 16(22)

15.   Members had been provided with a slide deck on Ofcom's indicative strategy for the first three years of the OS regime. The strategy was based on work on prioritisation; the breadth of the OS Bill had been taken into account; and consideration given to the areas of OS where Ofcom was best placed to make meaningful progress in the first years of the regime and to risks and mitigations. It was now important to develop operational plans to implement the strategy.

16.   During discussion, matters raised by the Content Board included:

- The status of the OS Bill, and the potential for further changes during the Parliamentary process.
- Timescales for OS regulation in the UK and in the EU, and the different processes for implementing the parallel regimes, and the potential for confusion amongst regulated services.
- The need for Ofcom to make progress rapidly post-Royal Assent while also working with appropriate caution in this complex area and to consult widely and closely with external stakeholders and industry.

17.   Members **NOTED** the slide deck, paper CB 16(22).

Item 8: Media Nations 2022 – Paper CB 17(22)

18.   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.

19.   During discussion, matters raised by the Content Board included:

- A Member complimented the research and commented that assuming media to be about content, irrespective of device, it was heartening that locally-made content continued to matter to audiences. In terms of positioning the research, that point could be emphasised.
- An apparent contradiction that despite PSB viewing levels continuing to decline, levels of satisfaction had not fallen in the same way, with satisfaction also broadly consistent across age groups, even among those that watched little PSB. Declining viewing therefore appeared to be less about any dissatisfaction with PSB and more about audiences being well-served by non-PSB services that had been gaining popularity, ie SVoD and social video. It was suggested that the availability of PSB online could be a way of retaining satisfaction and that younger people were more likely to search for content on-demand than to look at programme schedules.
- The availability of granular data, it being confirmed that various demographic cuts would be available via the interactive data report.
- In relation to data graphics, the Chair requested that charts include a vertical (y) axis where appropriate and to facilitate data comparison.

20.   Members **NOTED** paper CB 17(22) and publication scheduled for August 2022.

Item 9: Hate speech/Incitement Teach-in

21.   The Content Board was taken through a teach-in: on existing regulation of hate speech on broadcast channels and UK Video Sharing Platforms (VSPs); sharing what regulation of online hateful material might look like under the OS regime; and the challenges and opportunities for Ofcom in regulating hate speech given differing standards and regulatory approach and levers.

22.   The Chair invited members to comment on the material that had been covered (it being proposed that a debate on this topic could take place on another occasion and when there was greater member presence, ideally in person):

- Members commended the work of the Standards, Translation, Analysis and Research (STAR) team to understand cultural context in the assessment of complaints, including analysis of language, history and religious background of content.
- Whilst context was a key factor in assessing broadcast complaints, the emphasis in online safety would be on services having systems and processes in place to protect people from certain types of online harm. Under the OS regime, Ofcom did not expect to respond to individual complaints (services would be required to have their own complaints procedures in place), instead emphasis would be on identifying patterns and systemic issues.
- Ofcom had a role in educating consumers and stakeholders, including broadcast licensees, on demand providers and platforms.

- Seeking coherence between the regulation of broadcast and online hate could lead to the diminution of broadcast standards and that was something to guard against.

23.   The Chair thanked the Executive for providing the teach-in.

Item 10: Information Items

24.   The Content Board **NOTED** the following information items:
- Diversity in Broadcasting update – CB 18(22)
- News Consumption in the UK 2022 – CB 19(22)
- Minutes of the Ofcom Board (meetings held on 6 April and 18 May 2022)
- Minutes of the Communications Consumer Panel (meetings held on 21 April and 19 May 2022)

Item 11: Any Other Business

25.   There was no other business.

Item 12: Date of the Next Meeting

26.   The next scheduled Content Board meeting would be held on Tuesday, 20 September 2022.