

**PUBLICATION MINUTES OF THE ONE HUNDRED AND SEVENTY-EIGHTH MEETING OF
THE CONTENT BOARD HELD ON 20 SEPTEMBER 2022
CONNECTED MEETING HELD AT RIVERSIDE HOUSE AND VIA MICROSOFT TEAMS**

Present

Maggie Carver	Chair
Dekan Apajee	Member
Kevin Bakhurst	Executive Member
Rachel Coldicutt	Member
Maggie Cunningham	Member
Bob Downes	Member
Ruth McElroy	Member
Peter Horrocks	Member
Tobin Ireland	Member
Ali Marsden	Executive Member
Stephen Nuttall	Member
Monisha Shah	Member (items 5 – 11)
Kim Shillinglaw	Member

Apologies

Jonathan Baker	Member
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In attendance

Karen Baxter	Ofcom Board Member for Northern Ireland
Adam Baxter	Director, Standards and Audience Protection
David Edwards	Committee Secretary
Other Ofcom colleagues attending for specific items	

Item 1: Welcome and introduction – oral

1. The Chair welcomed all present to the meeting, including Ofcom Board member Karen Baxter who was in attendance pending the recruitment of a Content Board Member for Northern Ireland.
2. The Chair noted that the Summer had seen much change since the last meeting, events in order including the appointment of Will Harding to the Ofcom Board, a new Prime Minister, a new Secretary of State for Digital, Culture, Media and Sport, and the accession of King Charles. The Chair thanked members who had travelled to London the previous day, which had been a public holiday and the day of the funeral of Queen Elizabeth II.
3. Following discussions between the Chair and individual Members and with the Executive, a new meeting format had been proposed, beginning with today’s meeting and an hour reserved for a topical strategic debate item.

Item 2: Members’ interests – oral

4. Rachel Coldicutt declared three interests: (i) The social enterprise Promising Trouble Ltd, of which Rachel was a director, was undertaking research for the Social Impact team at Nominet on how young people used digital services to access essential services; (ii) submission

of a response to a DCMS call for evidence on measuring the effectiveness of Digital Regulation¹; and (iii) an invitation to be a panellist at a fringe event at the Conservative Party Conference, convened by Bright Blue and the Joseph Rowntree Foundation, to discuss the impact of digital technology on society. Rachel would not be taking part in the panel in her capacity as a Non-Executive Member of the Content Board.

5. The Chair flagged the importance of Members advising the Executive in advance of making any submissions to third parties, eg DCMS.

Item 3: Minutes of the meeting held on 5 July 2022 and matters arising – Content Board minutes 177(22) and note of action points

6. The minutes of the Content Board meeting held on 5 July 2022 were **APPROVED** for signature by the Chair as an accurate record.

7. 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 agenda planning, these would be considered when deciding future strategic debate agenda items and the Chair invited Members to feed in any thoughts at any time.

Item 4: Chair's update, including feedback from Members on the Chair's note of 12 September 2022

8. Maggie Carver had met Rachel Corp, the recently appointed Chief Executive of ITN. The following day she would meet Michael Jerney, Director of News and Current Affairs at ITV.

9. The Chair had provided members with a note following her review of the Content Board, based on thoughts Members had shared when she had met them individually and her subsequent discussions with the Executive, one outcome of which was to refresh the format of Content Board meetings, including a shared desire to devote more time to debates. In addition, the regular Executive update paper (provided for the next agenda item) now included coverage of Content Board advisory/sub-group activity and issues in the Nations.

10. Members were positive in response to the note and feedback included:

- When considering the future size of the Content Board as Members' terms expire, it would be important to consider skill mix and experience and to understand the Content Board's role in relation to online safety (OS) and depending on the range of new duties acquired by Ofcom.
- Ofcom had already discussed with DCMS the possibility of a separate OS board and held the view that convergence and Members' transferable skills made that unnecessary and Members shared that view.
- There was discussion to decide the debate topic for the next Content Board meeting in November and it was agreed that this would be on the economic health of the creative industries in the UK, including consideration of the Nations, threats and opportunities.

¹ <https://www.gov.uk/government/publications/digital-regulation-driving-growth-and-unlocking-innovation/plan-for-digital-regulation-developing-an-outcomes-monitoring-framework#e-call-for-evidence-and-our-next-steps>

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

Item 5: Broadcast and Online Content Group Policy Updates – Paper CB 20(22)

12. Members had received a paper providing an update on key policy and project areas in the Broadcast and Online Content Group. Following feedback from Members it was assumed that going forward the paper would be taken as read and this would be a shorter agenda item to take any questions.

13. A number of issues were touched on:

- Good progress was being made to prepare Ofcom to regulate online safety (OS), including ongoing recruitment of colleagues to join a new OS Group.
- Concerning Channel 4, it was reported that the new Culture Secretary had said (on the BBC's *Today* programme earlier that morning,) that she would re-examine the business case for privatisation.
- ITVX, a new integrated advertising and subscription-funded streaming service expected to launch later in the year.
- The BBC First complaints process, for which any changes would have to go through the BBC Board.
- Prominence for live and on-demand PSB content on major TV services and platforms and Ofcom's ability to ensure compliance with any new prominence duties proposed in the Media Bill.
- The BBC and the future for local content in Northern Ireland (NI), it being noted that the BBC Board did not have a member for NI unlike the other devolved nations.
- Ofcom's Advisory Committee for Wales was broadly in favour of increased flexibility for PSBs to deliver over a range of services but had expressed concerns about unintended consequences. The Content Board noted that devolution of communications and broadcasting powers was moving up the agenda of the Welsh Government.
- Recently completed standards investigations and sanctions cases and enquiries were made as to why some cases took more than one year to complete. It was noted that some investigations could be complex, getting responses from relevant parties could also be slow, and take time to reach a conclusion.
- Consideration of content shared by controversial influencers on video-sharing platforms (VSPs), such as misogynistic content.
- Ofcom's decision to allow commercial television broadcasters to recoup advertising minutage lost during the period of mourning for Queen Elizabeth II, subject to certain conditions.

14. Members **NOTED** paper CB 20(22) and additional oral updates provided.

Item 6: Deep dive on complaints – Debate topic – Paper CB 21(22)

15. This would be the first of a series of hour-long Content Board debates, today's topic being Ofcom's approach to complaints handling across sectors including linear TV and radio, video-on-demand (VOD) and online safety/VSPs. Background reading material had been provided and a series of questions posed to stimulate debate and discussion. One of the pieces of background reading was a strategy paper, that had been taken to the March 2022 meeting of the Ofcom Board. At that time, the Board had noted the current challenges and issues Ofcom

was facing as it carried out its statutory duties on broadcast standards and how Ofcom was meeting those challenges in the short-term; and possible future options being explored to tackle those challenges in both the shorter and longer-term.

16. As a preliminary point there was discussion about complaint volumes, which had seen a reduction, and measures taken to manage them. The majority of complaints were about offensive content and only a very small minority warranted investigation. Technology was being developed to reduce the manual processing of complaints and to speed up the process of administering and assessing complaints.

17. Issues raised in debate and discussion included:

- The role broadcast complaints play in securing standards.
- The fact that under the proposed OS regime a systems-based approach would be taken.
- The high level of compliance with the Broadcasting Code amongst the main broadcasters. A task was to ensure that the Broadcasting Code was understood by all.
- The role of targeted monitoring is an important regulatory tool across platforms.
- The fact that Ofcom's duties were set by Parliament and its broadcast duties were quite different from those for VSPs.
- The harmonisation of devices, e.g. greater take-up of smart TVs, means it may be an open question as to whether consumers understood whether they were engaging with broadcast, VSP or other online material and whether they knew the correct path to pursue a complaint. In this regard the importance of education and media literacy was noted.
- The different views on the harmonisation of complaints processes, given the different standards and rules that apply to the different platforms.
- The need to improve communication with hard-to-reach communities to promote understanding of broadcast standards and complaints processes.
- Other elements in the context for complaint handling i.e. Ofcom's licensing and compliance regime and its research programme.
- How complainants are guided through the different approach to complaints across different regulated sectors was discussed. It was noted that visitors to the complaints portal on the Ofcom website are asked a number of questions to guide them to the correct complaint form.
- There were a number of base-line standards requirements across regulated sectors, relating to hate and the protection of children for example, that applied irrespective of the approach to complaints.
- Currently a narrow set of rules applied to VOD services and Ofcom received very few complaints. The issue of how complaints about VOD content would be handled if the Government was, as it had indicated publicly, to legislate to change standards requirements on some VOD services. The Content Board agreed that should that take place, consideration should be given to seeing how the regulation of broadcast standards might inform the approach to VOD.
- It could be worth thinking about the technical systems for receiving complaints and what could be standardised in that area.

18. The Chair drew debate to a close and summarised some of the points raised: the challenge for the Executive would be to work out what the likely consumer expectations on content standards would be across platforms in the medium-term, given the rapid changes

both in what people were watching and the platforms they were using to watch it. Ofcom should continue to monitor the effectiveness of maintaining a range of complaints processes and, anticipating any relevant changes, respond appropriately. The Executive could also work to ensure that consumers are able to easily make complaints, irrespective of the platform they see a piece of content. This having been the first debate as part of a refreshed format for Content Board meetings, the Chair would meet with the Executive for a short wash-up discussion ahead of such future sessions.

19. Members **NOTED** paper CB 21(22).

Item 7: Update on BBC programme of work and Ofcom's annual Report on the BBC – Paper CB 22(22)

20. Members had received a paper to provide: an update on Ofcom's overall BBC programme of work, including review of BBC regulation, a planned consultation on the competition framework, a consultation on a new Operating Licence and work on editorial standards; and early views on the approach to this year's BBC Annual Report (which was not to land any new strategic messages in addition to those included in Ofcom's June 2022 future regulation of the BBC Statement) and assessment of the BBC's performance in delivering its Mission and Public Purposes and compliance with regulatory requirements.

21. Matters raised or discussed by the Content Board included:

- Concerning complaints, and as indicated by audience research published alongside the review of BBC regulation Statement in June 2022, the BBC First system could sometimes appear opaque, in relation to complaint escalation in particular and some viewers were not satisfied with it.
- The BBC appeared to be open to change and was due to make some changes to complaints handling processes in response to our June 2022 Statement and accompanying research.
- It would be useful to know the BBC's view on whether it might be possible to share information on whether BBC First was working well, including benchmarks used, its take on generally accepted standards and its analysis of complaint trends and categories.
- Some recent high profile BBC complaints raised questions about whether the BBC was reaching the right judgements quickly enough. Another issue was defensiveness on the part of the BBC. However, it was also understood that such defensiveness might result from the fact that BBC programme teams were subject to intensive lobbying from special interest groups on certain issues.
- In relation to this year's BBC Annual Report and Ofcom's assessment of BBC performance, the Chair suggested the inclusion of an update on whether the BBC had implemented recent Ofcom recommendations and coverage of longer-term trends.
- It was noted that attention in recent years had been focussed on measures to serve younger audiences, and so there was support to give more attention to other underserved audiences including socio-economic exclusion. This raised related questions about why those audiences did not complain and whether Ofcom might also look at why news and current affairs failed to reach them. The recent return of BBC Three as a broadcast channel was raised, its value and the impact on audiences so far.
- It was noted that the BBC had announced a range of plans recently, including replacement of its two existing UK and global news channels by a single channel

called BBC News as part of a digital-led strategy. Ofcom was engaging with the BBC to understand more about these plans. The Content Board would be kept informed of developments.

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

Item 8: VSP regime – Year 1 report and plans for Year 2 – Paper CB 23(22)

23. The VSP team would be going to the Ofcom Board the next day to report on milestones and successes achieved in Year 1 of the new VSP regime, on key findings to be included in the Year 1 VSP report to be published shortly and to discuss strategic priorities for Year 2 of the regime (the latter also to be included in the Year 1 report). Work on VSPs would also feed into Ofcom's approach to OS.

24. The Content Board was invited to discuss year 1 findings and plans for year 2 and as a preliminary were given an overview of the VSP regime to date, including the scope of regulation and the importance of establishing constructive relationships with VSPs. Year 2 priorities would include consideration of the efficacy of VSP safety measures, an example being access controls to protect children from harmful online experiences.

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

- Age verification, whilst noting that Ofcom did not intend to recommend a particular solution (a scanning solution developed was cited as an example), there were issues related to image recognition technology including from a diversity perspective and it would be important that safety measures worked equally for all users.
- The Year 1 report would provide an opportunity to demonstrate the impact of the VSP regime on improving online safety and preparing platforms for regulation. It was noteworthy that the UK, despite its exit from the EU, was one of the few countries to have implemented a regulatory framework for VSPs (introduced by the EU's Audiovisual Media Services Directive).
- During the first year of the regime, Ofcom's focus was on using its information gathering powers to understand what measures the platforms have in place for online safety. During the second year of the regime, Ofcom will focus on understanding how platforms measure the efficacy of these protection measures.
- Because the VSP regulation is focused on ensuring platforms have appropriate systems and processes in place to combat harmful content, Ofcom generally will not assess individual pieces of content. However, Ofcom learned during the first year of the regime that sampling and monitoring, such as through limited reviews of content, can provide a window into how those systems and processes are working.

26. Members **NOTED** paper CB 23(22).

Item 9: Information Items

27. The Content Board **NOTED** the following information items:

- Diversity and inclusion in broadcasting update – CB 24(22)
- Minutes of the Ofcom Board (meeting held on 15 June 2022)
- Minutes of the Communications Consumer Panel (meeting held on 16 June 2022)

Item 10: Any Other Business

28. There was no other business.

Item 11: Date of the Next Meeting

29. The next scheduled Content Board meeting would be held on 22 November 2022.