

**PUBLICATION MINUTES OF THE ONE HUNDRED AND SEVENTY-NINTH MEETING OF  
THE CONTENT BOARD HELD ON 22 NOVEMBER 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           |
| Maggie Cunningham | Member           |
| Bob Downes        | Member           |
| Maria McCann      | Member           |
| Ruth McElroy      | Member           |
| Peter Horrocks    | Member           |
| Tobin Ireland     | Member           |
| Ali Marsden       | Executive Member |
| Stephen Nuttall   | Member           |
| Monisha Shah      | Member           |
| Kim Shillinglaw   | Member           |

**In attendance**

|   |   |
|---|---|
| Melanie Dawes                                       | Chief Executive (items 1 - 6)               |
| 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 Maria McCann, attending for the first time as the new Content Board Member for Northern Ireland, and Melanie Dawes, Ofcom Chief Executive, who would be present for the first hour of the meeting. Members briefly introduced themselves.

**Item 2: Members’ interests – oral**

2. Stephen Nuttall declared that in the interval since the last meeting he had assisted a client, the Racecourse Media Group, to respond to a set of questions it had been asked by DCMS on the consumption of media and on its approach to linear and digital rights.

3. Monisha Shah had declared that Wikimedia UK (WMUK), a small UK registered charity, was planning to submit bids, one on its own and one jointly with another organisation, in response to Ofcom’s online media literacy tender. Monisha, as Chair of the Trustees’ Board, would not be involved in any decisions around the tender/ procurement or have any influence on its outcome.

**Item 3: Minutes of the meeting held on 20 September 2022 and matters arising – Content Board minutes 178(22) and note of action points**

4. The minutes of the Content Board meeting held on 20 September 2022 were **APPROVED** for signature by the Chair as an accurate record.

5. 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 were no outstanding actions.

**Item 4: Discussion with Ofcom's Chief Executive**

6. Melanie Dawes spoke briefly about Ofcom's priority outcomes for the next three years: (i) internet we can rely on; (ii) media we trust and value; (iii) living a safer life online; and (iv) enabling wireless services in the wider economy. Topics discussed with the Content Board included: the importance of Ofcom's independence as a regulator; its focus on evidence; its membership of the Digital Regulators Cooperation Forum (with the ICO, CMA and FCA); and wider regulation of digital services in Europe.

**Item 5: Key Themes and Lessons from Content Board's Editorial Standards work - 6-month progress update – Paper CB 27(22)**

7. Twice a year a paper was submitted to the Ofcom Board on the key themes and lessons arising from the Content Board's editorial standards work, including participation in Preliminary View and Decision panels. To assist the Executive to prepare the paper for the Ofcom Board in February 2023, the Content Board was invited to consider what should be highlighted whilst noting three recommended themes in the slide deck provided: protection of audiences from harmful material; the regulation of offensive content; and the collaboration of the Standards and Audience Protection (SAP) Team with the VSP and Online Safety Teams.

8. A number of issues discussed by Members included:

- Exploring how aspects of future online safety duties might potentially interact with the Standards approach to harm and offence.
- Research into public attitudes, it being noted that the SAP Team maintained a broad evidence base in collaboration with market intelligence colleagues and external research agencies.
- In relation to harmful material, it was noted that when monitoring was undertaken, this was done on a proportionate and non-discriminatory basis. The work of the Standards Translation, Analysis and Research (STAR) team with online safety colleagues was raised also.
- The paper for the Ofcom Board could flag some of the issues from the deep-dive complaints discussion that took place at the September Content Board meeting, particularly how complaints were not the only vehicle for standards enforcement; maintaining a continued focus on a risk-based approach that expedites cases of harmful content.
- The importance of education and media literacy, eg to understand Ofcom processes, remit and rules on matters like offence and due impartiality.
- The Serota Review of BBC editorial processes, governance, and culture, and ongoing Ofcom engagement to hold the BBC to account with respect to outcomes from the Review.

9. Members were content with the Executive's approach to the Key Themes paper and **NOTED** the slide deck provided, paper CB 27(22).

**Item 6: Review of the BBC Operating Licence – Paper CB 28(22)**

10. Ofcom was part-way through of a review of the BBC's licence. A June consultation, which closed in September, contained proposals to update the licence, to take account of online services and to give the BBC greater flexibility in how it meets the needs of audiences and provide greater transparency. The BBC had published its 'digital-first' strategy in May, had announced its intention to merge its two news channels and proposed changes to local radio and television. The BBC was operating in a fast-changing landscape, making the process of regulation more complex. The licence consisted largely of quotas (it was not Ofcom's intention to abandon all quotas) and it was noted that possible changes had caused some concerns in the nations and this had been raised with the BBC.

11. Issues raised in discussion included:

- The BBC Scotland channel, a driver for some independent producers in Scotland and with its largest audiences watching online.
- In relation to quotas, thinking could be less about quotas per se and more about their volume/ right-sizing them and how onerous they could be in challenging economic times and whether they should be based around percentage of spend rather than hours.
- The financial pressure for the BBC should not be underestimated and in such circumstances strategy planning could be more onerous and that suggested a need for more frequent iterations.
- Some stakeholders, in the absence of regulation/ quotas, did not necessarily trust the BBC to continue to deliver its remit and range of important content. Greater specificity in transparency requirements could be necessary to mitigate a lack of trust.
- It would be important to be clear about what Ofcom was seeking to achieve from quotas. A reduction in quotas in tandem and with greater transparency might not achieve a satisfactory outcome and might require re-imposition and reduced flexibility for the BBC - Ofcom would need to be prepared to take strong action if required. Another option could be a stepped approach, ie a gradual reduction of quotas.
- In relation to news, there could be cumulative effects resulting from the BBC seeking changes in different parts of its output, including local and regional, and Ofcom would need to see the 'full picture' and understand the overall impact for audiences, eg whether the merged BBC News channel was serving UK audiences with UK content.
- The 'digital-first' strategy, whether it was dependent on the current leadership at the BBC and what might happen if there was change at the top.
- Audience views were important and whether quotas were understood, eg nations and regions quotas. Ofcom has trackers and is conducting other research to draw on, eg on online prominence and discoverability. Whilst the BBC Board included members for devolved nations there was not a member for Northern Ireland, raising a question about the extent that a Northern Ireland voice was being heard.

12. The Chair summed up by suggesting that the points raised fell into two areas, one, about finding the most effective form of compliance and Ofcom having enough teeth to ensure that, and two, potential loss of distinctiveness and range of genres.

13. Members **NOTED** paper CB 28(22).

**Item 7: Chair's update**

14. Since the last meeting Maggie Carver had met with Michael Jerney, Director of News and Current Affairs at ITV, and the main topic of conversation had been the way that ITV deals with viewers' complaints. The Chair also met with Cristina Nicolotti-Squires, Director of Content at Sky News.

15. The Ofcom Board had held its annual strategy day in October. The November Board meeting was held in Edinburgh and Board members visited the University of Edinburgh School of Informatics and its Bayes Centre (of AI research) and held an evening reception with Scottish stakeholders.

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

**Item 8: Broadcast and Online Content Group Policy Updates – Paper CB 29(22)**

17. Members had received a paper providing an update on key policy and project areas in the Broadcast and Online Content Group. The paper was taken as read.

18. A number of points were briefly highlighted:

- The progress of the OS Bill (the next item would provide an update).
- A day-long Ofcom workshop event had been held the previous week, aimed at broadcaster diversity and inclusion practitioners.
- There were no developments to report regarding the Media Bill (introduction had been repeatedly delayed).
- Several BBC-related documents would be published in the following week, including Ofcom's Annual Report on the BBC and a consultation on changes to BBC competition guidance.
- Ofcom's Decision/ Opinion on the BBC's coverage of the antisemitic attack on a group of Jewish students on a bus in London, published on 7 November 2022. In response to questions, the team explained the process involved in Ofcom's investigation in this case.

19. Members **NOTED** paper CB 29(22) and additional oral updates provided.

**Item 9: Online Safety Bill update**

20. The Executive provided an oral update on timing and on what the Bill was expected to contain. The current SoS at DCMS and the new Prime Minister had both expressed support for the Bill but wanted to look again at its impact on Freedom of Expression. The Bill was expected to return to Parliament possibly later in the month or early in December. Members briefly discussed age verification to protect children online.

21. Members **NOTED** the oral update.

**Item 10: Deep dive on the UK production sector – Debate topic – Paper CB 30(22)**

22. Background reading material on the UK production sector had been provided and some questions had been posed to stimulate debate and discussion. The Executive provided context,

explaining that the focus today would be on the challenges for the sector, adding that it could be useful to form a sub-group of Members to allow further discussion.

23. That context included Ofcom's *Small Screen: Big Debate* statement on the future of PSM, published in July 2021, with a number of recommendations for action by Government and industry; the PSB system, whilst under some financial constraints, provided the bedrock to the sector and there had also been significant growth stimulated by international/ streaming platforms; data collection on hours and spend, on co-production and advances on distribution; the value of the sector to the UK economy (an estimate being £5bn); and the threats posed by skill shortage (not just in the UK but globally) and wage inflation, with international streamers able to pay over the odds.

24. Issues raised in debate and discussion included:

- As PSBs continued to transform to multi-platform and digital commissioning strategies, the question of where the balance should sit (between broadcasters and producers) in terms of rights.
- Terms of Trade, leverage enjoyed by PSBs in negotiations and the ability of independent producers to defend media rights, eg international rights. Fairness was important but some indies, understandably, were hesitant to upset the PSBs that gave them commissions.
- Whilst there was much consensus in the broadcast sector that Terms of Trade were a good thing there were also voices arguing for their removal and separate deals.
- There could be unintended consequences by ending Terms of Trade, one could be to alter the attractiveness of the UK as a production sector and impact mergers and acquisitions.
- It was necessary to be mindful of SVODs and 'deep pockets' that could distort the market. Maintenance of two systems was relevant here and the question of whether broadcasters should move across to VOD. Whilst PSBs were vocal about 'digital first' it was still unclear what that would lead to.
- The complexity of the production sector suggested that a 'one size fits all' approach was not appropriate and there was a wider industrial policy dimension. If there was to be intervention its aims would need to be clear.
- Whether there was an argument to remove commissioning requirements to create a level playing field for PSBs to compete with the global streaming players. Related questions were whether streamers were benefiting from skills created by the PSBs and whether too much content was being made.
- It could be useful to understand what was being explored in other jurisdictions, eg in the USA and the availability of tax-breaks.
- There could be some complacency about the strength of the UK production sector and its English language advantage.
- Commissioning in the UK included nations and regions quota requirements and some would argue that this hamstrung the PSBs.
- It was important to be clear whether an aim was to optimise conditions for PSBs or for the UK production sector outside London. Meanwhile, a core PSB objective was to represent the UK to itself.

25. The Executive had referred to forming a Content Board sub-group and the Chair confirmed that it would be useful to have a conversation to take forward any next steps.

26. Members **NOTED** paper CB 30(22).

**Item 11: Information Items**

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

- Minutes of the Ofcom Board (meetings held on 20 July, 21 September and 12 October 2022)
- Minutes of the Communications Consumer Panel (meetings held on 20 July and 15 September 2022)

**Item 12: Any Other Business**

28. There was no other business.

**Item 13: Date of the Next Meeting**

29. The next scheduled Content Board meeting would be held on 24 January 2023.