

**PUBLICATION MINUTES OF THE THREE HUNDRED AND SECOND MEETING OF
THE OFCOM BOARD HELD ON 15 MARCH 2023
AT RIVERSIDE HOUSE, SE1 9HA AND VIA MICROSOFT TEAMS**

Present

Michael Grade	Chair
Maggie Carver	Deputy Chair
Kevin Bakhurst	Executive Member and Group Director, Broadcasting & Online Content
Karen Baxter	Non-Executive Member
Melanie Dawes	Executive Member and Chief Executive
Angela Dean	Non-Executive Member
Bob Downes	Non-Executive Member
Lindsey Fussell	Executive Member and Group Director, Networks & Communications
Will Harding	Non-Executive Member
David Jones	Non-Executive Member
Ben Verwaayen	Non-Executive Member (Items 1-13)

In attendance

Martin Ballantyne	General Counsel
Veronica Branton	Corporation Secretary
Francesca Carter	Head of Governance (via Teams)
Sharon Malley	Governance Manager
Melissa Tatton	Corporate Group Director (Items 6 and 9)
Aneen Blackmore	Finance Director (Item 6) (via Teams)
Atif Moghal	Head of Strategic Finance and Funding (Item 6)
Yih-Choung Teh	Group Director Strategy and Research (Item 7)
Iqbal Marikkar	Director Corporate Strategy (Item 7) (via Teams)
Kira Vermang	Content Policy Principal (Item 8) (via Teams)
Gwen Morgan	Legal Director (Item 8)
Siobhan Walsh	Content Policy Director (Item 8)
Kate Davies	Public Policy Director (Item 9)
Chia Seiler	Public Policy Principal (Item 9) (via Teams)
James Davies	Policy Manager (Item 9)
Kate Biggs	Content and Media Policy Director (Item 10) (via Teams)
Simon Leathley	Legal Director (Item 10)
Maria Brooks	Principal Economist (Item 10)
Leila Kurnaz	Senior Standards Executive (Item 10) (via Teams)
Elizabeth Holloway	Legal Director (Item 11)
Deirdre Gordon	Legal Director (Item 11)

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Item 1: Declaration of members' interests	
1. No new interests were declared.	
Item 2: Minutes of the meeting held on 8 February and matters arising – Board minutes 301(23) and note of action points	
2. The minutes of the Ofcom Board meeting held on 8 February 2023 were	

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<p>APPROVED for signature by the Chair as an accurate record.</p> <p>3. A summary of progress against action points was NOTED.</p>	
<p>Item 3: Chair’s report</p> <p>4. The Chair updated the Board on his activities, including a meeting with the Secretary of State for Culture, Media and Sport, Lucy Frazer MP.</p> <p>5. The Chair noted that the Online Safety Bill had reached the Committee stage in the House of Lords. The Board noted it would be helpful for Ofcom to set out in writing its considerations in relation to timing of implementation of its new duties and the implications of any delay.</p>	
<p>Item 4: Chief Executive’s report – Board paper 18(23)</p> <p>6. Melanie Dawes presented paper 18(23) on her activities and current issues and drew attention to the following:</p> <ul style="list-style-type: none"> • She had provided evidence to the Culture, Media and Sport Select Committee on the work of Ofcom, where the focus had been on BBC impartiality, affordability of broadband, and increased presence of politicians as presenters on channels such as Talk TV and GB News. • The sponsorship of Ofcom would be moving from the Department for Culture, Media and Sport to the Department for Science, Innovation and Technology under Secretary of State Michelle Donelan. • A recent meeting with Lord Parkinson, the minister in the Lords responsible for the Online Safety Bill, had been productive. <p>7. Other issues included the recent Ofcom ruling that GB News had been in breach of the Broadcasting Code, which had generated a large amount of coverage, Ofcom’s well-received media plurality seminar, the appointment of a new CEO for the DRCF and a strong new hire in the Online Safety team.</p> <p>8. The Board discussed the collapse of Silicon Valley Bank and the potential impact this could have on the tech sector in the UK, particularly in relation to raising capital and servicing debt. This could influence companies’ approach to regulation in the short term.</p> <p>9. Lindsey Fussell said the consultation on Equinox 2 had now closed and Ofcom had received thousands of pages of responses. The analysis of these responses, and the need to request further information as a result, would take longer than anticipated and it would no longer be possible to publish the decision on 31 March. A two-month extension to the timetable would be announced shortly.</p> <p>10. The Board noted that some large telecoms companies had seen shares bought by activist shareholders. It was agreed that a briefing would be provided to the Board on the current market position.</p> <p>11. The Board noted that BT intended to restart mandatory customer migrations to VOIP within the next few months, but that the focus would initially be on the migration of low-risk customers, and on regional migration in order to support locally targeted</p>	<p style="text-align: right;">LF</p>

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<p>communications. This should improve the customer experience of migration and reduce risks, although it would make it more challenging to meet BT’s rollout timetable of 2025.</p> <p>12. The Board noted that the BBC’s handling of its social media guidelines over the previous week had presented it with challenges. The BBC Charter placed responsibility for the social media guidelines with the BBC Board while Ofcom had a broader responsibility in relation to ensuring due impartiality in broadcasting. It was noted that the Content Board would be discussing impartiality issues at its April meeting.</p> <p>13. The Board NOTED paper 18(23).</p>	
<p>Item 5: Risk matters – Board papers 19(23) and 20(23)</p> <p>14. Angela Dean updated the Board on the meeting of the Risk and Audit Committee held on 1 March 2023. She said the Committee had received two internal audit reports, on recruitment and Video Sharing Platforms and each had been rated as moderate assurance. The Committee had approved the internal audit plan for the next six months and was requesting from Deloitte a breakdown of its fees.</p> <p>15. The interim external audit had gone well and the NAO now agreed that no changes were needed to Ofcom’s approach to revenue recognition. The Committee had received an interesting report on strategic and emerging risks in the Spectrum area and had noted the increased risks relating to physical security in relation to its premises.</p> <p>16. The Board discussed paper 19(23), setting out amendments to the Strategic Risk Register. The Board APPROVED the Strategic Risk Register including changes as set out in the paper and NOTED that Ofcom would carry out a fundamental review of the Strategic Risk Register in light of the Three-Year Plan in June 2023, once the new Head of Risk & Insurance had taken up post. The Board NOTED the Group Risk Registers.</p> <p>17. The Board discussed paper 20(23), setting out the annual review of the Risk Appetite Statements. The Board APPROVED the Risk Appetite Statements including changes as set out in the paper.</p> <p>18. Angela Dean advised the Board that the Risk and Audit Committee had received a briefing on the draft 2023/24 budget on 1 March. The Committee had highlighted issues around the presentation of the budget to Board members, noting that it had not been easy to identify how budgets had moved year on year and it would be helpful to understand in more detail the shifts in budgetary spend and the choices made. The quantification of risks was not complete and there should be more scenario planning in respect of the risks that had been identified. The concept of ‘overprogramming’ and the distinction between this and being over budget needed to be fully explained to those unfamiliar with public sector budgeting processes. The introduction of the Three-Year Plan, while welcome from a strategic perspective, had added a layer of complexity to the budgeting process. Quarterly financial reporting to the Committee through the year would need to be clearer. This was likely to become increasingly important with greater budgetary constraints emerging.</p>	

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<p>Item 6: Budget 2023/24 – Board paper 22(23)</p> <p>19. Melissa Tatton introduced paper 22(23), setting out Ofcom’s proposed budget for 2023/24. The earlier Board discussion was noted and Angela Dean would discuss this with Melissa Tatton offline.</p> <p>20. The Board noted the differences between a public sector budgeting model where an organisation was working within a spending cap and where value for money needed to be demonstrated and linked through to the plan of work and a private sector approach where zero based budgeting might be adopted as an active management tool for driving efficiencies. It was noted that the Executive already had plans in place – as one of the three One Ofcom transformation priorities for the year ahead – to significantly improve Ofcom’s ability to tell our story numerically and flesh out our risks and opportunities, in order to underpin future resilience. The new Finance Director was already making progress here. Ofcom had managed a flat cash budget for the best part of a decade and this had driven significant efficiencies.</p> <p>21. When reporting to the Board the Executive should better explain and quantify the choices and efficiencies that had been made, particularly when approaching the plan of work each year. The approach we took would also need to be proportionate to the budget and how it operated, noting that funds could not easily be shifted between groups because of the implications this had for regulatory fees in different sectors.</p> <p>22. The Board discussed the budget, including the proposed pay award, the allocation for increased energy costs and Ofcom’s contribution to the cost of the DRCF, and noted the need to carry out work as efficiently as possible. It was noted that the overprogramming position for 2023/24 would require Ofcom to drive efficiencies in order to deliver the activity within the spending cap, and was not a prediction that the budget would not be met.</p> <p>23. The Board APPROVED the proposed 2023/24 budget of £187.0m, within the context of the three-year plan, including £140.0m on core budget (comprising existing duties, TSA and HFSS) and £47.0m Online Safety; and NOTED the associated stakeholder tariffs.</p>	
<p>Item 7: Plan of Work 2023/24 – consultation and final statement – Board paper 21(23)</p> <p>24. Yih-Choung Teh introduced paper 21(23) on responses to Ofcom’s consultation on its Plan of Work 2023/24 and the proposed approach to the responses.</p> <p>25. The Board discussed the Plan of Work and made suggestions for the final statement, for example in relation to Ofcom’s approach to stakeholder feedback and engagement with each of the nations.</p> <p>26. The Board NOTED the summary of responses; AGREED that no material change in direction from the consultation document was required; and AGREED recommended changes to reflect consultation feedback and sign-off arrangements, with final sign-off by Melanie Dawes and Yih-Choung Teh.</p>	

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<p>Item 8: Review of BBC regulation and Operating Licence – Board paper 23(23)</p> <p>27. Siobhan Walsh introduced paper 23(23), setting out proposals for the new BBC Operating Licence and giving a broad update on BBC regulation. She said the proposal maintained the majority of quotas but gave more flexibility to the BBC in certain areas, alongside new transparency requirements. It also extended regulation to cover digital services more comprehensively.</p> <p>28. The Board discussed the proposals and noted the areas of programming that may alter under the new licence. It was noted that while some may view the changes as removing too many quotas, others may view the licence as still too restrictive.</p> <p>29. The Board noted the BBC’s obligations in relation to supporting creative industries in the nations and regions and discussed Ofcom’s ability to hold the BBC to account for delivery. The BBC would be publishing its own annual plan after the Operating Licence and it would be the first test of the BBC’s compliance under the new provisions.</p> <p>30. The Board noted the importance of maintaining the BBC’s distinctiveness as a broadcaster, which Ofcom had tracked and which could be highlighted more, and that it might be helpful to review how the BBC had responded in areas where it had been given more flexibility.</p> <p>31. The Board APPROVED the approach to the new BBC Operating Licence; DELEGATED sign-off of the Operating Licence and accompanying statement to Kevin Bakhurst; and NOTED the wider BBC programme and engagement.</p>	
<p>Item 9: DRCF update and proposals for Workplan 2023/24 – Board paper 24(23)</p> <p>32. Kate Davies introduced paper 24(23), setting out progress against the Digital Regulation Cooperation Forum (DRCF) Workplan for 2022/23 and Ofcom’s areas of work for the Workplan 2023/24. She said the DRCF had had a successful year with recognition from a range of stakeholders including government. She explained the context for next year’s workplan in terms of government activity on digital regulation and in particular the regulation of Artificial Intelligence, and noted that the priority for Ofcom was to ensure the DRCF work supported its ambitions in relation to Online Safety and digital markets.</p> <p>33. The Board noted the success of the DRCF, and the importance of ensuring that the work of the DRCF supported greater efficiency and effectiveness across the regulators rather than leading to duplication of efforts.</p> <p>34. The Board NOTED the progress against the DRCF Workplan 2022-23 and related developments in Government and Parliament; and NOTED Ofcom’s areas of work under the DRCF Workplan 2023/24.</p>	
<p>Item 10: Regulating the quantity and scheduling of TV advertising – Board paper 25(23)</p> <p>35. Kevin Bakhurst introduced paper 25(23), setting out the options Ofcom would be consulting on in relation to television advertising rules. He said the current rules had been set when there were only two commercial television stations and the new proposals aimed to respond to the current market. The Board noted the uncertainty over the impact of the possible changes on audiences, and that Ofcom was consulting on two options as a result</p>	

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<p>of audience research. It was likely that this was an area Ofcom would need to keep under review.</p> <p>36. The Board NOTED the decision to consult on changes to the COSTA rules in April, which would include consulting on two options.</p>	
<p>Item 11: Update on the Retained EU Law Bill – Board paper 26(23)</p> <p>37. Martin Ballantyne introduced paper 26(23), setting out work underway to prepare for the Retained EU Law Bill. He said that the Bill would provide for certain instruments and regulations to fall away from the end of 2023 if not specifically retained. The scope of the Bill was potentially very wide and could encompass many of the provisions Ofcom relied on for its regulatory powers. There was uncertainty over the timetable of the Bill but it was likely there would be only a small window between the new legislation becoming effective and the date the first regulations fell away. The team explained the extensive work Ofcom was doing, in conjunction with Government, to seek to identify the existing legal provisions that needed to be retained to enable Ofcom to continue to regulate effectively, and the longer term mitigations that may exist.</p> <p>38. The Board NOTED the paper and the work being carried out by Ofcom in this area.</p>	
<p>Item 12: Board and Committee evaluation report 2022/23 – Board paper 27(23)</p> <p>39. Veronica Branton introduced paper 27(23) on the findings of the annual Board and Committee evaluation and associated recommendations. The Board noted that one recommendation, to have more external speakers during Board meetings, was difficult to accommodate due to pressures on agendas and that external speakers were more effective during workshops or awaydays.</p> <p>40. The Board NOTED that increasing understanding of, and expertise in, online safety was flagged as the key priority, notwithstanding the regular and helpful briefings from the executive in this area. The Board APPROVED focussing agenda time on discussion of the most critical items, assisted by papers and presentations being shorter and building in more time for nations specific items.</p>	
<p>Item 13: Recommendations from the annual review of the Corporate Governance Framework – Board paper 28(23)</p> <p>41. Veronica Branton introduced paper 28(23), setting out proposals resulting from the annual review of the Corporate Governance Framework. She said the changes aimed to clarify where decisions were made and to align where possible with current practice and the Corporate Governance Code. The proposals included moving responsibility for culture and organisational design from People Committee to the Board, changes to streamline the Code of Conduct and a new requirement for executive directors to notify the Chief Executive at an earlier stage when considering new roles at Ofcom regulated organisations.</p> <p>42. Ben Verwaayen said it was important that issues of culture received enough attention and there was a risk that they could be overlooked at Board level due to pressures on the agenda. It may be preferable for the People Committee to retain responsibility for culture and organisational design in order to ensure sufficient Board-level oversight. It was agreed that the terms of reference for People Committee should continue to include culture and organisational design, and also that the quorum should be three</p>	

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<p>rather than the proposed two. It was also noted that the Chair of People Committee would report on its activities to the Board.</p> <p>43. Subject to the amendments above, the Board APPROVED the Corporate Governance Framework, including the Board Code of Conduct, to be effective from 1 April 2023. The Board NOTED the detailed schedule of delegations and the policy framework.</p>	
<p>Items 14-19: Information items</p> <p>44. The Board NOTED the following information items:</p> <ul style="list-style-type: none"> • Non-executive member updates – Board paper 29(23) • Submission to the Public Bodies Review – Board paper 30(23) • Finance report – Board paper 32(23) • Latest Connected Working data – Board paper 33(23) • Board work programme – Board paper 34(23), and publications schedule – Board Paper 35(23) • Minutes of the Content Board (24 January 2023) and Communications Consumer Panel (26 January 2023) 	
<p>Item 18: Items in the Diligent Board reading room</p> <p>45. The Board noted the items in the reading room: the Group Level Risk Register, Schedule of Delegations, Policy Framework, Communications Consumer Panel quarterly update and office security procedures for colleagues.</p>	
<p>Item 19: Any other business</p> <p>46. Veronica Branton updated the Board on progress with appointments to the Board of Channel Four Corporation.</p>	
<p>Item 20: Date of the next meeting</p> <p>47. The next scheduled Board meeting would be held on Wednesday 19 April 2023.</p> <p>48. The meeting concluded at 1.00 pm.</p>	

Approved: _____
 Chair