**PUBLICATION MINUTES OF THE TWO HUNDRED AND NINETY-NINTH MEETING OF
THE OFCOM BOARD HELD ON 9 NOVEMBER 2022
MEETING HELD AT THE SCOTSMAN HOTEL, EDINBURGH EH1 1TR, 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
Graham Mather	Non-Executive Member (via Teams)
Ben Verwaayen	Non-Executive Member (via Teams)

In attendance

Martin Ballantyne	General Counsel
Veronica Branton	Corporation Secretary
Francesca Carter	Head of Governance (via Teams)
Sharon Malley	Governance Manager
Yih-Choung Teh	Group Director Strategy and Research (item 5)
Iqbal Marikkar	Director of Corporate Strategy (item 5) (via Teams)
Lee Parfitt	Principal Strategy and Policy (item 5) (via Teams)
Glenn Preston	Scotland Director (item 6)
Jon Higham	Director Broadcast and Online Content (item 7) (via Teams)
Neil Davies	Legal Director (item 7) (via Teams)
Tania van den Brande	Economics Director Online (item 7) (via Teams)
Amy Jordan	Director Technology Policy (item 7) (via Teams)
David Willis	Group Director Spectrum (items 8-10)
Cristina Data	Director Spectrum Policy and Analysis (item 8) (via Teams)
Martin Fenton	Director Spectrum Analysis (item 8) (via Teams)
Brian Potterill	Director Mobile Network Strategy (item 8)
Simeon Thornton	Economics Director (item 8) (via Teams)
Chris Woolford	Director International Spectrum (item 9) (via Teams)

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Item 1: Declaration of members' interests	
1. No new interests were declared.	
Item 2: Minutes of the meeting held on 12 October 2022 and matters arising – Board minutes 298(22) and note of action points	
2. The minutes of the Ofcom Board meeting held on 12 October 2022 were **APPROVED** for signature by the Chair as an accurate record.	
3. A summary of progress against action points had been circulated. Status updates	

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against each of the actions, as set out in the summary, were **NOTED**.	

Item 3: Chair's introduction

4.   The Chair updated the Board on his meeting with the Secretary of State for DCMS and the discussion on the Online Safety Bill. He had also visited the Ofcom Belfast office.

Item 4: Chief Executive's report – Board paper 112(22)

5.   Melanie Dawes presented paper 112(22) on her activities and current issues.

6.   The passage of the Online Safety Bill through Parliament had been delayed, although there was strong will for it to receive assent in this session. Board members discussed the impact of possible amendments to the Bill on Ofcom's online safety regulatory role.

7.   The Board noted that the requirement for platforms to carry out risk assessments remained in the Bill and this was an important safeguard. The majority of Ofcom's Online Safety programme over the next few years remained in the Bill and the focus was on delivering this work.

8.   Melanie Dawes updated the Board on progress with the appointment of the Group Director for Online Safety and that an announcement on the Group Director and Director appointments was planned shortly. She also updated the Board on developments in telecoms markets and at Royal Mail. She noted that a full report on post would be provided at the next Board meeting.

9.   The Board discussed and **NOTED** Board paper 112(22).

Item 5: Plan of Work: Mid-year review of delivery against the Plan of Work 2022/23 and Plan of Work 2023/24 structure and narrative – Board papers 113(22) and 114(22)

10.   Yih-Choung Teh introduced paper 113(22), setting out Ofcom's delivery to date of the 2022/23 Plan of Work and paper 114(22), on the process and structure for the next Plan of Work.

11.   The Board discussed the papers and noted the importance of Ofcom's future work programme addressing affordability and the cost of living. The Board also identified the importance of reliable broadband coverage, which was particularly salient in the devolved nations, and the need to maintain active dialogues with the nations.

12.   The Board discussed the delivery status of the projects in the current Plan of Work as set out in the annex to paper 113(22). The annex identified whether Ofcom was on track with individual projects, looking at questions such as whether there were sufficient resources in place and whether new requirements were being accommodated.

13.   The Board **NOTED**:

- the general update on progress against the Plan of Work 2022/23 provided by paper 113(22) and the project detail at Annex 1;

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• the integration of the 2023/24 Plan of Work consultation with the three-year plan; and	
• the structure and key projects for the 2023/24 Plan of Work consultation.	
Item 6: Scotland update – Board paper 115(22) 14. Glenn Preston introduced paper 115(22), updating the Board on issues and political contexts affecting Ofcom's work in Scotland. He said the focus among stakeholders in Scotland remained on infrastructure roll-out for fixed and mobile. There was concern that commercial investment could slow and not deliver services within expected timescales. This could contribute to the sense among some that UK political priorities were not aligned with Scotland's needs. 15. Glenn Preston updated the Board on perceptions around the BBC in Scotland. He said BBC production spend in Scotland was increasing and this was having some positive outcomes. 16. On the Media Bill, the Scottish Government continued to focus on prominence and remained interested in regional programming and quotas. The Online Safety Bill was UK-wide but it included provision for the Scottish government to update offences. Scottish legislation on hate crime had recently changed and it would be important for Ofcom's policies to address this. Other future potential areas of policy divergence included legislation around misogyny and gender recognition. 17. There was some concern politically about the service provided by Royal Mail to the Highlands and Islands and whether markets were working fairly. Consumer Scotland was looking at this issue. 18. The Board discussed the paper including the difficulties relating to the provision of broadband in rural communities, the uncertainties around the potential misogyny legislation and the ongoing discussions between STV and ITVX. 19. The Board **NOTED** paper 115(22).	
Item 7: Phase 1 online safety consultation: illegal content duties progress update – Board paper 116(22) 20. Jon Higham introduced paper 116(22), setting out the proposed approach to the Phase 1 Online Safety Consultation and the governance arrangements around publication. He said Ofcom intended to publish the consultation as soon as possible after the Bill received royal assent and this meant it would be drafted prior to Ofcom receiving its formal powers. Ofcom was expecting to update the Codes as it gathered more information from the firms it would be regulating following the adoption of its statutory powers. 21. Jon Higham drew the Board's attention to the mitigations that were being considered in the Codes. He said that the scope of the Bill was broad and included both tech giants and a "long tail" of smaller service providers who may not be well prepared for regulation. It would be important to think carefully about engagement with this "long tail" and a plan was being developed on this. 22. The Board discussed the paper and the proposed offences under the Bill. Ofcom would be providing guidance to platforms on concepts such as intent but the difficulty of	

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imputing intent from online content was noted. The Board questioned where hate crimes were captured in the list of priority offences and it was agreed that details of this would be circulated to the Board following the meeting.	
23. The Board discussed the revised timetable for the Bill and noted that Ofcom's roadmap would be updated to reflect the likely changes. The proposals relating to evaluation and the measurement of Ofcom's effectiveness were welcomed.	MB
24. The Board noted the proposed new offence relating to foreign interference. This was a new area for Ofcom and it would be one of a number of agencies and organisations involved in this. Work was in hand to understand more about what would be covered by this offence.	
25. The Board noted that the regulatory requirements could present barriers to entry for new and smaller platforms. Ofcom would take a proportionate approach to designing Codes of Practice to try to avoid an undue burden on smaller businesses, and would be providing guidance and toolkits aimed at smaller operators to make it as easy as possible to comply. The Board noted the need to have a practical plan on how to evaluate whether changes in systems and processes led to better outcomes for consumers.	
26. The Board **NOTED** the direction of travel for Ofcom's Phase 1 online safety consultation and the planned governance processes leading up to publication.	
Item 8: Ofcom's future approach to mobile markets and spectrum – Board paper 117(22) 27. Lindsey Fussell and David Willis introduced paper 117(22), setting out joint conclusions to discussion papers on mobile markets and on the implications for spectrum of meeting future demand for mobile. 28. Lindsey Fussell said producing the paper had highlighted the value of bringing together the thinking on mobile markets and spectrum. Ofcom's current positions would be acceptable for the present but would become increasingly challenging with likely market consolidation and uncertainty. 29. Brian Potterill said the scenario planning set out in the paper had helped clarify Ofcom's thinking. The Board discussed the scenarios and associated risks. 30. The Board noted the importance of maintaining an appropriate level of regulation so that barriers to entry for smaller companies were not too high. Brian Potterill said he was aware of this risk and it was important to focus on the relevant part of the value chain. The CMA ecosystem study was helpful in identifying the market power of Apple and Google and Ofcom's cloud market study would be relevant in relation to Amazon and its potential entry into network provision. The disparity in regulation between tech companies and mobile network operators ("MNOs") was noted, as was the work in hand to reduce the regulatory burden on the MNOs. 31. The Board discussed the current trends in telecoms markets and whether the power balance between infrastructure providers and MNOs was working for the benefit of consumers. There was a shift towards institutional investment in mobile tower operators rather than MNOs. Some MNOs were selling their stakes in tower operators, which could leave them exposed when their current network agreements expired. This added to the	

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uncertainty over the long-term direction of the market. The potential widespread introduction of e-sims might also have an impact. 32. The Board **NOTED** the proposed narrative for the conclusions set out in paper 117(22) and the future scenarios set out at Annex A.	
Item 9: Preparations for the World Radio Conference 2023 – Board paper 118(22) 33. David Willis introduced paper 118(22), setting out Ofcom's preparations for the 2023 World Radio Conference, the issues that would be discussed at the conference and the process for developing Ofcom's positions. He said that Ofcom had delegated authority from the UK government to act on its behalf at the conference, which took place every four years. The conference generally sought to achieve consensus on issues and regions came together to develop their positions beforehand, meaning much of the influence at the conference came through the regions and the preparatory groups. 34. The Board noted this would be the first conference since Brexit but that the UK continued to participate with Europe through CEPT (European Conference of Postal and Telecommunications Administrations) in the preparation stage. There may nonetheless be some risk to the UK's ability to influence European negotiations at the conference, especially if the European Commission seeks to take a more active role. 35. The Board discussed the position on the future of the UHF band currently being used by digital terrestrial television and noted the range of potential outcomes. Ofcom was supporting a no change position and had identified other outcomes it could work with and those which represented a "red line". 36. The Board **NOTED** preparations for the World Radiocommunication Conference and Ofcom's role in leading those preparations on behalf of the UK and that key issues for the UK at the conference included the future of DTT in the 600 MHz band, the potential for designation of additional spectrum for mobile broadband in several bands including the upper 6GHz, spectrum regulatory rules for space weather sensors, and evolution of the regulatory framework for the future deployment of satellite networks.[1] 37. The Board **NOTED** that Ofcom was currently developing UK positions and feeding into the development of European positions across the 40 or so issues that would be addressed at the conference, and that the final negotiating positions would be taken to the Policy and & Management Board prior to the start of the conference.	
Item 10: Initial thoughts – Group Director Spectrum – Board paper 118(22) 38. David Willis introduced paper 118(22), setting out his initial thoughts since joining Ofcom at the start of September 2022. On the issue of spectrum management, he said the increase in sharing and local licencing would be key issues which could improve capacity but also increase complexity. It would be important to continue to support provision for users, such as on radars, without them being able to interfere with one another. The Board noted Ofcom's work to monitor whether local use was leading to increased interference.	

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[1] The Chair noted that some years ago he had contacted Ofcom to discuss spectrum matters and the impact of changes to spectrum proposed at the time on live theatre.

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39. David Willis said Ofcom's role as a regulator meant that it did occasionally need to revoke licences and that in some cases Ofcom had changed fee rules to allow the market to work properly. Work on automating licence deployment was continuing. 40. The Spectrum Group contained many strong colleagues but there was over-reliance on individuals' knowledge rather than systems and processes. A significant proportion of the workforce was over 50 and work needed to be done on succession, training and knowledge transfer. There was a need to reduce dependencies on key people. The Board noted that this may apply to other groups within Ofcom. 41. The Board **NOTED** paper 118(22).	
Item 11: Election Committee – Board paper 120(22) 42. The Board **APPROVED** the appointment of Maggie Carver as the interim Chair of the Election Committee.	
Item 12: Appointment to the Content Board – member for Northern Ireland – Board paper 121(22) 43. The Board **APPROVED** the appointment of Maria McCann to the Content Board as the Member for Northern Ireland for a three-year term to run from 21 November 2022 until 20 November 2025.	
Item 13: Appointments to the Board of MG ALBA – Board paper 122(22) 44. The Board **APPROVED** the appointment of John Morrison as the Chair of the Board of MG ALBA from 1 January 2023 for a term of four years and the appointment of Ingrid Henderson as the Bòrd na Gàidhlig nominee to the Board of MG ALBA for a term of four years. 45. The Board **NOTED** that, in line with the provisions of the Broadcasting Act 1990 ("the 1990 Act") (as amended by the Scotland Act 2016 ("the 2016 Act")), the appointments are subject to final approval by Scottish Ministers. 46. The Board noted John Morrison was proposing to maintain his holding in a PR company. It was agreed that Ofcom would write to the Company Secretary of MG ALBA to seek reassurance on the processes that would be in place to ensure this interest could be properly managed.	**Corp Sec**
Items 14-20: Information items 47. The Board **NOTED** the following information items: • Non-executive member updates – Board paper 123(22) • Chair's declarations of interest – Board paper 124(22) • Finance report – Board paper 125(22) • Latest Connected Working data – Board paper 126(22)	

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• Board work programme – Board paper 127(22), and publications schedule – Board Paper 128(22) • Minutes of the Advisory Committee for Northern Ireland (9 September 2022), Advisory Committee for Wales (13 September 2022), Communications Consumer Panel (15 September 2022), Risk and Audit Committee (28 September 2022) and Advisory Committee for England (6 October 2022). 48. The Board noted the paper on preparedness for a ransomware attack in the Board reading room.	
Item 21: Any other business 49. It was agreed that a Board workshop on age verification would be arranged. 50. It was noted that the Board would be interested in receiving a presentation from senior representatives of one of the major tech companies, but noted that YouTube had been the most recent to present to Ofcom so it might be better to consider other firms and to consider whether it should be a range of firms rather than one. 51. The Chair updated the Board on the current position in respect of the appointments to the Channel 4 Board. 52. The Chair of the Risk and Audit Committee asked that Board papers provide more information on financial implications than is currently typically included. 53. The Board recorded its thanks to the Edinburgh office for hosting the Board visit.	**Corp Sec** **KB**
Item 22: Date of the next meeting 54. The next scheduled Board meeting would be held on Wednesday 14 December 2022. 55. The meeting concluded at 12.20 pm.	

Approved: _____
                Chair