

**PUBLICATION MINUTES OF THE THREE HUNDRED AND NINTH MEETING OF
THE OFCOM BOARD HELD ON 15 NOVEMBER 2023
AT CASPIAN POINT, CARDIFF CF10 4DQ AND VIA MICROSOFT TEAMS**

Present

Michael Grade	Chair
Maggie Carver	Deputy Chair
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 (via Teams)

In attendance

Martin Ballantyne	General Counsel
Veronica Branton	Corporation Secretary
Sharon Malley	Governance Manager
Melissa Tatton	Group Director Corporate (Item 6)
Yih-Choung Teh	Group Director Strategy and Research (Items 6 and 9)
Iqbal Marikkar	Corporate Strategy Director (Item 6) (via Teams)
Aneen Blackmore	Finance Director (Item 6) (via Teams)
Lee Parfitt	Head of Corporate Strategy (Item 6)
Atif Moghal	Head of Strategic Finance and Funding (Item 6) (via Teams)
Kate Biggs	Public Policy Director (Item 7)
Siobhan Walsh	Group Director Broadcasting and Online Content (Item 7) (via Teams)
Tom Walker	Content Policy Principal (Item 7) (via Teams)
Almudena Lara	Online Safety Policy Director (Item 8)
Mark Bunting	Online Safety Strategy Delivery Director (Item 8) (via Teams)
Camilla Bustani	International Policy Director (Item 9) (via Teams)
David Willis	Group Director Spectrum (Item 9) (via Teams)
Oli Bird	Head of International Policy (Item 9) (via Teams)

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Item 1: Declaration of members' interests	
1. No new declarations of interest were notified.	
Item 2: Minutes of the meeting held on 18 October 2023 and matters arising – Board minutes 308(23) and note of action points	
2. The minutes of the Ofcom Board meeting held on 18 October 2023 were APPROVED for signature by the Chair as an accurate record, subject to two minor amendments.	
3. A summary of progress against action points was NOTED .	

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<p>Item 3: Chair's report</p> <p>4. The Chair updated the Board on his activities and said the recent all-colleague event had been very successful and positive. He said Ofcom had been the subject of a significant amount of media attention following the launch of the first online safety consultation and that reporting had largely been straightforward and uncontroversial.</p> <p>5. He hoped the appointments to the Board of Channel 4 Corporation would be confirmed shortly. Interviews for appointments to the Ofcom Board were being arranged following the open advertisement.</p> <p>6. He had attended a positive meeting with the CEO and their counterparts from Vodafone and 3 at their request to hear their views on the proposed merger.</p>	
<p>Item 4: Chief Executive's report – Board paper 115(23)</p> <p>7. Melanie Dawes presented paper 115(23) on her activities, including the following:</p> <ul style="list-style-type: none"> • It was too early yet to judge the industry reaction to the online safety consultation but media coverage had been fair. • The Government had recently announced plans to amend the Data Protection and Digital Information Bill in relation to online safety and Ofcom would monitor this. • The AI summit had kickstarted a positive and coordinated international process. Ofcom would reflect on the summit's outputs and monitor the role and remit of the proposed Safety Institute. • The forthcoming Autumn statement may include the conclusions of the various governmental review of regulators. She was expecting a new duty to promote growth to be added to Ofcom's remit, which was not of concern except in relation to online safety, which Ofcom had asked the government to exempt during the set-up of the new regime. There may also be a decision on the need to review Ofcom's role in relation to economic regulation and an update on timing in relation to the Public Bodies Review. • The Broadcast Standards team had a challenging workload with several open investigations into GB News as well as monitoring the position on complaints relating to coverage of the Gaza/Israel conflict. <p>8. Lindsey Fussell updated the Board on the position relating to in-contract price rises in telecoms contracts. She said Ofcom was rightly cautious around intervening in retail pricing, given that the broadband and mobile markets were competitive. Ofcom's main concern was to ensure that consumers had clear and comprehensible information on which to take an informed choice. Ofcom was likely to consult in December on a proposal that in-contract increases should be set out in pounds and pence rather than percentages, as this was more easily understood by consumers. Ofcom's consultation would be published alongside the latest data on social tariff take-up and awareness.</p> <p>9. Melanie Dawes said Ofcom's annual report on the BBC would be published shortly and would note that performance continued to be good, with the programme to merge UK</p>	

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<p>and international news appearing to be progressing well, although work was still needed to address under-served audiences.</p> <p>10. The Board NOTED the paper.</p>	
<p>Item 5: Report from the Chair of the People Committee</p> <p>11. Ben Verwaayen updated the Board on the meeting of the People Committee held on 25 October 2023. He said Ofcom’s ability to proactively manage people and transformation issues had improved markedly over the previous five years and paid tribute to Kerri-Ann O’Neill’s leadership. He also drew attention to the following:</p> <ul style="list-style-type: none"> • The People Committee would decide in March whether the One Ofcom bonus criteria had been met and a bonus could be paid. • The colleague survey findings had shown recovery from a small dip and senior managers were pleased with the results. • A new colleague had been appointed to support discussions on the pay framework and to advance progress on performance management. • The P&T team was performing well on recruitment with improved in-house capability meaning less reliance on external support. • The Committee had approved the remuneration arrangements of the new Broadcasting and Media Group Director. <p>12. The Board NOTED the update.</p>	
<p>Item 6: Plan of Work, Three-year Plan and budget – Board papers 116(23), 117(23) and 118(23)</p> <p>13. Yih-Choung Teh introduced the papers and said they represented Ofcom’s move towards more medium-term strategic planning and the closer alignment between strategic and budgetary planning. Paper 117(23), which reviewed progress against the current Three-year Plan (3YP) and Plan of Work, showed that Ofcom was performing well against its priorities and had been agile in dealing with unexpected issues such as devoting more resources to Post. The process of developing and implementing the 3YP had been valuable and had helped Ofcom articulate its choices more explicitly. Work was now beginning on the next 3YP and the business planning work being led by Aneen Blackmore was helping Ofcom to shape its future priorities.</p> <p>14. The Board noted the approach to the 2024/25 budget as set out in paper 118(23). There would not be any significant shift of resource within the organisation and the savings that were required would be spread across groups. The draft budget would be considered by the Risk and Audit Committee in the new year and approved by the Board in March. It was agreed that the Board did not need to see the budget in draft in February on this occasion but it may be helpful for the Board to view budgets in draft form in future years if more significant changes were being proposed.</p> <p>15. The Board noted the importance of being able to review options and to have the opportunity to influence choices. This was being supported by the work underway on breaking down and understanding costs across the organisation. It was noted, for example,</p>	

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<p>that the Broadcasting Standards team was under some pressure given its expanding workload and the fact that fees had been flat since 2015. The Media Bill offered an opportunity to open a discussion on costs with the Government.</p> <p>16. The Board NOTED papers 116(23) and 117(23). The Board APPROVED paper 118(23), setting out the work undertaken to date in preparing the 2024/25 Plan of Work and the approach to the 2024/25 budget process, including the efficiencies that would be required, and delegated approval of the Plan of Work consultation to relevant SMT members.</p>	
<p>Item 7: Media Bill update – Board paper 119(23)</p> <p>17. Kate Biggs presented paper 119(23) on the Media Bill, which had now been introduced to Parliament. She said she expected the Bill to pass rapidly through the Committee stage and that Ofcom was engaging with Parliament to ensure it remained workable and proportionate. The Bill would have implications for Ofcom’s remit and resources which would be worked through over the next 18-24 months.</p> <p>18. The Bill would give Ofcom the duty to provide guidance on how Public Service Broadcasters (PSBs) and Regulated Television Selection Services agreed commercial terms when complying with new prominence requirements. Ofcom would consult on this guidance that would help set expectations.</p> <p>19. The Board noted that the Media Bill aimed to level the playing field for PSBs but the fragmentation of media meant more measures were likely to be necessary in the longer term to support PSBs. Ofcom’s report Small Screen Big Debate had called for more radical change in this area and the Media Bill was a positive outcome of Ofcom’s work.</p> <p>20. The Board noted the need for cooperation with international regulators in relation to the proposed Video on Demand Code. The Tier 1 providers within the Code would be determined by the Secretary of State, with reference to advice from Ofcom on relevant factors such as UK viewership. Ofcom would consult on a draft Code that would need to be tailored to video on demand services.</p> <p>21. The Board noted that the future beyond the Media Bill was still uncertain, with platforms such as YouTube still largely unregulated for risks around inaccurate news. This would be fed into consideration of Ofcom’s next Three-year Plan.</p> <p>22. It was noted that the Bill included provisions for removing some aspects of radio regulation. This could potentially release internal resource that could be directed to other priority areas and the executive would revert on this.</p> <p>23. The Bill presented an opportunity for MG ALBA governance to be streamlined, which could perhaps be pursued via an amendment put forward by a supportive MP.</p> <p>24. The Board NOTED paper 119(23) setting out that DCMS had introduced the Media Bill to Parliament and that Ofcom was developing plans for implementation of the provisions of the Bill, including agreeing additional resourcing to undertake new duties with the Government if MG ALBA chose to pursue this.</p>	Kate Biggs
<p>Item 8: Part 5 age assurance consultation – overview – Board paper 120(23)</p>	

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<p>25. Almudena Lara presented paper 120(23) on Ofcom’s proposed approach to the publication on 5 December of Ofcom’s Part 5 guidance on age assurance for providers publishing pornographic content. The scope of the guidance was limited to commercial porn providers, such as Porn Hub, with platforms that carried user-generated content such as OnlyFans being covered by the child protection policy due in summer 2024. Ofcom aimed to keep the regulations for the two types of platform as consistent as possible.</p> <p>26. The Board noted that consumers might be concerned by the privacy aspects of providing personal data to comply with age assurance policies and that Ofcom was working closely with the ICO on this.</p> <p>27. Ofcom was also working closely with stakeholders to prepare them for the new regime. The Board discussed the approach to monitoring and enforcement as well as how success would be measured. It was noted that regimes in other jurisdictions had failed because they had been too prescriptive which was why Ofcom was adopting a principles-based approach. It was agreed that a paper on the supervisory and enforcement aspects of the wider Online Safety regime should be brought to the Board in Spring 2024. It was not yet possible to be specific on the timing of enforcement and the consultation exercise would provide more data to support decisions on this.</p> <p>28. The Board noted that the main aim of the regime was to prevent children from accidentally stumbling upon pornographic material and focused on putting some friction in the system to help with this. There was recognition that those who wanted to view pornographic material would look for ways of circumventing the regime and providers would be expected not to collude with this, for example by avoiding the promotion of the use of VPNs.</p> <p>29. The Board noted that the approach to supervision and enforcement would be intelligence-led, informed by liaison with stakeholders and by interrogating the information they were required to publish. Ofcom would need to make decisions about which cases to prioritise for enforcement. It was noted that in addition to the regime under the Online Safety Act, children could be protected through improved media literacy and the work of the Children’s Commissioner. The Board noted that the Online Safety Act regime represented one of many steps in protecting children and that age assurance was only one element of the range of actions needed to create safe environments for children online. Protection of children needed to be seen as a whole, and not just about preventing access to harmful content.</p> <p>30. The Board NOTED the Ofcom’s proposed approach to the publication of Ofcom’s Part 5 guidance on age assurance for providers publishing pornographic content.</p>	<p>Corp Sec</p>
<p>Item 9: Ofcom’s international engagement in technical standards – Board paper 121(23)</p> <p>31. Yih-Choung Teh introduced paper 121(23) on the growing importance of international discussion around technical standards and Ofcom’s engagement on the global stage to deliver the strategic priorities in the Three-year Plan. International technical standards spanned many areas of Ofcom’s work including telecoms, interoperability and spectrum. In recent years there had been reduced investment by the telecoms industry in standards bodies on the grounds of cost and some autocratic states, including through their state-controlled enterprises, had begun to take a more active role. Standards were important for Ofcom’s work but also engaged national security issues and Ofcom was liaising with the Government on this. Although relevant to Ofcom’s strategic priorities, Ofcom’s formal role on technical standards in the ITU was often under ministerial direction</p>	

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<p>rather than as an independent regulator. Ofcom also monitored discussions in other industry-led standards bodies.</p> <p>32. Ofcom worked closely with Government on the International Telecommunication Union. It worked less closely with other standards bodies but Ofcom did participate in the Digital Standards Steering Board and was able to help ensure topics such as Open RAN and internet standards were being joined up across departments. It was noted that some western governments had not yet fully realised or responded to the fact that some western industry had stepped back from standards forums and that countries such as China were becoming more interventionist.</p> <p>33. The Board discussed the geopolitical implications of technical standards setting and the multi-polar nature of global alliances. It was noted that Russian aggression in Ukraine had led to stronger relationships among European allies. The fluid nature of the alliances meant that different likeminded groups needed to be created for individual issues. The Government needed to take a lead in some areas and the UK's interests continued to be represented by subject matter experts. If international standards were to bifurcate or fragment, new products may be challenged to sell in global markets or need to meet competing standards to do so.</p> <p>34. The Board NOTED the growing importance to Ofcom's mission of international discussions around technical standards, and Ofcom's engagement on the global stage to deliver its strategic priorities.</p>	
<p>Item 10: Appointment of the Chair of the Communications Consumer Panel and ACOD Chair – Board paper 122(23)</p> <p>35. The Board APPROVED the proposed recommendation to DSIT of Helen Froud as Chair of the Communications Consumer Panel and the Advisory Committee for Older and Disabled People for a three-year term ending on 31 May 2027.</p>	
<p>Item 11: Reappointment to the Board of MG ALBA – paper 123(23)</p> <p>36. The Board APPROVED the proposed recommendation to Scottish ministers of the reappointment of Rhoda Macdonald to the Board of MG ALBA for a term of four years from 1 January 2024. The Board noted that Ofcom would be recruiting up to four additional Board members in the coming months due to terms coming to an end.</p>	
<p>Item 12: One Ofcom six-monthly programme update – Board paper 124(23)</p> <p>37. The Board NOTED the One Ofcom six-monthly programme update.</p>	
<p>Items 13-16: Information items</p> <p>38. The Board NOTED the following information items:</p> <ul style="list-style-type: none"> • Non-executive member updates – Board paper 125(23). • Monthly performance report – Board paper 126(23) • Board work programme – Board paper 127(23), and publications schedule – Board Paper 128(23) 	

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<ul style="list-style-type: none"> • Minutes of the Communications Consumer Panel (21 September 2023), Advisory Committee for Scotland (27 September 2023), Advisory Committee for England (5 October 2023), and Advisory Committee for Northern Ireland (10 October 2023) 	
<p>Item 20: Any other business</p> <p>39. Martin Ballantyne advised the Board on the outcome of the Competition Appeal Tribunal judgement on whether Sky’s pay TV service was an electronic communications service.</p>	
<p>Item 21: Date of the next meeting</p> <p>40. The next scheduled Board meeting would be held on Wednesday 13 December 2023.</p> <p>41. The meeting concluded at 12.15 pm.</p>	

Approved: _____
Chair