

**PUBLICATION MINUTES OF THE THREE HUNDREDTH MEETING OF
THE OFCOM BOARD HELD ON 14 DECEMBER 2022
MEETING HELD AT RIVERSIDE HOUSE, SE1 9HA AND VIA MICROSOFT TEAMS**

Present

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

In attendance

Martin Ballantyne	General Counsel
Veronica Branton	Corporation Secretary (via Teams)
Francesca Carter	Head of Governance
Sharon Malley	Governance Manager
Melissa Tatton	Corporate Group Director (Items 6 and 10)
Aneen Blackmore	Finance Director (Item 6)
Atif Moghal	Head of Strategic Finance and Funding (Item 6)
David Clarkson	Director of Telecoms Competition (Item 7) (via Teams)
Ben Harries	Director, Economics Group (Item 7)
Marina Gibbs	Director of Post (Item 8)
David Brown	Regulatory Finance Director (Item 8)
Kate Davies	Public Policy Director (Items 8 and 10) (via Teams)
Markham Sivak	Competition Policy Manager (Item 8) (via Teams)
Tania van den Brande	Economics Director Online (item 9) (via Teams)
Andrew Park	Principal, Online Safety Delivery Strategy (Item 9)
Caroline Garcia	Economic Lead (Item 9)
Elizabeth Holloway	Legal Director (Item 10) (via Teams)

	Action
Item 1: Declaration of members' interests	
1. No new interests were declared.	
Item 2: Minutes of the meeting held on 9 November 2022 and matters arising – Board minutes 299(22) and note of action points	
2. Subject to a minor amendment, the minutes of the Ofcom Board meeting held on 9 November 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 against each of the actions, as set out in the summary, were NOTED .	

	Action
<p>Item 3: Chair’s introduction</p> <p>4. The Chair updated the Board on his activities and drew attention to the following:</p> <ul style="list-style-type: none"> • Angela Dean and David Jones had agreed to form a sub-committee with him to review the response to the Public Bodies Review and this was approved • DCMS had written to advise of delays in appointment approvals because of changes in administration and the need to brief new ministers. DCMS had consented to the extensions of the terms of office of Roly Keating and Paul Geddes as non-executive directors of Channel 4 for a period of up to 9 months from 5 December 2022 and these extensions were ratified. DCMS did not wish Ofcom to begin the search for four Channel 4 non-executive directors until there was more clarity on the Media Bill. • He would be meeting with the Chair of Royal Mail early in the new year and was keen to hear more about the shareholders’ view of Royal Mail’s position. • He had visited Ofcom offices in Cardiff, Belfast and Edinburgh and had been encouraged by the positive position for creative industries there, reflecting Ofcom’s good work on this. 	
<p>Item 4: Chief Executive’s report – Board paper 129(22)</p> <p>5. Melanie Dawes presented paper 129(22) on her activities and current issues and drew attention to the following:</p> <ul style="list-style-type: none"> • The implementation of the Wholesale Fixed Telecoms Market Review had led to significant additional engagement with the telecoms market. An operator had submitted a complaint to Ofcom under the Competition Act alleging abuse of Openreach’s dominant position, which was under investigation. • Her recent US trip had gone well, highlighting the international nature of Ofcom’s forthcoming new remits on online safety, including the importance of the Digital Regulation Cooperation Forum (DRCF). Further international engagement would take place in the first half of 2023, including at Davos in January and the east coast of the USA in March. • Other matters of current interest included the publication of the Media Plurality report, telecoms pricing and the mid-contract price rises, and the return of the Online Safety Bill to Parliament. <p>6. The Board noted the work being done to implement the EU Digital Services Act (DSA). It was agreed that a briefing on this, including the differences between the DSA and Ofcom regimes, would be provided to the Board.</p> <p>7. The Board noted the importance of managing expectations in respect of the forthcoming online safety regime and the scope of Ofcom’s powers on harms encountered online. Ofcom planned to hold detailed briefing meetings with media organisations in the new year, once the Bill was in the House of Lords.</p> <p>8. The Board NOTED Board paper 129(22).</p>	<p>Corp Sec</p>

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<p>Item 5: Risk matters: Report from the Chair of the Risk and Audit Committee and Strategic Risk Register review – Board paper 130(22)</p> <p>9. Angela Dean updated the Board on the Risk and Audit Committee of 7 December and drew attention to the following:</p> <ul style="list-style-type: none"> • The new Finance Director had given her first impressions and said she felt Ofcom had a good control environment and the team had a good mix of skills and experience. Her areas of focus would be on streamlining financial and investment approvals processes and improving business planning. • The internal audit report on payroll had found the Financial Authorities Framework was out of line with current practice in certain areas, that there was no regular review process for user access to Workday, and that some aspects of contract management were not documented. The rigorous approach of Deloitte to internal audits was welcomed by both the Committee and the executive. • The NAO had raised again the question of how Ofcom recognised revenue and that there were discrepancies in approach among regulators. Ofcom was now seeking assurances from the NAO that a decision would be made on this early in the new year, to avoid last-minute delays to the audit. The audit fee had not yet been agreed and was likely to be an increase on the previous year. • The Committee had received a deep-dive on cyber security. It was agreed that a presentation on this would be brought to a future Board meeting. • A data breach had been reported to the Information Commissioner’s Office, who were taking no further action. Steps were being put in place to avoid similar future breaches. <p>10. Angela Dean updated the Board on two changes to the Strategic Risk Register and noted that the register would be refreshed in line with the three-year plan in the new year.</p> <p>11. The Board NOTED the update from the Chair of the Risk and Audit Committee and paper 130(22).</p>	<p>Corp Sec</p>
<p>Item 6: Three-year business plan – Board paper 131(22)</p> <p>12. Aneen Blackmore introduced paper 131(22), setting out the budgets and resource profile needed to deliver the remaining two years of the three-year business plan. She said the funding cap was sufficient to deliver the strategy over this period and a detailed plan of work and budget for 23/24 would be presented to the Board in March. There were some risks in the budget, including inflation and uncertainty around the online safety programme, but in her view they were manageable.</p> <p>13. Beyond the next two years there were likely to be budgetary challenges, with Ofcom’s remit expanding and the fiscal environment tightening. The team was now beginning to plan beyond 24/25 for the next iteration of the three-year plan and discussions on the next funding settlement.</p> <p>14. The Board would be keen to receive more information on how spending decisions were prioritised and which proposals were deferred as a result of budgetary pressure. In addition, the executive was discussing with the Risk and Audit Committee what regular</p>	

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<p>financial reporting it would like to receive and the Board was keen this should include a review of inflation issues.</p> <p>15. The Board noted that the budget did not include options to respond to different economic scenarios such as a drop in revenue or higher than expected inflation and these would be helpful in the March budget. The proposal to stress-test possible budget reductions should look at more substantial cuts than those set out in the paper.</p> <p>16. The Board noted the work in hand on reward strategy and the importance of being able to attract and retain talented colleagues. Details of this would be brought to the next meeting of the People Committee.</p> <p>17. The Board APPROVED the three-year business plan as set out in annex 1 of paper 131(22).</p>	
<p>Item 7: Update on fixed telecoms market – Board paper 132(22)</p> <p>18. David Clarkson introduced paper 132(22), updating the Board on the fixed telecoms market and Ofcom’s strategy to promote investment and competition. He said the market appeared to be entering a period of economic tightening which, coupled with faster responses from Openreach on rollout and pricing, was likely to lead to some operators becoming exposed or failing and some market consolidation. If networks with customers collapsed, customers should be able to transition to alternative options, such as an FTTC service on the Openreach network.</p> <p>19. The Board noted that providers facing financial difficulties might look to blame Ofcom for its regulatory approach. Ofcom would need to be ready to respond to criticism and to explain its position.</p> <p>20. The Board noted that Ofcom retained the ability to reopen the market review to intervene if necessary. However, reopening the review could only be justified if there were clear evidence of material changes in the market, which were leading to a failure in Ofcom’s strategy to promote the roll-out of gigabit-capable networks through network competition. Work on the 2026 review would begin in 2024.</p> <p>21. Overall, the Board noted the importance of continuing to support the strategy to provide certainty to support long-term investment, recognising that the next few years were likely to be challenging.</p> <p>22. The Board NOTED board paper 132(22).</p>	
<p>Item 8: Developments in the postal market – Board paper 133(22)</p> <p>23. Lindsey Fussell introduced paper 133(22) and updated the Board on the current financial position of Royal Mail (“RM”) and the views of the RM Board and Government.</p> <p>24. The Board noted that only Parliament had the power to amend the Universal Service Obligation (USO) and that Ofcom had conducted research to inform the Government on what consumers wanted from the postal service and on options for the future. Ofcom’s levers over USO sustainability were relatively limited.</p>	

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<p>25. The Board discussed the challenges of RM’s current financial position and risks to sustainability. It was noted that Ofcom’s regulatory role could come under scrutiny in the event of any failure of RM.</p> <p>26. The Board noted the next steps, which included further engagement with RM to understand their financial position, further discussions with Government, and contingency planning in respect of possible changes to the USO.</p> <p>27. The Board NOTED paper 133(22).</p>	
<p>Item 9: Online safety regime: strategic aims and evaluation approach – Board paper 134(22)</p> <p>28. Tania van den Brande presented paper 134(22), setting out the proposed approach to evaluating the outcomes of the online safety regime.</p> <p>29. The Board questioned whether it would be possible to measure the extent of harms online under the regime to see if they were reducing. An approach could be to create a basket of measures which provided “red-flags” of where harm may be occurring, after which Ofcom could then target more detailed analysis of actual harms. This could include the number of websites with adult material using age verification or the extent of the use of hashing in relation to terrorist offences. Consumer research was helpful in respect of the larger platforms but data analytics provided better information on smaller platforms.</p> <p>30. The Board noted the risk to Ofcom’s reputation if online harms remained a significant problem after the introduction of the new regime, notwithstanding our endeavours to manage expectations. The evaluation work should help mitigate these risks as it should identify if harms were trending the wrong way and allow Ofcom to open discussions on how to deal with them. Platforms did not generally evaluate their own measures beyond the commercial incentive to maintain their user base. It would be helpful for platforms to conduct more evaluation and to share the findings with Ofcom.</p> <p>31. The Board noted that platforms were influenced by advertisers and the threat of withdrawal of advertising following hosting of inappropriate or harmful content. Ofcom had conducted research to understand the extent to which advertisers were influenced by safety and harm issues and this could be taken further with advertisers and media buyers.</p> <p>32. The Board NOTED paper 134(22).</p>	
<p>Item 10: Online Safety Bill update – Board paper 135(22)</p> <p>33. Kate Davies introduced paper 135(22), updating the Board on progress with the Online Safety Bill. The Bill had returned to Parliament with some amendments to the provisions on legal but harmful content, all of which had passed. Ofcom’s next step was to update the roadmap to reflect the revised timings resulting from delays to the Bill.</p> <p>34. The Board noted that there were some concerns among Parliamentarians about the reliance on platforms’ terms and conditions and the removal of risk assessments. The Lords were keen to have sufficient time to review the changes properly but there was also pressure to get Royal assent in this session and begin implementation.</p>	

	Action
35. The Board NOTED paper 135(22).	
Item 11: Board evaluation review proposals – Board paper 136(22)	
36. The Board APPROVED paper 136(22), that the Board & Committee Effectiveness Review for 2022/23 should be internally facilitated using a questionnaire distributed to Board members by the Corporation Secretary.	
Item 12: Review of the Financial Authorities Framework – Board paper 137(22)	
37. The Board APPROVED the minor changes to the Financial Authorities Framework as summarised in paper 137(22).	
Items 13-21: Information items	
38. The Board NOTED the following information items: <ul style="list-style-type: none"> • Non-executive member updates – Board paper 138(22) • Enabling the use of millimetre wave bands for 5G – Board paper 139(22) • Finance report – Board paper 140(22) • Annual review of organisational resilience policy – Board paper 141(22) • Annual review of risk management policy – Board paper 142(22) • Enforcement update: supporting the three-year plan – Board paper 143(22) • Latest Connected Working data – Board paper 144(22) • Board work programme – Board paper 145(22), and publications schedule – Board Paper 146(22) • Minutes of the Advisory Committee for Scotland (4 October 2022) and Communications Consumer Panel (13 October 2022). 	
Item 22: Any other business	
39. There was no other business.	
Item 23: Date of the next meeting	
40. The next scheduled Board meeting would be held on Wednesday 8 February 2023.	
41. The meeting concluded at 12.50 pm.	

Approved: _____
Chair