



Satellite & Cable
Broadcasters' Group

**HOUSE OF COMMONS SELECT COMMITTEE
CULTURE, MEDIA AND SPORT**

**INQUIRY INTO PUBLIC SERVICE MEDIA
CONTENT**

Submission by the Satellite and Cable Broadcasters' Group

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SATELLITE AND CABLE BROADCASTERS' GROUP

The SCBG is the trade association for satellite and cable programme providers who are independent of one of the main terrestrial broadcasters. Its members are responsible for over 100 channels in the UK and in addition broadcast many more services from the UK to continental Europe and beyond. Many member companies are pan-European broadcasters, producing and commissioning content for different national markets.

SCBG channels provide citizens and consumers with programmes and services for a diverse range of audiences across a wide range of genres and audiences, including entertainment, factual, educational, history, music, nature, art and science. Our member companies make and show programmes for children and young people, and for ethnic minorities in their own languages. SCBG members' channels are available in almost 50% of UK homes, and together have a combined audience share approaching 20% of all UK television viewing.

Satellite and cable broadcasters operate in an extremely competitive and volatile environment, without privileged access to scarce Government-controlled spectrum or to the must-carry status afforded to terrestrial networks. They are therefore unable to attract mass advertising revenues, and – with a couple of notable exceptions – do not benefit from public funding.

Satellite and cable broadcasting has been the fastest growing sector in the UK television industry, now employing over 6,000 people in the UK with revenues of nearly £5 billion.

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1. Executive Summary

The Satellite and Cable Broadcasters' Group (SCBG) welcomes the opportunity to make this submission to the Culture, Media and Sport Select Committee's inquiry on public service media content. SCBG represents the views of a wide range of businesses that run a diversity of television channels – run independently of the incumbent terrestrial broadcasters and largely without public support or subsidy.

Our understanding is that this inquiry seeks to examine how a well-functioning and competitive broadcasting environment in the UK can be maintained, while at the same time sustaining a plurality of public service broadcasting (“PSB”). Our primary concern is to ensure that citizens and consumers benefit from strong, fair competition between providers of quality content, on whatever platform, and on whichever device. Any regulatory or public policy interventions aimed at sustaining certain types of content and certain types of provider must be made in the context of this fundamental principle.

Our main arguments in this paper can be summarised as follows:

- The promise of a “digital Britain” is a wealth of choice and diversity – but current broadcasting policy unduly favours the incumbent terrestrial broadcasters, thus denying audiences the benefits of fair competition;
- It is now time to look very carefully at the current criteria of PSB content and to tighten them in order to provide clarity that would avoid further confusion about what really constitutes PSB content and quality;
- With its new charter and licence fee settlement, the BBC will remain the cornerstone of PSB provision – but must live up to the promises it has made during the Charter Review process regarding distinctiveness, the rigour of its governance structures; and its sensitivity to its competitors;
- Research commissioned for SCBG by David Graham Associates clearly demonstrates that genres traditionally held to PSB content are increasingly broadcast and viewed outside the subsidy system;
- Commercial multi-channel broadcasters do not only invest a great deal into public service programming, but also add range, diversity and new delivery platforms for this content. In order for that to continue, there must be sufficient investment incentives in the market and a tight control of the incumbent terrestrial operators;
- Further public support for the legacy commercial PSBs is no longer justifiable – and they must be placed on the same competitive footing as other channels;
- Public support in new media platforms will risk disincentivising the development of such services from existing commercial operators. In the absence of any evidence of market failure, policy should aim to harness the power of competition to deliver diversity to audiences, rather than relying on further public intervention.

2. Introduction

The Committee will be aware of the tumultuous change that has affected the broadcasting industry in recent years – and will acknowledge that it is now unrecognisable from the industry of only a decade ago. Change will continue even up to switchover and beyond, which has the potential to dramatically increase choice and diversity for consumers, allowing more and more audiences access to a wider range of output – both paid-for, and free-to-air. A key concern of SCBG is to ensure that this radically re-shaped playing field is substantially more level than the one it replaces.

According to Ofcom's own research¹, the proportion of households in the UK receiving digital television services on their primary TV set in September 2006 was 73.3%. Almost 45% of households subscribe to a pay-TV service (such as Sky or ntl:Telewest), with many of these homes also converting second and third TV sets via digital terrestrial set-top box.

Although digital terrestrial ("Freeview") has been hailed as the TV success story of recent years, the Ofcom research still demonstrates the power of pay-TV services to drive digital take-up. Viewers continue to value the variety of choice that cable and satellite offer – especially those niche channels that are available exclusively on pay-TV. It is therefore vital for policymakers to acknowledge the importance of these channels, especially in the context of PSB, as we argue later. It is inevitable that the shift from limited choice in a terrestrial environment to a much wider choice in a multichannel home (whether the forty channels of Freeview, or the four hundred channels of Sky Digital) leads to a fragmentation of the market. As Ofcom rightly concluded in its first review of PSB, this fragmentation means that audiences for traditional public service genres and for the incumbent terrestrial broadcasters decreases. It is a fact that the digital marketplace now provides a multiplicity of targeted, specialist offerings that appeal to the individual tastes and preferences of audiences – with whole channels dedicated to satisfying particular tastes, interests, cultures or demographics. Viewers are voting with their remote controls, and are gradually turning away from the old model of mass-market PSB programming on the five terrestrial channels.

During the first statutory Ofcom review of Public Service Broadcasting, SCBG argued that this migration from mass to niche represented an opportunity to rethink the policy frameworks underpinning PSB, so that they went with the grain of this viewer-led change, rather than attempting to work against it.

3. Defining Public Service Broadcasting

SCBG believes that any consideration of PSB must begin from a clear definition of what constitutes public service content. Only then can a clear assessment be made about how it can best be delivered. We believe that it is time to look very carefully at the current criteria, and to tighten them in order to provide clarity that would avoid further confusion about what really constitutes PSB content and quality.

¹ Digital Progress Report, Digital TV Q3 2006, 20 December 2006

According to Ofcom's final statement on its statutory Public Service Broadcasting review² the following mix of purposes and characteristics constitute the new definition of PSB:

PSB Purposes:

- To inform ourselves and others and to increase our understanding of the world through news, information and analysis of current events and ideas.
- To stimulate our interest in and knowledge of arts, science, history and other topics through content that is accessible and can encourage informal learning.
- To reflect and strengthen our cultural identity through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences.
- To make us aware of different cultures and alternative viewpoints, through programmes that reflect the lives of other people and other communities, both within the UK and elsewhere.

PSB Characteristics:

- High quality – well funded and well produced.
- Original – new UK content, rather than repeats or acquisitions.
- Innovative – breaking new ideas or re-inventing exciting approaches, rather than copying old ones.
- Challenging – making viewers think.
- Engaging – remaining accessible and enjoyed by viewers.
- Widely available – if content is publicly funded, a large majority of citizens need to be given the chance to watch it.

We believe that these criteria are difficult to measure, but it is vital to use a framework for this to – as objectively as possible – define PSB from non-PSB content. Our concern is that objectivity is sometimes lost, with these principles interpreted in ways that naturally favour the incumbent terrestrial broadcasters, and exclude PSB content available from non-traditional sources. It is therefore essential that sound objective methods of monitoring content are deployed when looking at the content of all broadcasters in this market.

In our view, it would make sense to regard Ofcom's purposes and characteristics as a series of socially desirable objectives, which are currently being achieved in many ways and by many different providers. While there may be some specific "merit good" services which comprise a small and specific subset and which might genuinely justify public intervention, PSB policy should actually be about encouraging what is happening already, stimulating more of it, and monitoring strengths and weaknesses in the supply.

4. The BBC

² Ofcom review of public service television broadcasting Phase 3, issued on 8 February 2005

We agree that the BBC should remain strong, independent and the cornerstone of public service broadcasting in the UK.

Throughout the Charter Review process, we made it clear that – in return for over £3.5 billion of public money – the BBC’s output should be distinctive from commercially funded services, and that there should be strict scrutiny of how the BBC is governed and how it prioritises the investment of its public funding. The careful balance of popular entertainment and PSB is the defining condition of the BBC, and – as it has done before – it must vary its offering in order to maintain the perceived value of the fee.

SCBG welcomes the new principles that were outlined in the Charter and Agreement around the systems and processes that the new BBC Trust will use to determine public value, and sustain the distinctiveness of the BBC’s services. We were particularly keen to ensure that the BBC’s competitors could enjoy much greater certainty about the limits of the BBC’s ambitions in any number of areas – and the introduction of the Service Licence regime and Public Value Test is to be welcomed.

However, we will be watching carefully to ensure that the promises made by the BBC during Charter Review are met in full. Our members have already digested the BBC’s “Creative Future” strategy, which envisages swathes of new activity in a number of areas in which we are already active. As the BBC’s new services are developed and as current ones evolve, we will hold the BBC Trust to the high standards to which it has committed.

5. Public Funding for Other Broadcasters

The BBC’s near monopoly of public funding inevitably influences the capacity of other players in the market to deliver programmes of range, diversity and quality. It is true – however – that the steady march of digital switchover is likely to reduce the BBC’s reach over time. As Ofcom points out, this is also true for the commercial PSBs who have previously been the only source of PSB plurality. Today, almost two million viewers never watch the public service broadcasters during a specific month.³ Moreover, data of viewing of PSB channels as a proportion of total viewing over the last five years shows a steady decrease, with the PSB channels accounting for 80.4% of total viewing in 2002, dropping to 75.3% in 2006.⁴ In multi-channel homes, where viewers have access to the majority of commercial digital channels, many of whom are members of SCBG, viewing of PSB programming on these channels is significant, with 70% of viewing to children’s programming, 52% of documentaries viewing, and 47% of viewing to UK/ROW-originated films occurring on commercial digital channels.⁵

³ See Table 1 in Appendix

⁴ See Table 2 in Appendix

⁵ See Table 3 in Appendix

Research commissioned for SCBG from David Graham Associates demonstrates that genres traditionally held to be PSB content are increasingly broadcast and viewed outside the subsidy system. In fact, commercial digital channels are the dominant providers of large swathes of PSB programming, offering significant amounts of content that meets PSB objectives and characteristics as defined by Ofcom. They also uniquely address particular groups and communities of viewers.

Some programming and channels supplied without public intervention already contribute to PSB purposes but many more of them fulfil characteristics such as high production values, innovation and originality. Many channels are contributing by serving minority cultural or ethnic interests, engaging audiences groups such as 16-24 year olds that are increasingly disenfranchised from mainstream PSB programming, or developing new on-screen and production talent.

Commercial multi-channel broadcasters are also adding range, diversity and specialist interest services despite the entry of the terrestrial digital networks as direct competitors in many areas – a development that has had a significant economic impact and affected not only the investment capability of new commercial channels but also their scheduling and programming decisions.

The research commissioned by SCBG shows the following striking examples:

Total of PSB Programming across Channel Groups

Hours of PSB Programming, October 2006:					
Genre	BBC Terrestrial	Commercial Terrestrial	BBC Digital	ITV, C4, Five Digital	Commercial Digital
Arts	16	17	35	3	843
Children's	156	177	645	760	6,459
Current Affairs	90	65	800	0	311
Documentaries	140	162	193	309	9,419
Films:UK/ROW	21	49	9	264	1,807
News/Weather	243	125	613	10	751

Source: DGA Metrics

% of PSB Programming, October 2006:					
Genre	BBC Terrestrial	Commercial Terrestrial	BBC Digital	ITV, C4, Five Digital	Commercial Digital
Arts	2%	2%	4%	0%	92%
Children's	2%	2%	8%	9%	79%
Current Affairs	7%	5%	63%	0%	25%
Documentaries	1%	2%	2%	3%	92%
Films:UK/ROW	1%	2%	0%	12%	84%
News/Weather	14%	7%	35%	1%	43%

Source: DGA Metrics

The analysis reveals that, for the majority of genres, commercial digital channels provide more PSB programming than either the BBC (including its digital services) or the advertiser-funded terrestrial channels. 92% of arts programming is shown on commercial digital channels such as Artsworld, 79% of children's programming airs on channels like Nickelodeon, and 92% of documentary or factual entertainment hours were shown on channels such as Discovery. In addition, 84% of all UK/ROW-originated films were shown on commercial digital channels. These also provided 43% of all news programming. Current affairs is the only genre in which the BBC (including its digital channels) provides the majority of programming hours.

Our conclusion is that SCBG members – and other private sector broadcasters – are offering significant innovation and efficiency gains in the way PSB is delivered. This provides a real alternative to approaches reliant on pumping more public funds into broadcasting or establishing new PSB institutions. We therefore believe that there is a growing role for multi-channel in providing competition to strengthen and extend the

appeal of PSB in future. We believe there are gaps in public service provision where new delivery platforms, beyond the main terrestrial channels, are offering real benefits and added value, for example by accessing a particular demographic, improving value for money and adding pressure for innovation.

We believe that future policy in this area should build on such foundations. If Ofcom – or other policymakers – believe that there are gaps in PSB provision, or that there is residual programming that is felt to be socially desirable, then it is commercial digital broadcasters that are ideally placed to secure its optimal distribution. It is through this sector that new public service growth could come, if it is permitted, incentivised, and not faced either by an over-mighty BBC or new publicly-funded institutional interventions.

Indeed, Ofcom’s own suggestion in its 2005 PSB review said that the contribution of commercial multi-channel broadcasters to public purposes should be “recognised and incentivised”. Although phase three of that review acknowledged the contribution of commercial digital channels to PSB and promised that Ofcom would “consider ways in which some of the benefits of PSB status ... could be conferred on existing multichannel services if they are considered to make a significant contribution to PSB purposes and characteristics”, to the best of our knowledge, this idea has not been pursued further.

This approach has already been recognised by Government in its direct funding of The Community Channel and Teachers' TV (both members of SCBG). Public service can be as efficiently delivered by small specialist channels with dedicated remits as by giant organisations and dominant brands. Future public service broadcasting policy must take account of this, rather than fight against it, and foster the ability of independent broadcasters to deliver valuable programmes cost-effectively to those audiences who have chosen to watch them.

Based on this, we believe there should be a thorough analysis of the many alternatives to public funding that have already been proposed but insufficiently examined. These alternatives include a number of other mechanisms for contestability in public funding, including the Public Service Broadcasting Commission model outlined by Lord Burns’ panel in its report to the DCMS in 2005.

6. The Privileges of PSBs

Within the context of these PSB criteria, SCBG questions how far the commercial PSBs currently deliver them in their schedules – on either their main channels, or on their spin-off digital networks. It is clear to us that their public service contribution is disappearing but their public service privileges remain.

The old model – as articulated well by Ofcom during its review – extracted PSB obligations from commercial broadcasters by granting particular advantages to them in return. Our concern is that these advantages will not be eroded at the time of digital switchover. Shorn of the majority of their PSB obligations, the commercial PSBs will retain many of the advantages previously afforded to them under the old pact.

One key benefit derived from PSB status was access to valuable digital terrestrial spectrum at cost price. As we have progressed towards switchover, this “digital real estate” has become more and more valuable, yet the existing PSBs have been able to launch channel after channel without any requirement to meet the public purposes or characteristics outlined by Ofcom. Indeed, many of the recently-launched services compete directly for audiences and advertising with SCBG member companies, who enjoy no such subsidy.

However, as stated above, many satellite and cable broadcasters provide PSB content to a large proportion of the public and this should be recognised. In addition, there are channels such as Teachers’ TV and the Community Channel which should be able to benefit from DTT spectrum, but because of restraints on resources cannot get on to the platform and thus achieve 24 hour coverage. Such broadcasters are free to air and clearly have a public service remit yet are disadvantaged because of the dominance of the entrenched and expanded PSBs where most of the DTT capacity is taken up by their commercial spin offs failing to provide PSB content to a greater extent than any of their commercial rivals.

Another especially pernicious example of the advantages of being a legacy PSB is the ability to cross-promote between their mass-audience terrestrial channel and their wholly commercial multi-channel spin-offs. The value of the terrestrials’ cross-promotional airtime is enormous – and dwarfs any investment that any of our members could make in advertising our channels in commercial airtime. Consequently, the digital world will remain as unequal as the analogue one it replaces.

7. Public Service Broadcasting and New Media

The challenges brought by digital are compelling broadcasters to boost their online offerings, and to launch on-demand services that cater to audiences’ increasing desire for control over their viewing.

The diverse membership of the SCBG means that its members already offer online distribution across all genres of content, from children’s animation on mobile handsets to the delivery of non-linear news services. The phenomenon of “user generated content” has also stimulated innovative new services. Online offers valuable opportunities for many companies to extend their brands beyond conventional content distribution with ancillary services, such as branded games and podcasting. Broadcasters also provide consumers with opportunities to interact with each other, and to feedback directly to the channels, through chat rooms and e-mail. Some are also offering business-to business services, such as financial news, which are likely to represent a significant portion of the market for paid for content.

SCBG members are following very closely the launch of the BBC’s on-demand iPlayer, and are assessing the extent to which it will affect their activities. If approved by the BBC Trust (which is currently considering the outcome of Ofcom’s market impact assessment), the iPlayer will position the BBC as a significant player in the broadband market, and will be a formidable competitor to other online content providers. Many SCBG members believe that the BBC’s plans disincentivise them to invest in on-

demand services, since all of the BBC's content will be available for free. We therefore welcome Ofcom's rigorous approach and its suggestions that the parameters of the iPlayer need to be limited in order not to stifle competition⁶.

SCBG members have responded individually to the Public Value Assessment consultation process and we do not seek to summarise their various positions here, but all agree that the approval process must pay due attention to the views of those companies who are building new businesses in this space. In particular, the future evolution of the iPlayer must be subject to rigorous oversight by the Trust. Any further new uses for the iPlayer must be subject to a new Ofcom Market Impact Assessment and trust Public Value Assessment and not be allowed through as varieties to an existing service. The BBC Trust licence must state the precise limits for each BBC service and any extension to this must be subject to rigorous review.

The BBC is – of course – not the only PSB involved in new media activity. Channel Four has recently launched its "4OD" video-on-demand service, and ITV will soon launch its Broadband offering. All in all, the PSBs have succeeded in establishing leading positions in this emerging market, thanks to the leverage afforded by their privileged positions in analogue television.

8. The Viability of Existing Funding Models

As the inquiry's terms of reference do not include the issue of the BBC licence fee, and the licence fee settlement is concluded, we will not address this issue in this submission. We would however note that the BBC's ability to retain an adequate level of support for public funding will, as ever, remain down to its ability to present a value mix that generates enough public support. This makes the BBC's ability to deliver PSB highly contingent on many factors that are uncertain and impossible to predict with accuracy.

Channel 4's funding model is currently the focus of an Ofcom review. Channel 4's belief is that it faces an imminent funding gap, which will need to be filled in some way. The corporation had previously lobbied for direct funding from the BBC licence fee, but this has since evolved into a less specific demand for support via indirect means – such as more gifted or subsidised spectrum.

It is not clear to us where Channel 4's financial difficulties lie. Its ability to pay more than £40 million for the latest series of US import "Desperate Housewives" would appear to be prima facie evidence of a healthy balance sheet. In recent years, Channel 4 has been uniquely successful in an otherwise difficult market for TV advertising. It is unclear to us how Channel 4's public service obligations – which were previously the source of its unique market position and audience appeal – are now a burden that needs relieving through further public subsidy.

We await Ofcom's initial conclusions with interest.

⁶ Ofcom's Market Impact Assessment published on 23 January 2007

9. The Public Service Publisher

As SCBG understands it, the PSP is conceived as a new institution that will fund and deliver public service content in an online world. It is an attempt to ensure that as audiences move away from traditional modes of distribution and into the new media, PSB content is still available to them.

Ofcom published its latest thinking on the PSP on 24 January 2007 and we will examine it very carefully before responding to the consultation. However, we would make a number of points of principle in advance of our submission to Ofcom.

SCBG expresses a number of reservations about the proposal, based on our natural bias against public intervention wherever necessary. As we have argued above, the existence of a publicly funded competitor inevitably affects investment decisions and commercial strategy – and wherever possible, we believe that competition is the optimal way of achieving public policy outcomes. The very fact that Ofcom is even contemplating such a proposal will serve to disincentivise commercial companies from investing in new media ventures.

While we agree that plurality should be at the heart of any public service broadcasting policy, we question whether this is best delivered by creating an entirely new publicly sponsored and publicly funded institution. As we have noted above, not only are commercial multi-channel broadcasters already active in a wide range of PSB genres, they are also pioneering new distribution technologies and building relationships with audiences via non-linear as well as linear means. To reiterate a point made earlier: policy should take account of provision already in the market, and work with the grain rather than against it.

Moreover, we would be especially concerned if any new PSP were established under the umbrella of one of the existing PSBs. Such an approach would perpetuate the privileged position of these broadcasters, and would not contribute to plurality. Ofcom should consider how best to adopt a channel and platform neutral approach to this issue. Were a new source of funding for PSB content to be available, many SCBG members would welcome the opportunity to compete fairly for commissioning and distribution opportunities.

While the idea of a PSP deserves greater consideration, we urge Ofcom to consider very carefully whether it is the best answer to the challenges that Ofcom has identified. Without clear evidence of a market failure in PSB-style content in new media, it will be hard to justify.

10. Conclusion

It is inevitable, regardless of Royal Charters or Acts of Parliament, that public service broadcasting in the digital age will consist of a wide plurality of providers serving audiences via a plurality of media. On commercial multi-channel television there is already more Mozart than on the BBC; more health advice than on Channel Four; more

news – independent and impartial – than on ITV1, and more documentaries than on any of these channels.

In fact, the commercial multi-channel broadcasters have provided to the UK public large volumes of the types of programming that match Ofcom's PSB criteria, and have done so without public subsidy or regulatory requirement. These channels provide real choice and plurality to the market. Choice and competition should therefore be at the heart of any broadcasting policy, and include recognition of the contribution the independent sector has made and can make. However, the independent sector can only continue to invest in this market if there are enough incentives for them to do so.

Ofcom as an evidence-based regulator should acknowledge the investment in PSB programming by the independent sector when looking at the future of public service broadcasting and assessing the need for another PSB entity in this market. Ofcom's remit to promote fair competition can only be achieved by tough scrutiny of the incumbent operators in the market.

Regarding the BBC, we expect the BBC Trust to deliver a clear benefit to the licence payers by keeping the BBC services truly distinctive from the offerings by the commercial operators.

Most arguments in this paper have been put to Ofcom at numerous occasions, but we are yet to see any shift in its thinking on these crucial issues. We therefore call on the Select Committee to encourage investment incentives for independent broadcasters, promote fair competition and acknowledge the contribution already made by SCBG members to public service media content.

We would welcome the opportunity to discuss our views with you in more detail.

Appendix

Table 1

Number of non-PSB viewers per month

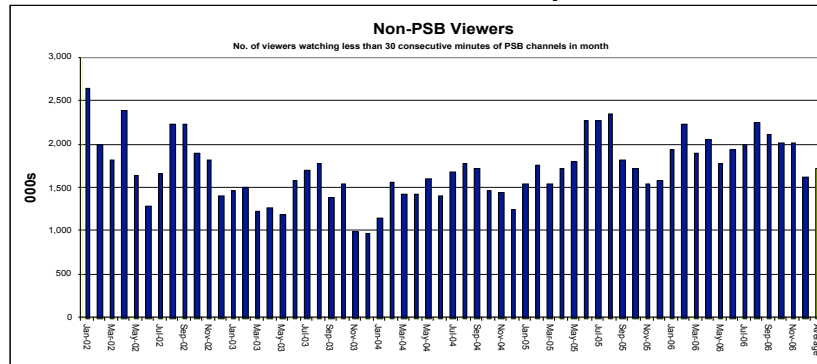


Table 2

Annual decrease in PSB viewing

PSB as % of Total Viewing:			
Dates	Total TV (000s)	All PSB (000s)	PSB as % of Total Viewing
2002	8,239	6,628	80.4%
2003	8,648	6,895	79.7%
2004	8,525	6,633	77.8%
2005	8,452	6,475	76.6%
2006	8,383	6,314	75.3%

Table 3

Amount of PSB viewing in Digital Satellite homes

% of PSB Viewing - Digital Satellite Homes, October 2006:

Genre	BBC Terrestrial	Commercial Terrestrial	BBC Digital	ITV, C4, Five Digital	Commercial Digital
Arts	43%	30%	7%	1%	19%
Children's	7%	5%	16%	2%	70%
Current Affairs	48%	38%	7%	0%	7%
Documentaries	22%	21%	2%	3%	52%
Films:UK/ROW	13%	13%	1%	26%	47%
News/Weather	57%	23%	9%	0%	11%

Source: BARB/DGA Metrics