

**Consumer Council Submission on
Exemption Arrangements of the Competition Bill**

Exemption of Statutory Bodies

1. The Consumer Council (CC) is taking this opportunity to comment on the exemption arrangements of the Competition Bill (the Bill) for submission to the Bills Committee of the Legislative Council.
2. From the list of statutory bodies proposed to be exempted as recently released, it demonstrates that the Government has the intention not to include statutory bodies within the range of 'undertakings' that will be regulated by the Bill.
3. Many statutory bodies compete with others in the marketplace, may be not in respect of their core business but just peripheral activities. As such the approach of granting a blanket exemption may be over protective towards the statutory bodies and might not be desirable under certain circumstances.
4. CC is however mindful that if no outright exemption is granted and all statutory bodies are put under the competition regime subject to exclusion / exemption to be granted by the competition authority, it will be onerous to require the competition authority to be established to examine the nature of all activities of the statutory bodies to determine whether to grant an exemption status for each of these activities . As such, CC considers the Government's latest exemption approach could enable the competition authority to focus more on its task of protecting competition in the private market place that is of most concerned to the consumers and the public.
5. CC however urges the Government to review the exemption status of the statutory bodies in light of actual experience in implementing the competition law.
6. CC suggests that exemption status of statutory bodies should be re-examined by the Government in consultation with the Competition Commission having regard to complaints about unfair competition by the statutory bodies. The review should also take into account the performance of statutory duties by the statutory body concerned and the effect of its business practices on competition in the market place before deciding whether the exemption status of the statutory body should be maintained after the law is enacted.