

**Request for information  
regarding the legal advice that receiving cash payment by the  
promoter from a member of the public for e.g. subscribing to  
internet services did not constitute hawking offence under Cap. 132  
(para. 54 of the minutes refers)**

FEHD has sought legal advice on whether the deposit of cash for some on-street promoters amount to illegal hawking, contrary to section 83B of the Public Health and Municipal Services Ordinance, Cap. 132.

Section 83B provides 'no person shall hawk in any street except in accordance with a licence issued under regulations made under section 83A'. 'Hawk' is not defined but 'hawker' is defined in section 2 as -

any person who trades in any public place -

- (i) by selling or exposing for sale any goods, wares or merchandise;  
or
- (ii) by exposing samples or patterns of goods, wares or merchandise to be afterwards delivered; or
- (iii) by hiring or offering for hire his skill in handicraft or his personal services.

Promoters of mobile phones, fixed-line telephones and Internet, who promoted at street, were found to have received cash as deposit but no actual sale of goods was found on the spot. Such activity does not amount to hawking under Cap. 132 as there are no goods, wares or merchandises involved and it is not hire or offering for hire of personal services either. It is inappropriate to regard the situation as hawking.