

“Mediate First” Pledge Event 2021
(28 May 2021)

Closing Remarks by Commissioner of IDAR Office

Distinguished guests, ladies and gentlemen:

May I, on behalf of the Department of Justice (DoJ), thank you all for joining us online today at the “Mediate First” Pledge Event 2021.

2. Hong Kong enjoys the unique position as the only common law jurisdiction in China under the “one country, two systems” principle as enshrined in our Basic Law. This has helped to provide a business friendly and predictable legal framework for investors and traders. As such, Hong Kong has been and will continue to be a deal-making hub in the Asia Pacific region.

3. In addition to being a deal-making hub, Hong Kong is also a hub for dispute resolution. As Secretary for Justice said in today’s opening remarks, “Hong Kong's position as an international legal and dispute resolution services hub will be

further enhanced with the opportunities presented under the Belt and Road Initiative and the Guangdong-Hong Kong-Macao Greater Bay Area (GBA)". In this connection, development and promotion of mediation is one of our key initiatives. We not only provide a comprehensive legislative framework such as our Mediation Ordinance and Apology Ordinance, but also cultivate a "Mediate First" culture in the community, as evidenced by the event today.

4. During the panel discussions today, we can clearly see the value of mediation as a highly effective tool for achieving harmonious resolution of conflicts arising in different sectors¹. This echoes our long time campaign of "Mediate First" Pledge since 2009, and today, we are glad to showcase why and how "Mediate First" will become the go-to approach when one intends to resolve their disputes in the future.

The Private Wealth Session

5. This morning, we heard from prominent speakers in the private wealth and asset management sector sharing their invaluable insights of the use of mediation in resolving

¹ <https://pressreleases.responsesource.com/news/101234/mediation-continues-its-success-despite-the-challenges-of-the-pandemic/>

monetary disputes in families, sometimes between generations.

6. We have come to know that disputes arising from the family arrangements can be highly personal and emotional which are, most of the time, not desirable to be resolved through traditional means of dispute resolution such as litigation.

7. This is where mediation comes into play. Mediation offers confidentiality, creative options to be adopted which could not be otherwise offered, and a prospect to preserve family harmony. In particular, mediation may keep the disputes away from the media, which makes mediation a highly preferred mode of dispute resolution in family settings. Mediation process is also interest-based and any settlement reached could address the concerns of all members of the family involved. Therefore, it is not unusual to find a mediation clause in the rules governing family interests.

The Healthcare Session

8. In the afternoon, we have also heard how mediation can

help in a different setting, the clinical settings.

9. I recall an impressive quote during the panel discussion that “acknowledgment can be the best medicine we have.” It is perfectly natural for us, human beings, to experience an emotional ride in a matter of life and death. This is where mediation comes in. We learn from the case studies in the panel that suitable mediation techniques may be integrated to foster communication, by recognising and acknowledging the feelings and emotions involved in disputes between medical staff and patients in the healthcare sector.

10. The case studies have also demonstrated that healthcare practitioners could enhance mutual understanding and communication under the mediation and apology legislation which could prevent the disputes from escalating. Better communication also facilitates better collaboration, which helps to build up the foundation for trust and confidence in the medical process and outcomes. Healthcare practitioners can very much benefit from deploying the skills of mediation.

The Employees’ Compensation Claims Session

11. Our last panel revisited a topic which was discussed in the Mediation Week 2018, that is, how mediation could play a key role in resolving employees' compensation disputes. Experienced mediators and practitioners shared with us their experience on how mediation can assist employees injured at work.

12. Not only that mediation helps injured workers to save time and costs, it can also help preserve their relationship with their employer as mutually agreeable outcomes can be reached through mediation. With the support from the Legal Aid Department on the use of mediation in legally aided cases, we will continue to promote "Mediate First" so that a "win-win" situation can be achieved for all parties concerned.

The way forward

13. Just as today's theme goes, "Mediate First - Anchoring the Future", and as we have unlocked potentials in 2019, we are now ready to anchor the future and let me introduce to you some of our initiatives for the promotion of wider use of mediation.

14. Mediation has been widely used in cross-border disputes. In addition to the Mediation Mechanism for Investment Disputes of the CEPA Investment Agreement, we worked closely with the Guangdong and Macao legal departments to establish the GBA Mediation Platform. The development of the GBA Mediation Platform is in full swing, and we will endeavor to roll out concrete initiatives to facilitate the use of mediation in the GBA in the near future.

15. To take a step further, we are planning to organise the “Mediate First” Pledge Signing Ceremony 2021 in Shanghai, during the 5th Shanghai-Hong Kong Commercial Mediation Forum co-organised with the Shanghai Commercial Mediation Center. This will be the 2nd time the “Mediate First” Pledge Signing Ceremony to be held in Shanghai, and we are excited that more enterprises in the Mainland can come to appreciate the importance and benefits of “Mediate First”. We would also actively consider holding more similar events in other jurisdictions in the future to further promote the use of mediation in different parts of the world.

16. We hold the belief that “the youth is the hope of our future”, therefore we strive to develop a positive and

constructive mindset among students in dispute resolution. The ICC International Commercial Mediation Competition - Hong Kong 2021 co-organised with the International Chamber of Commerce - Hong Kong for university students will be held in the fourth quarter this year.

17. In fact, the ICC Mediation Competition was held online very successfully last year with the technical support by eBRAM Centre. eBRAM Centre also operates the Covid-19 ODR Scheme which provides for online dispute resolution services for parties in Covid-19 related disputes. The Scheme also covers mediation and is in line with the Mediate First Pledge. Under the Scheme, a party would only need to pay HK\$200 as registration fee and the fees for mediators are fully subsidised by the government. I would encourage you to make good use of the Scheme and try online mediation which is probably one of the future trends for mediation in the digital economy.

Conclusion

18. To conclude today's event, I would like to express our gratitude on behalf of the DoJ and the Steering Committee on Mediation, for your support, participation and contribution. My

heartfelt thanks also go to the speakers and moderators who have engaged us in very lively discussions and provided us with a lot of food for thoughts, as well as to all the supporting organisations which have provided tremendous support along the way. Last but not least, I must thank all my colleagues who have worked tirelessly for organising this event.

19. I hope that the valuable insights shared by our distinguished speakers can serve as the fuel for the future development of mediation in Hong Kong and the region, and for those who participate from outside Hong Kong may also bring home this vital concept - “Mediate First” to your home jurisdictions.

20. Thank you.