

The Speech of the Honourable Mr Justice Lam, VP of the Court of Appeal
at the HKMAAL 1st Anniversary Celebration on 11 October 2013

Since the Civil Justice Reform in 2009, mediation in Hong Kong has moved forward considerably. Through the concerted efforts of the main stakeholders, including the Judiciary, the Department of Justice, the various mediation bodies, the legal profession, the universities, there is now a public awareness as to the use of mediation as an effective and efficient means to resolve dispute.

With the growth of public awareness and the parallel increase in the use of mediation and the number of mediators practising in Hong Kong with qualifications from various accreditation bodies, there is a need for quality control in terms of the standard of mediators. In the absence of a statutory regulatory regime to provide for registration and qualification of mediators, the maintenance of standard is very much a matter of self-regulation, depending on the self-discipline of those practiced as mediators and their respective accreditation bodies. There has been a mushrooming of mediation organizations or entities in Hong Kong since 2009. And some people have concerns about the variation in the standards of different accreditation bodies. For the sake of the professional integrity and healthy development of mediation in Hong Kong, there is indeed a strong need to have a respectable and reliable organization to monitor the standards of our mediators.

The Working Group on Mediation chaired by Mr Wong Yan Lung, the former Secretary for Justice recommended in the report published in February 2010 the establishment of a single accreditation body to assist in ensuring the quality of mediators, consistency of standards, education of the public about mediation and mediators. It was hoped that this would enhance public confidence in mediation services and maintain the credibility of mediation. Taking into account the diversity of those practicing in the industry, the Working Group suggested a five year period as the lead time for the establishment of such single accreditation body. In the responses received from the consultation exercise following the publication of the report, there were overwhelming demands for this single accreditation body to be set up as soon as possible. It reflects a strong public concern in Hong Kong on the standards of those providing mediation services.

Under the leadership of Mr Wong, a Mediation Task Force was set up in late 2010 and one of its terms of reference is to liaise with professional bodies, mediation service providers, and other stakeholders regarding accreditation and training of mediators through the establishment of a single accreditation body. With considerable efforts on the part of the Accreditation sub-group of the Task Force, after lengthy discussions, it was decided that there should be a non-statutory industry led single accreditation body in the form of an umbrella organization. The members of the umbrella organization are those pre-existing mediation bodies who would give up their own accreditation scheme after joining this organization. After some intensive discussions and with considerable efforts on the part of various major stakeholders, HKMAAL was incorporated on 28 August 2012 with the Hong Kong Bar Association, the Law Society, the Hong Kong International Arbitration Centre and the Hong Kong Mediation Centre as its founding members. Invitations are extended to other organizations of good standing with panels of accredited mediators to join HKMAAL.

Many mediators practicing in Hong Kong who had been accredited by other bodies have now joined the panel of mediators of HKMAAL. As at today, the number of HKMAAL mediators has reached 1108. The first accreditation exercise conducted by the HKMAAL has taken place on 15 July 2013. On its first anniversary, HKMAAL has made substantial progress towards setting the standard for mediators in Hong Kong and I must congratulate its founders and council members for the hard works in the past year in setting up the infrastructure for the future operation of HKMAAL.

In the months ahead, there is still a lot of works to be done before HKMAAL can establish itself as the leader of the mediation industry in Hong Kong. These would include,

- (a) Improving and maintaining standards of accreditation process;
- (b) Improving and maintaining standards of mediator training courses;

- (c) Setting up and maintaining a credible and transparent grievance and complaints handling procedure, including disciplinary proceedings procedures;
- (d) Setting and maintaining standards of continuing education for mediators on its panel.

Further, with a view to become the leader in the industry, HKMAAL should strive to accommodate mediators accredited elsewhere to join its panel if they are of comparable standard to those accredited by HKMAAL. In this respect, whilst it should adopt an open and inclusive attitude, it must not compromise the standard of those who are permitted to be registered on its panel of mediators.

The establishment of HKMAAL is a significant step in the development of mediation in Hong Kong. In the past year, it has achieved much and it has proved that the supports it has received from all quarters are well deserved. There will be challenges in the years ahead. On its first anniversary, may I congratulate it again on what it has achieved so far and wish it success in the years to come.