

Opening Remarks
for the International Chamber of Commerce (Hong Kong)
Mediation Competition 2018
By The Hon Mr Justice Au
12 October 2018

It is my pleasure to welcome you all to the opening of the International Commercial Mediation Competition.

This is the first ICC mediation competition held in Hong Kong focusing on international commercial mediation. It provides a precious opportunity for students to participate in a world class competition. It will no doubt also give the students an excellent occasion to learn from and be guided by experienced professional mediators to widen their horizon and enhance their knowledge on issues concerning mediation.

At the same time, it is also a most welcome platform for mediation professionals to meet and share ideas and views.

The Judiciary is a strong supporter and believer in mediation. Mediation has been identified as the main form of ADR under the Civil Justice Reform implemented by the Judiciary.

To have an effective promotion for the use of mediation, it is necessary for the public to have a good understanding of mediation and its advantages. Public education is therefore important, which should preferably start at the school level.

In this respect, I understand that for many years, the Department of Justice has been co-organizing events in this area with educational institutions and various organizations to introduce and promote mediation to stakeholders and the general public in Hong Kong. I am therefore extremely happy to see that the

International Chamber of Commerce has decided to organize and hold this competition in Hong Kong this year. I am even more delighted to learn that the organizers have indicated they intend to make this an annual event in Hong Kong.

The Judiciary has also taken an active role to promote the use of mediation to resolve disputes.

Ever since 2000, the Judiciary has encouraged the use of mediation in matrimonial disputes. This year marks the 18th anniversary of our work on the promotion of family mediation.

Further, with the experience learned from the success of the use of mediation in family disputes, the Judiciary has also encouraged the use of mediation in other types of cases. Various Practice Directions (PDs) have since been promulgated for the use of mediation in other litigations commenced in the courts. These include shareholder disputes, personal injuries claims, construction disputes, probate and related disputes. Under the relevant Practice Directions, litigants are required to make genuine attempts to settle their disputes through mediation. The failure to engage in mediation without reasonable explanations may attract adverse costs consequences.

On top the PDs, our judges have also regularly exercised case management power to encourage parties to use alternative dispute resolution procedure. The parties will be referred to attend mediation information sessions held by the Judiciary. In these sessions, they will be able to learn what mediation is about and, most importantly, the benefits that mediation can bring to them.

As a result, over the years, we have seen a significant increase in the number of court cases that has gone through mediations. Indeed, statistics collected by the Judiciary in this respect is encouraging.

In 2017, based on the mediation reports filed voluntarily by the parties, the overall settlement rate of cases in the High Court and the District Court was about 60%. This includes cases settled directly or indirectly through mediation. Statistics has also shown that mediation is clearly a more costs and time effective way to resolve disputes when compared with litigation. For example, in cases involving commercial disputes, on average it takes only about 4 to 5 hours for parties to reach a settlement under mediation, with an average costs of about HK\$13,000 to 17,000 (that is about US\$1,700 to US\$2,200). The participants in this competition probably will be able to do it even better. In any respect, this must compare most favourably with litigation.

To further enhance the promotion and the use of mediation, a new Integrated Mediation Office (IMO) was recently set up by the Judiciary in May this year. The IMO combines the various mediation offices set up in the past specifically for the Family Court, the District Court and the High Court. The IMO is designed and committed to meet the increasing demand and expectations of the public and to enhance the role of mediation within the judicial system. This new one-stop integrated office would be able to provide a more convenient, timely, effective and efficient service to anyone who are seeking information on mediation.

The Judiciary is committed to incorporate mediation into court procedures and to continue to encourage litigants to recognize mediation as the primary avenue for resolving disputes. With the joint good efforts of all of us here, I am confident that mediation would soon be regarded by the general public and practitioners in Hong Kong as the primary and most favoured means for resolving disputes.

Last but not the least, I hope you would all enjoy a most successful, inspiring and challenging event. May I also wish our visitors and students from abroad a very pleasant stay in this beautiful city.