

LCQ14: COVID-19 Online Dispute Resolution Scheme

Following is a question by the Hon Yung Hoi-yan and a written reply by the Secretary for Justice, Ms Teresa Cheng, SC, in the Legislative Council today (November 11):

Question:

The COVID-19 Online Dispute Resolution (ODR) Scheme, established under the Anti-epidemic Fund by the Government, was launched on June 29 this year. Under the Scheme, an arbitration and mediation institution has been appointed to provide speedy ODR services to micro, small and medium-sized enterprises as well as members of the public. The following conditions are to be met for disputes to be admitted under the Scheme: (i) the dispute is related to the Coronavirus Disease 2019 (COVID-19), (ii) the claim amount does not exceed \$500,000, and (iii) either one of the parties involved in the dispute is a Hong Kong resident or company. The parties involved are required to pay \$200 each as registration fee, while the fees for the mediators and arbitrators will be paid by the Government. In this connection, will the Government inform this Council:

(1) whether it knows the number of cases received so far under the Scheme, with a tabulated breakdown by (i) the group to which the claim amount belongs (each group spanning \$100,000), (ii) the type of dispute, and (iii) whether or not either one of the parties involved is a resident or company from (a) the Mainland or (b) an overseas country/region; of the public expenditure incurred so far on the Scheme;

(2) whether it knows, among those cases mentioned in (1), the respective total numbers of cases (a) admitted and (b) rejected; among the cases admitted, the respective numbers of those in which the parties involved (i) are negotiating, (ii) are receiving mediation, (iii) have reached a settlement, (iv) are undergoing arbitration, and (v) have obtained an arbitral award, in respect of their disputes; regarding those cases in which a settlement has been reached, the major types of disputes involved, the average overall processing time for such cases, and the range of the claim amounts agreed to by the parties involved;

(3) whether it knows the respective numbers of arbitrators and mediators participating in the Scheme, with a breakdown by the professional qualifications they possess; whether they are required to undergo any special training and examination before participating in the Scheme; if so, of the details of such training and the passing rate of such examination;

(4) whether it knows the respective to-date numbers and percentages of arbitrators and mediators who have provided services under the Scheme; and

(5) whether it has reviewed, in respect of the Scheme, the response received

since its launch, its cost effectiveness and whether its objectives have been achieved; if it has reviewed, of the outcome, and the Government's follow-up measures; if it has not reviewed, the reasons for that?

Reply:

President,

It is a global trend to develop and use online dispute resolution (ODR) services to provide a reliable and efficient platform to facilitate alternative dispute resolution (ADR). In light of the pandemic's impact on the economy and in anticipation of an upsurge of disputes arising from or relating to the pandemic, the Government announced on April 8, 2020 the establishment of the COVID-19 Online Dispute Resolution Scheme (Scheme) under the second round of the Anti-epidemic Fund to provide speedy and cost effective ODR services to the general public and businesses, in particular micro, small and medium-sized enterprises. The Scheme starts from negotiation and mediation so as to prevent entrenched views on the conflicts, thereby helping to foster harmony in society. It also provides an ADR mechanism which may help relieve the Court's caseload in civil claims.

On May 18, 2020, the Department of Justice (DoJ) and eBRAM International Online Dispute Resolution Centre Limited (eBRAM Centre) entered into a Memorandum of Understanding (MoU) on the Scheme to govern and monitor the use of the relevant funding. A funding support totalling \$70 million was provided, including (i) \$50 million covering the cost of the first 12 months of platform development and initial set-up (including staff), as well as the operation cost in the first year; and (ii) \$20 million covering the fees of mediators and arbitrators for an estimate of 2,000 cases in the first year. After the platform has been established and in operation for one year, eBRAM Centre may continue to make use of the platform for other purposes, for example for serving the Asia-Pacific Economic Cooperation (APEC) economies after eBRAM Centre is listed under the APEC Collaborative Framework for ODR. eBRAM Centre may also adapt and make necessary modifications to the platform to handle other cases beyond the Scheme.

The Scheme was launched on June 29, 2020.

In relation to the Hon Yung Hoi-yan's questions, the DoJ replies as follows:

(1) to (4) According to the MoU entered into by eBRAM Centre and the Government in May 2020, eBRAM Centre is required to regularly report to the Government on the progress of the Scheme. As the Scheme was launched only less than half a year ago, eBRAM Centre is still in the process of compiling the relevant statistics. It plans to report the latest progress of the Scheme, including the relevant statistics and details, to the Legislative Council Panel on Administration of Justice and Legal Services later this year.

According to the preliminary information provided by eBRAM Centre, since the launch of the Scheme, over 150 mediators and arbitrators have been

enlisted in the Scheme and the training provided by eBRAM Centre to them has also been completed. The arbitrators and mediators enlisted in the Scheme come from different sectors, while those from the legal sector account for the majority. All of the participants are selected from the lists of arbitrators and mediators maintained by the Hong Kong International Arbitration Centre, Hong Kong Bar Association and the Law Society of Hong Kong, and are professionals who have passed the assessment and possess sufficient experience in arbitration and mediation. Before their eligibility to participate in the Scheme is confirmed, participants must first complete the training course provided by eBRAM Centre. The content of the training course includes understanding of the eBRAM Rules for the Scheme, the arbitration and mediation process and operational guidelines of the online platform, as well as recent developments of ODR etc. The training course was conducted online and was delivered by senior arbitrators, mediators of the sector and prominent academics in the field of ODR. All of the arbitrators and mediators enlisted in the Scheme had passed the training course provided by eBRAM Centre eventually.

(5) As afore-mentioned, the Scheme aims to provide the general public and businesses that are involved in disputes arising from or in relation to the pandemic with a speedy and cost-effective means to resolve such disputes by deploying ODR. The Scheme also provides the benefits of job creation and job advancement for the legal and dispute resolution sectors including mediators, arbitrators and their pupils. At the same time, the DoJ hopes to, through the Scheme, facilitate the development of Hong Kong's ODR services and enhance Hong Kong's LawTech capability.

The Scheme was launched less than half a year ago and is still at its initial stage. We are delighted that the Scheme received very positive response from the general public. The Scheme has also successfully aroused the interest of relevant stakeholders as the number of inquiries and applications received by eBRAM Centre have been on the rise. The DoJ will continue to work closely with eBRAM Centre to jointly promote the Scheme.

eBRAM Centre has been proactively promoting the Scheme locally, to the Mainland and globally through various means and channels, including actively participating in various types of webinars (for example the China International Fair for Trade in Services 2020's Mainland-Hong Kong Services Industry Forum 2020, In-House Community e-Congress Japan 2020 and In-House Community e-Congress Hong Kong 2020). Furthermore, eBRAM Centre also promoted the Scheme through interviews with different media and with various chambers of commerce in Hong Kong. Currently, eBRAM Centre has reached consensus with relevant local organisations and bodies to jointly further promote the Scheme.

Moreover, the Scheme has helped advance the relevant skills and capabilities of mediators and arbitrators, as well as facilitated the development of an ODR platform by eBRAM Centre, which signifies an important milestone for Hong Kong's ODR services development. The DoJ will continue to monitor the progress of the Scheme and conduct timely review of its effectiveness.