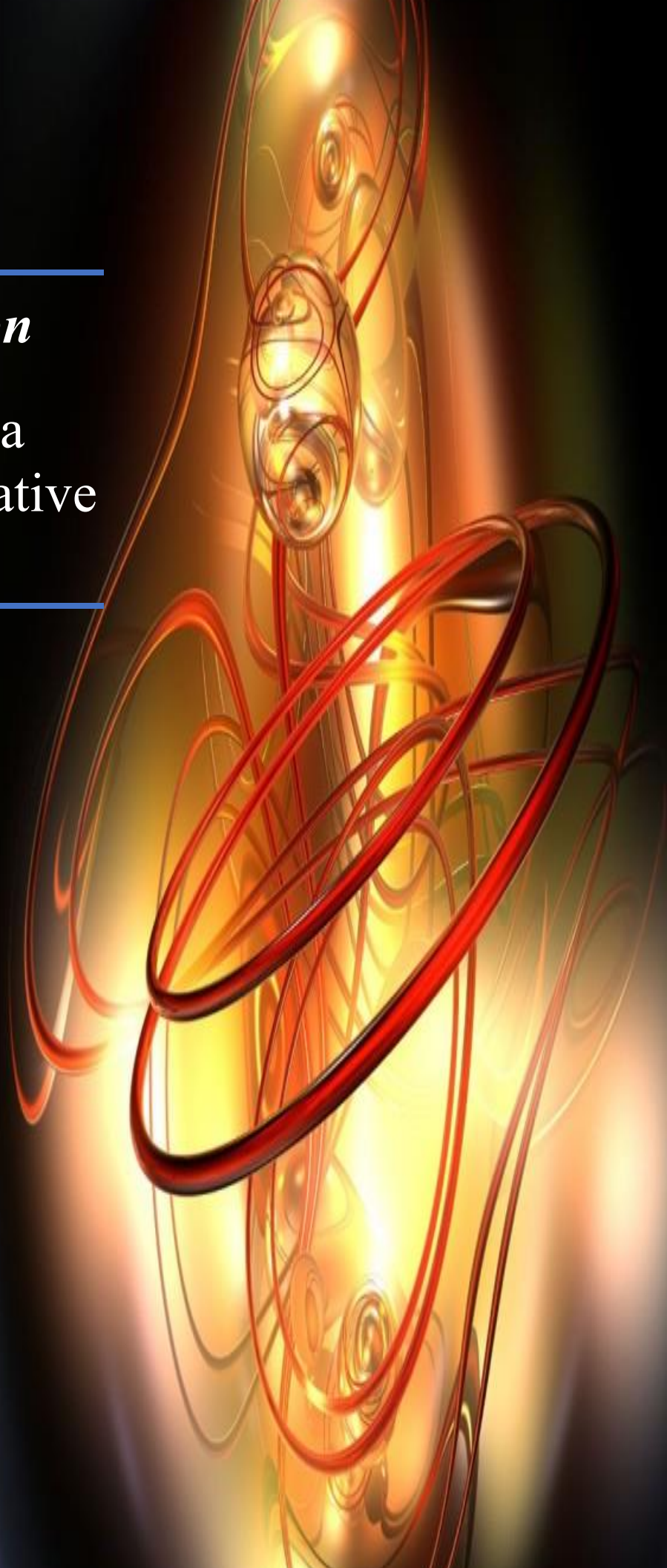

Mediation

Creating a
Collaborative
Culture



Performing Arts International Mediation

Conflicts in Performing Arts

Conflict is a clash of two opposing purposes. A conflict can happen within oneself or between two or more parties. For example, a conflict may happen when an international music festival partners with a live music promotor to produce concerts together. Potential conflicts may arise from different opinions on profit sharing, artistic directions, and ethical values. Without clear communication and agreements, each party is usually limited by their own blind spots.

What would be an unhelpful response when conflict happens?

Most people view conflict as something negative and avoiding conflict is the most common response. Avoiding conflict is unhelpful because leaving a conflict unresolved often leads to escalation and increased stress which has a significant negative impact on wellbeing, relationships and reputation.

How can I deal with conflict more constructively?

Be Calm - Calm down before entering into a difficult conversation. For example, take a rest, a walk, or a snack. A calm nervous system enables you to access the rational part of your brain more easily and makes your negotiation more amicable.

Be Aware – of your core concerns and those of the other side. In ‘Beyond Reasons’, Roger Fisher and Daniel Shapiro explained that emotions are usually connected to 5 core concerns. These are appreciation, affiliation, autonomy, status, and fulfilling roles. Analyse which of your core concerns are not met and what core concerns of the other side are not met. Understanding these will help you let go of your position and focus on negotiation for each other’s best interests.

Be Open – listen deeply and take turns to express your ideas. Treat each other with respect. Discuss what you prefer and let the other side tell you what they prefer. Use your creativity to generate as many options as possible before choosing a mutually agreed solution.

Be Strategic – about what is low cost to you and high value to the other side. This will encourage

the other side to reciprocate something that is high value to you and low cost to them. This kind of creative solution often generates new collaboration ideas.

When could I seek professional support?

When you fail to resolve the conflict by yourself, share your conflict story with a few people you trust and ask them about their perspectives. This could help move your understanding forward. If you are unable to resolve the conflict within a few months, it is time to consider seeking professional support so that you can get back on track without sustaining long-term reputation, relationship, and financial damage.

What is Mediation ?

Mediation is a process specially designed to resolve disputes with the help of an independent third-party mediator. Most civil and commercial disputes, except criminal or illegal issues, are suitable for mediation.

Who is Mediation for?

Mediation is voluntary. In general, there is no obligation on a party to participate in mediation. Many businesses, especially businesses with an international outlook, have a strong preference for using mediation to resolve commercial disputes under their own contractual terms or under the terms of their particular trade regulators or bodies.

How does Mediation add value to the Performing Arts sector?

Mediation facilitates communication among parties and handles their misunderstanding stemming from cultural, practices, expectations, and other differences. Mediation is confidential. It minimises reputational risks. Besides saving substantial time and money, mediation is particularly helpful to performing arts professionals because parties maintain autonomy over their decisions including relationships, operations, financial arrangements, and new collaboration possibilities. The mediation settlement agreement is legally binding and is enforceable across borders.

What does the mediation process look like?

The mediation process is flexible. Normally, one of the disputing parties would contact a mediation provider who will assess whether the case is suitable for mediation. The mediator then issues an Invitation to Mediation to the other party. Upon mutual agreement of both disputing parties, the mediator conducts a series of individual and joint mediation meetings until a final settlement is reached. The mediator can help draft a mediation settlement agreement for the parties at the end of the mediation process.

What is the role of a mediator?

The mediator acts as a facilitator to assist parties in communicating and negotiating. The mediator supports parties to make their own decisions.

How do I choose a mediator?

The parties may choose anyone they wish to act as a Mediator. There is no requirement for the Mediator to have any particular qualifications in most countries. In practice, parties would normally seek to appoint a Mediator with a good reputation and experience of having conducted mediations previously. Some mediator has received legal training, but this is not required. What is more preferable is finding a mediator who has received mediation training.

Does a Mediator need experience in the subject matter of the dispute?

Whilst often parties will select a Mediator who has experience in the subject matter of the dispute (for example an arts administrator in a performing arts dispute) or alternatively a lawyer where there are legal issues involved, this is not essential and indeed some people consider it would be better to have a Mediator without any such knowledge given that his or her role is not to decide who is right or wrong but to facilitate an agreement.

How much does mediation cost?

In most cases, it is 90% cheaper than litigation. Actual costs depend on the claim amount, the jurisdiction, and the experience level of the mediator.

How long does mediation take?

Disputes can usually be resolved within 3 to 6 months. A typical mediation session takes 8 hours.

HKIMC provides world-class professional international mediation services. It is abided by the provision of confidential, efficient, and fair professional services. It assists clients across geographies and cultures to find solutions to their disputes. HKIMC accepts all kinds of disputes involve in Hong Kong, Mainland China, and overseas.

Where can I find mediation services?

There are many organizations that maintain panels of experienced Mediators and are able to recommend possible Mediators to the parties if asked to do so. Experienced lawyers will have come across many mediators in practice and so will usually be in a position to recommend mediators whom they have seen operate successfully in the past.

Who is the Hong Kong International Mediation Centre?

Hong Kong International Mediation Centre (HKIMC) is an independent international mediation services Centre established under the **International Dispute Resolution & Risk Management Institute (IDRRMI)** which is a **WTO**-accredited NGO for the setting of the professional standards of international dispute resolution and risk management services and practitioners. It has established a global network of over 300 legal, dispute and risk management, chambers of commerce, professional organizations, and government departments. **HKIMC** has over 900 professional mediation experts to provide international mediation services to over 50 regions globally.

The Performing Arts International Mediation Committee is a part of the **HKIMC** that focuses on creating a collaborative culture between performing arts and mediation practitioners.



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