



STATE OF CALIFORNIA

MEMO

**To : ADMINISTRATION COMMITTEE
PETER HOFFMAN, CHAIR
RYAN BROOKS, MEMBER**

February 27, 2012

**From : WILLIAM BRENNAN *WGB*
JACKIE GRASSINGER *JG***

Subject: CONSUMER MEDIATION SERVICES PROGRAM ANNUAL UPDATE

INTRODUCTION

The members of the Board have requested an annual update on the Consumer Mediation Services Program ("Program"). Below is a summary of the Program goals and case conclusions for the Fiscal Year ("FY") 2010-11.

PROGRAM OVERVIEW

The Board's authority to mediate consumer disputes comes from Vehicle Code 3050(c)(2) which requires the Board to undertake to mediate, arbitrate, or otherwise resolve any honest difference of opinion or viewpoint existing between any member of the public and any new motor vehicle dealer or manufacturer. Mediators inform consumers that, pursuant to the statute, the Board does not have the authority to order a dealer or manufacturer to provide the remedy they are requesting due to the fact that the Board has no specific enforcement powers in mediation matters.

In keeping with the Board's Mission and Vision, the Program seeks to assist consumers in mediating disputes with new vehicle dealerships and manufacturers in an efficient manner. To accomplish this, the Board's mediators provide consumers with information that allows them to understand their options, and also act as a neutral party when working towards amicable resolutions.

The Board's jurisdiction covers all passenger vehicles, light duty trucks, low-speed vehicles, motorcycles (street and off-highway), all-terrain vehicles, motor-driven cycles (Vespas, etc.), motor homes, towable recreational vehicles, 5th wheels, medium trucks, heavy duty vehicles (over 10,000 lbs.), hearses, ambulances and limousines.

Unlike California certified arbitration programs that only arbitrate manufacturer disputes for some manufacturers (22), the Program offers mediation for disputes involving all new vehicle manufacturers (169), and also all new vehicle dealerships in the State of California.

MEDIATION STATISTICS AND RESULTS

The Program received a total of 347 cases and 736 telephone calls last year. When a case has been received by the Program, the case is evaluated as to whether or not it is within our jurisdiction. Cases not within our jurisdiction are referred to the proper agency. If the case is within our jurisdiction, then the mediator will mediate the case. Mediators will send an initial inquiry to the dealer, or manufacturer, or both and then act as intermediaries that encourage an amicable resolution for all parties involved. Some disputes are resolved for all parties, and some are not resolved and go on to either arbitration or court. Upon closing a case, mediators analyze the outcome of the case and assign a case completion number. Mediators distinguish between non-mediated cases (*for example*: no jurisdiction so the case was referred to another agency) and mediated cases. For all mediated cases, an assessment is completed by the mediator in order to determine whether or not the mediation process was completed or incomplete. An example of an incomplete case would be if the consumer abandoned the mediation process mid-way through, versus a completed case where the disputing parties reached an agreement. For a list of case completion numbers, please see the attached chart: *Distribution by Outcome of Total Cases Received* (attachment A).

Of the 347 cases received, 280 were mediated. Of the remaining 67 cases, 32 cases were closed either because the consumer did not seek any action, the case had no merit, the Program did not have jurisdiction or the dealership had closed. The remaining 35 cases were closed due to consumer abandonment or no response from the dealer or the manufacturer.

Total Cases Received in the Mediation Program

- The Program received a total of 347 cases, of which 280 of those cases were mediated (81%).
- 70% were mediated successfully (n=196).
- 29% of mediated cases were closed because a successful resolution was not reached (n=81).
- In less than 1% of the mediated cases, it was the opinion of the mediator that a reasonable offer was made but not accepted (n=2).

Dealer Cases

- Of the 347 cases received in Mediation, 169 involved dealers.
- Of the 280 mediated cases, 145 were dealer related.
- 83% were mediated successfully (n=120).
- 16% of dealer cases were closed because a successful resolution was not reached (n=23).
- In less than 1% of the mediated cases, it was the opinion of the mediator that a reasonable offer was made but not accepted (n=1).

Manufacturer Cases

- Of the 347 cases received in Mediation, 151 involved the manufacturer.
- Of the 280 cases that were mediated, 135 were manufacturer related.
- 56% of manufacturer cases were mediated successfully (n=76).

- 43% of manufacturer cases were closed because a successful resolution was not reached (n=58).
- In less than 1% of mediated cases with the manufacturer resulted in the manufacturer buying back the vehicle (n=13).
- In less than 1% of mediated cases, it was the opinion of the mediator; a reasonable offer was made but not accepted (n=2).
- In less than 1% of mediated cases, the outcome of the case was classified as "other" as the consumer did not go on to arbitration or court, but decided to trade in the vehicle in a year when negative equity goes down (n=1).

Manufacturer Related Safety Cases

Of the Manufacturer Mediated cases (n=135), - 11 cases involved some kind of safety related concern; of which, 1 resulted in a voluntary buyback by the manufacturer (this 1 case is included in the total buyback count of 13).

You will find attached seven informational charts:

- Distribution by Outcome of Total Cases Received, Page A
- Distribution by Outcome of Total Number of Cases Mediated, Page B
- Distribution of Manufacturer Cases, Page C
- Distribution of Safety Related Cases, Page D
- Distribution of Dealer Cases, Page E
- Distribution of Cases, 3 year Comparison, Page F
- Distribution by Outcome, Manufacturer vs. Dealership, Page G

PREVIOUS YEAR COMPARISON

The table below represents Program statistics from FY 08-09 through FY 10-11 for comparison purposes.

	NUMBER OF PHONE CALLS RECEIVED	NUMBER OF CASES RECEIVED	NUMBER OF CASES MEDIATED	SUCCESSFUL COMPLETION RATE
FY 08-09	795	407	316	68.9%
FY 09-10	732	391	286	68.9%
FY 10-11	736	347	280	70.0%

MEDIATION IMPROVEMENT

Improvements for 2011 Mediation Cases:

Mediation cases, with very few exceptions, are now entirely electronic. If a consumer does not have access to the internet, or have an email address, correspondence is sent through the mail, however the case itself, any attachments, correspondence, repair orders, or notes are filed and stored electronically. Nearly all correspondence is sent via email or fax.

Electronic cases are more convenient and supports a "green" office environment by reducing

the use of file folders, paper, and printing; in addition to saving costs on postage.

It was anticipated that the number of days that it took to mediate a case would be reduced by the use of email in FY 2009/2010. However, in FY 2009/2010 the average number of days that a case was mediated increased. It was assumed that the mandated furloughs caused this increase. In FY 2010/2011, with the reduction of furlough days and the use of the internet and email, we see a substantial reduction in the average number of days that a case is mediated.

Duration of Mediated Cases:

- 2008 average number of days = 68
- 2009 average number of days = 62
- 2010 average number of days = 69
- 2011 average number of days = 39

Inter-Agency Letters

On July 25, 2011, 26 letters went to various agencies with the State of California in an effort to increase awareness of the Program and the Program's success in resolving disputes. The inter-agency memo was sent to remind and reinforce our jurisdiction and our services to other agencies. We believe that these efforts are in keeping with promoting the Program and reaching consumers who may benefit from our services, while still staying within the Audit's guidelines and recommendations. It is our hope that any consumer who is in need of our services will be properly referred to our office so that we may try to assist them.

MEDIATION WEBSITE INFORMATION

- Visits to the mediation homepage: FY 2010/2011 – 3,036
Visits FY 2009/2010 – 3,276
- Visits to the Mediation Form: FY 2010/2011 – 2,750
Visits FY 2009/2010 -2,232

NOTE: The above statistics represent the number of *visits* to the two mediation pages listed above. 'Visiting' a page is distinguished from 'viewing' a page: *for example*: If you viewed the mediation overview page 5 different times during a visit to the NMVB website; that would count as one (1) *visit* to that page.

The visits to the mediation homepage is slightly down from the previous year, however the visits to the mediation request form are up by over 500 visits during the year. The online Mediation Form access offers consumers convenience as well as a more expeditious start to the consumer's case. We have also received 1,997 visits last year to the Spanish mediation guide on our website.

CONCLUSION

This memo is being provided for informational purposes only. No Board action is required.

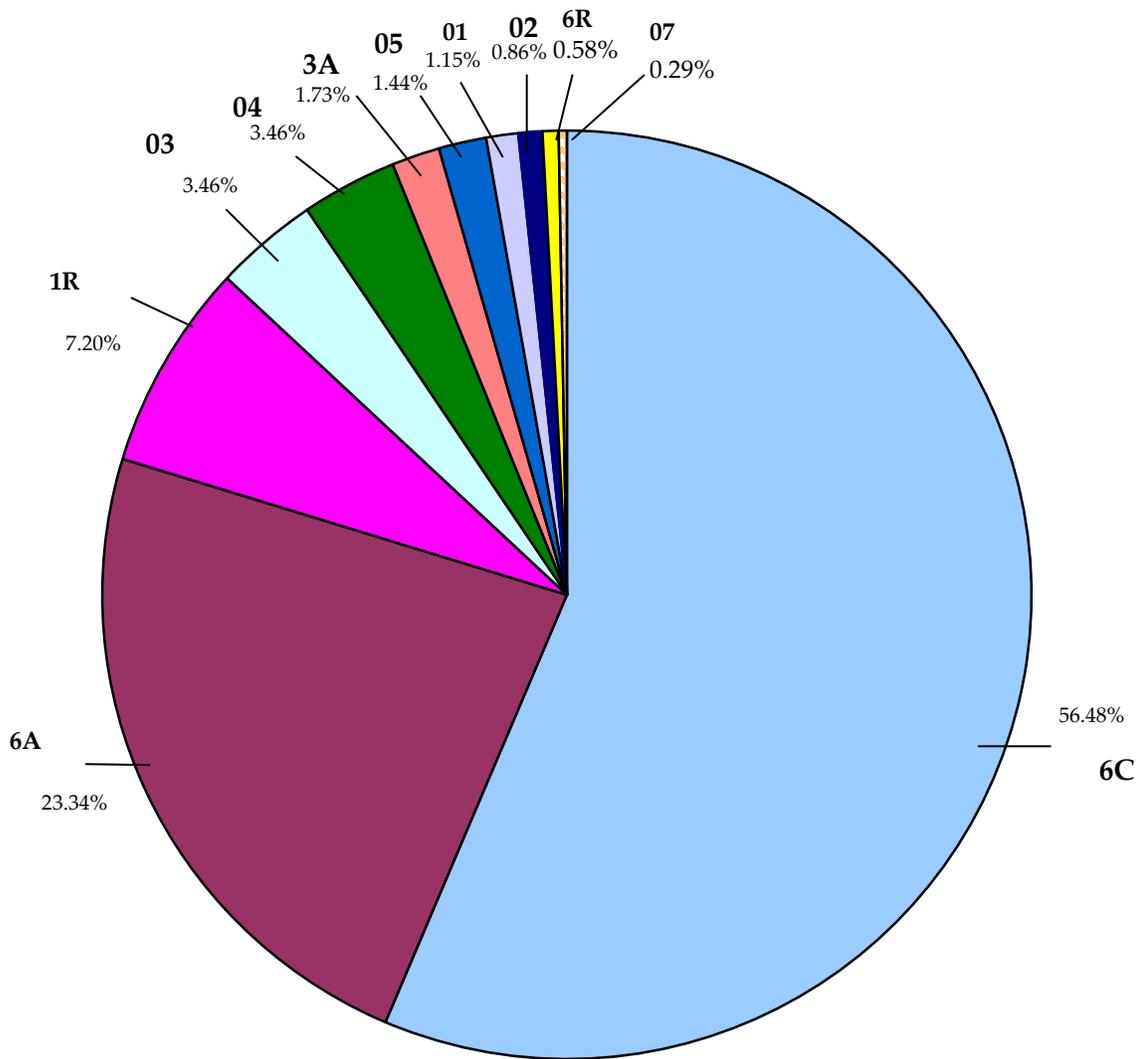
Attachments

cc: Ramon Alvarez C., President

NMVB MEDIATION PROGRAM

2010/2011 FY

Distribution by Outcome of Total Cases Received

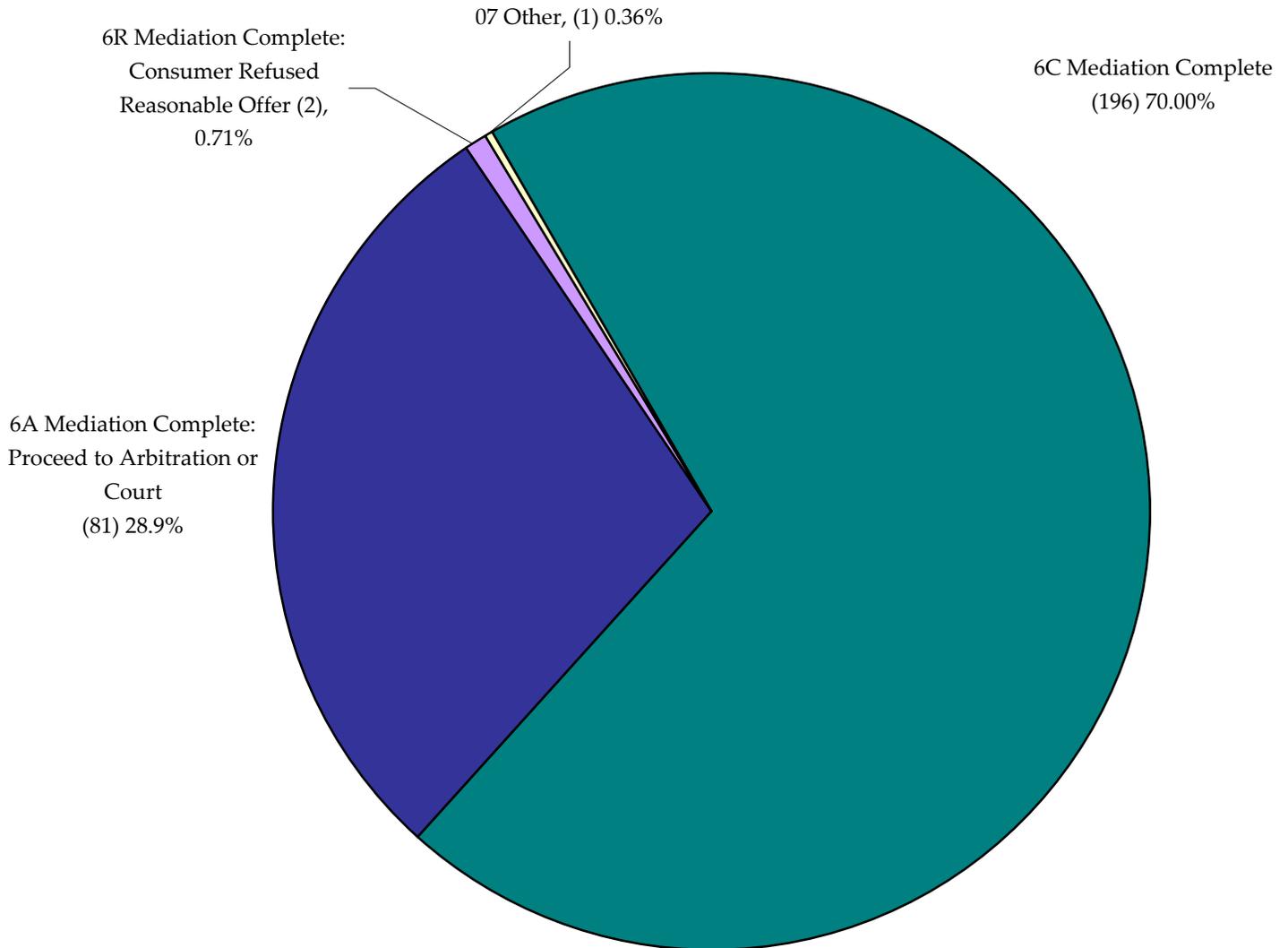


6C Mediation Complete (196)56.48%	6A Mediation Complete proceeded to Arb/Legal (81)23.34%
1R No Jurisdiction referred to proper Agency (25)7.20%	03 Consumer Abandoned (12)3.46%
04 No Dealer Response (12)3.46%	3A Consumer Abandoned - Arb/Legal (6)1.73%
05 No Manufacturer Response (5)1.44%	01 No Jurisdiction (4)1.15%
02 No Merit/No Action Sought (3).86%	6R Mediation complete - Consumer refused offer (2).58%
07 Other (1).29%	

The Mediation Program received 347 cases in FY 2010-2011

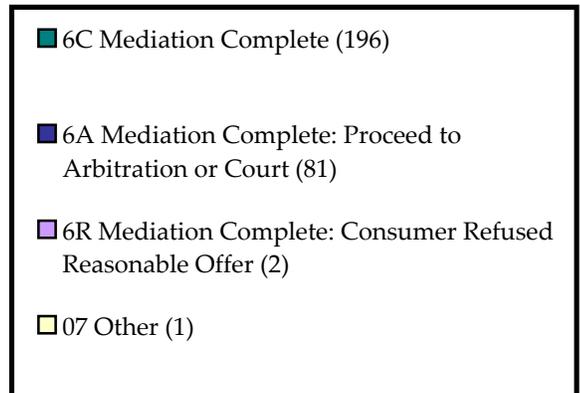
NMVB MEDIATION PROGRAM

2010/2011 FY Distribution of
Total Cases Mediated



Note - Out of the 347 cases received, a total of 280 cases were mediated. All cases closed with No Jurisdiction, Consumer Abandoned, No Merit, No Dealer Response, or No Manufacturer Response, are removed from statistical analysis in order to determine outcome distribution for completed mediated cases.

The case closed with "other" was because C is not going to hire an attorney, or go to arbitration, but doesn't want to continue with repairs either. C is just going to trade vehicle in in a year.

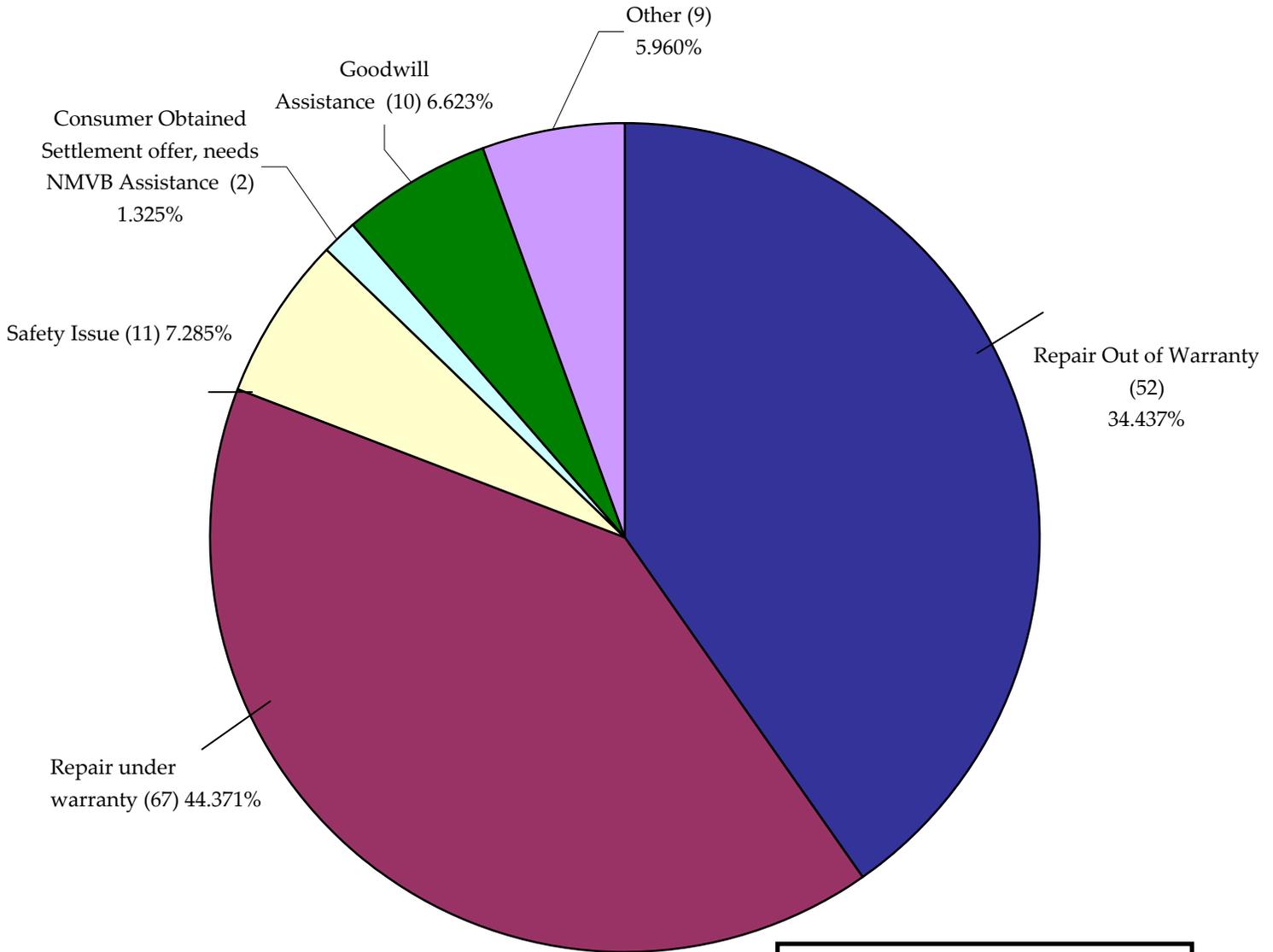


NMVB MEDIATION PROGRAM

2010/2011 FY

Distribution of

Manufacturer Cases (n=151/347)



Note: Cases under category "Other" include:

- (3) C has problem with M lender.
- C has problem with M that filed bankruptcy, tried to get repair from chassis manufacturer and/or dealer.
- M blame D for repair delay, offered 1yr extra warranty on parts & labor, but C wanted 2 yrs
- C request reimbursement for rental car during repair
- C was in middle of warranty work when M filed bankruptcy- tried to get new company to help finish repairs - new co. did not want liability.
- C in military - moved V to Italy. M will not cover warranty
- C has material damage on new V - D says M damage

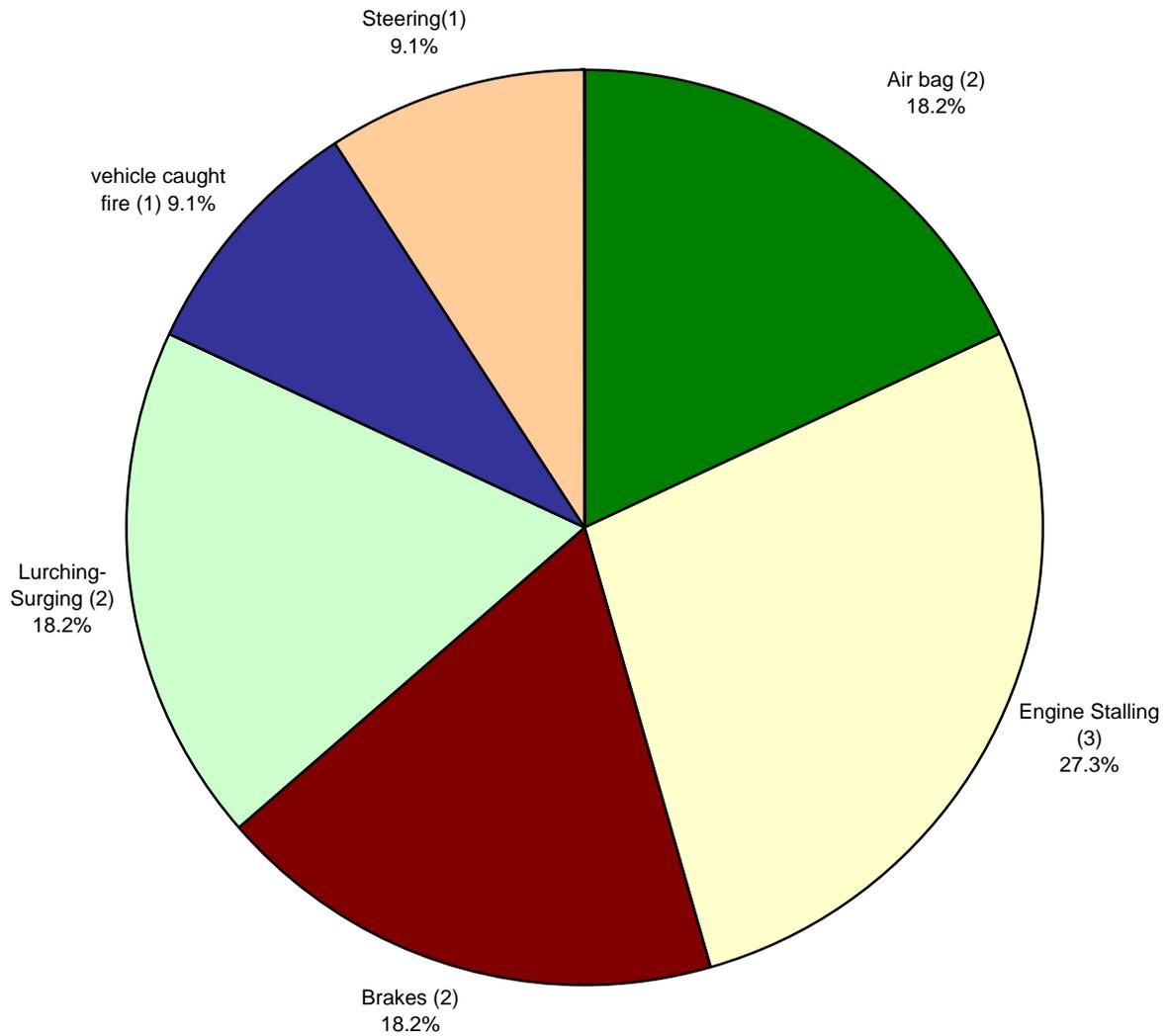
C= Consumer D=Dealer M=Manufacturer V=Vehicle



NMVB MEDIATION PROGRAM

2010-2011 FY

Distribution of Safety Related Cases

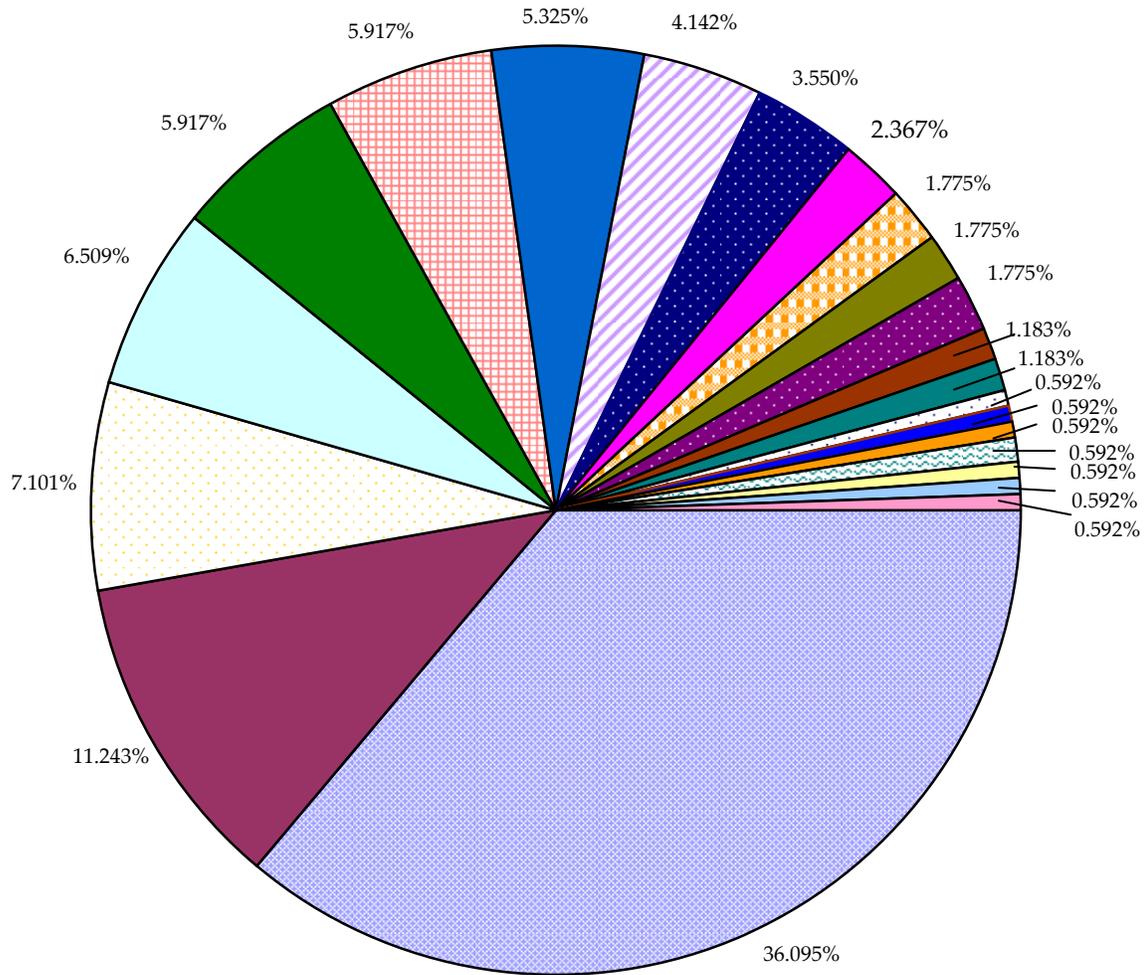


Note: Of the Manufacturer Mediated cases (n=135), 11 cases involved some kind of safety related concern, of which, 1 case resulted in a voluntary buyback by the manufacturer (Stalling) The Mediation Program altogether assisted consumers in 13 repurchases/replacements in FY 2010/2011.

NMVB MEDIATION PROGRAM

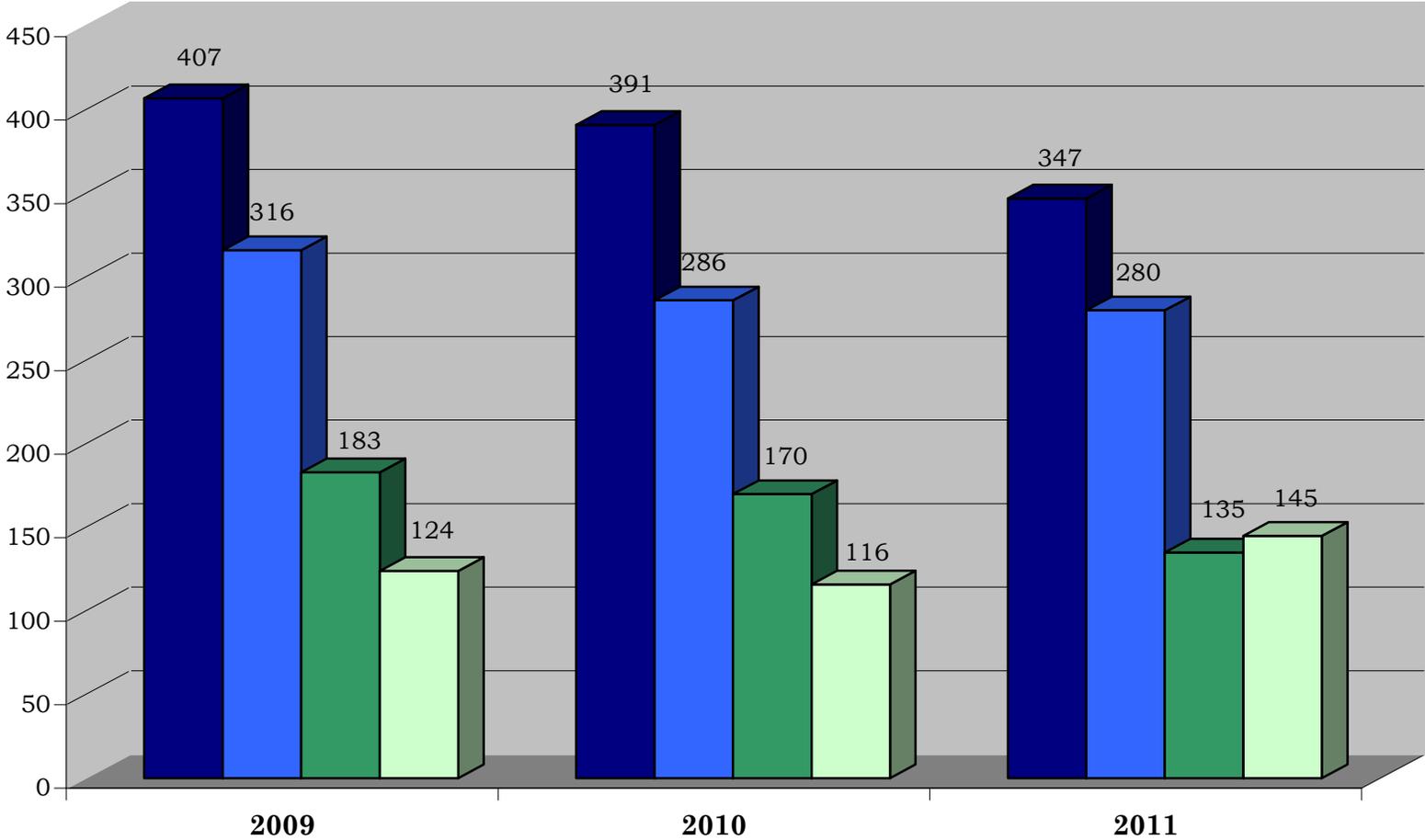
2010/2011 FY

Distribution of Dealer Cases (n=169/347)



Repair issue w/D only (36.095%)(61/169)	V options Misrepresented (11.243%)(19/169)
Financing Issues (7.101%)(12/169)	Issue with Contract (6.509%)(11/169)
Buyer's Remorse (5.917%) (10/169)	Conditional Sales K (5.917%) (10/169)
Problem w/Ext. Warranty Purchase (5.325%)(9/169)	Registration/Title (4.142%)(7/169)
Other Dealer Issues (3.550%)(6/169)	Trade in not paid off (2.367%) (4/169)
Material Damage to New V (1.775%) (3/169)	Safety Issue w/V (1.775%) (3/169)
Used V Sold "As Is" (1.775%) (3/169)	Certified Vehicle (1.183%)(2/169)
Used Vehicle Sold as "New" (1.183%) (2/169)	Sales Tax and License Fees (0.592%) (1/169)
End of Lease Fees (0.592%)(1/169)	Damage by Dealer (0.592%) (1/169)
Negative Equity disclosed on Sales Contract (0.592%)(1/169)	Used V Previous Accident Problems (0.592%) (1/169)
Advertising Issues (0.592%)(1/169)	Buyers Remorse of Options (0.592%) (1/169)

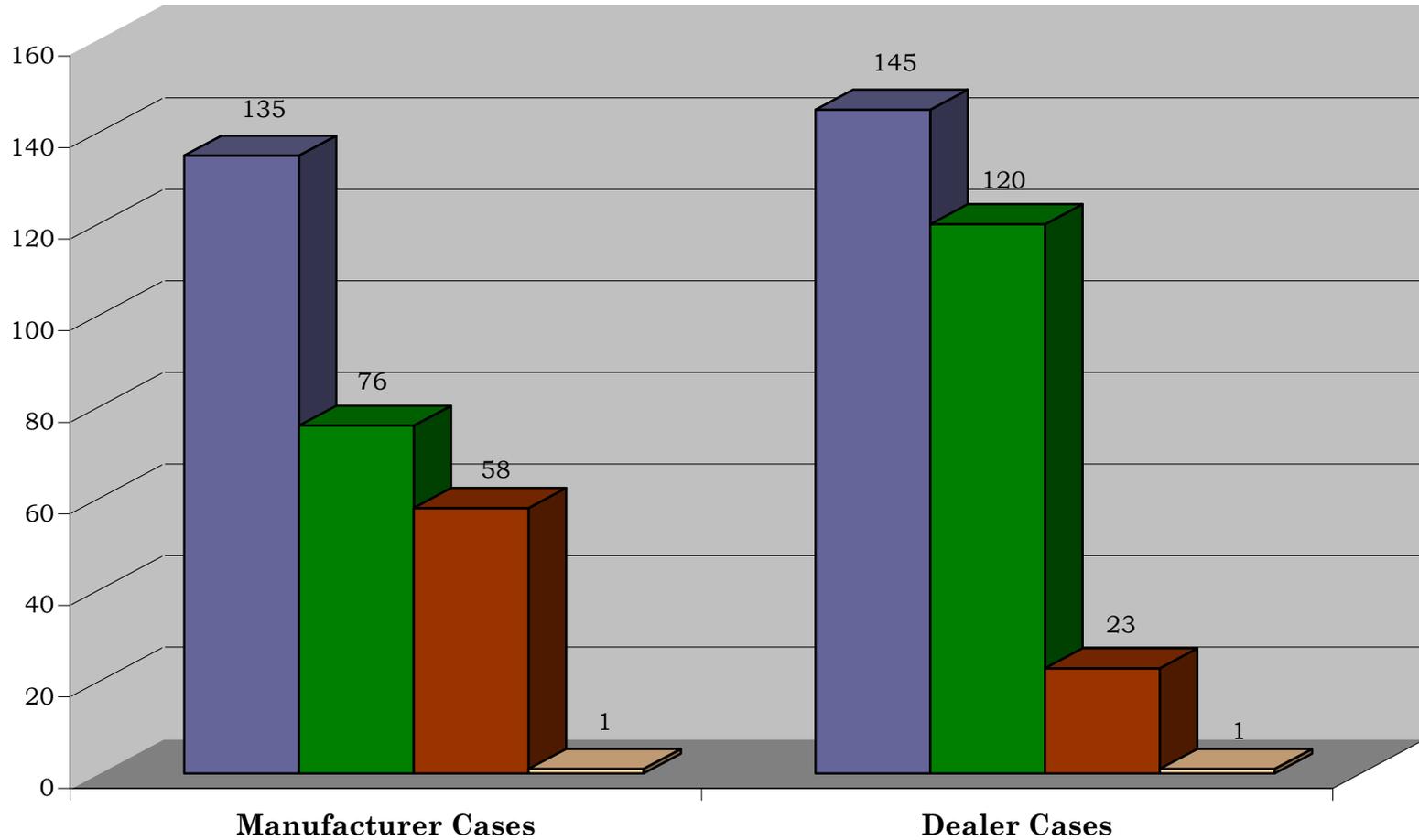
**DISTRIBUTION OF CASES
3 YEAR COMPARISON**



■ Total Cases Received ■ Total Mediated Cases

■ Manufacturer Cases ■ Dealer Cases

Comparison of Mediated Cases Manufacturer vs Dealership



- Total Cases Mediated
- Resolved Successfully
- Not Resolved, Arbitration or Court
- C not accepting Reasonable Offer

Of the total Mediated Cases, there were slightly more Dealer cases (145) than Manufacturer Cases (135). Of the Dealer Cases, 84% (121) were mediated successfully compared to 57% (77) of the Manufacturer Cases. Of the cases not resolved successfully, there were 16% (23) of the Dealer Cases, and 43% (58) of the Manufacturer Cases. There was 1 case each of both Dealer and Manufacturer cases that the consumer did not accept a Reasonable Offer.