



**STATE OF CALIFORNIA**

**MEMO**

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

**December 19, 2012**

**From : WILLIAM BRENNAN  
JACKIE GRASSINGER**

*WJB  
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") 2011-12.

**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, 5<sup>th</sup> 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) (including passenger vehicles, motorcycles, ATVs, vehicles over 10,000 lbs., recreational vehicles, etc.), and also all new vehicle dealerships in the State of California.

## MEDIATION STATISTICS AND RESULTS

The Program received a total of 309 cases (an average of 26 cases per month) and 640 telephone calls last year (an average of 53 consumer calls per month). 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 309 cases received, 250 were mediated. The remaining 59 cases were closed as "not completed mediated cases". Out of the 59 cases, 30 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 other 29 cases were closed because the consumer abandoned mediation, the consumer abandoned mediation to pursue arbitration or court, or our office received no response from the dealer or manufacturer.

### Total Cases Received in the Mediation Program

- The Program received a total of 309 cases, of which 250 of those cases were mediated (81%).
- 73% were mediated successfully (n=183).
- 26% of mediated cases were closed because a successful resolution was not reached (n=65).
- 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).
- There was one case closed with "other" (0.36% n=1). Facts came to light at the end of mediation that the consumer caused the damage to the vehicle and therefore there was not a valid dispute against the dealer or manufacturer.

### Dealer Cases

- Of the 309 cases received in Mediation, 141 were dealer related. 16 cases included in the 141 were closed as Consumer Abandoned, Consumer Abandoned to Pursue Arbitration or Court, No Dealer Response, or No Manufacturer Response and are not included in the Completed Mediated Cases (250).
- Of the 250 that were completely mediated, 125 were dealer related.
- 81% were mediated successfully (n=101).
- 18% 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 309 cases received in Mediation, 139 were manufacturer related. 14 cases included in the 139 were closed as Consumer Abandoned, Consumer Abandoned to Pursue Arbitration or Court, No Dealer Response, or No Manufacturer Response and are not included in the Completed Mediated Cases (250).
- Of the 250 cases that were completely mediated, 125 were manufacturer related.
- 67% of manufacturer cases were mediated successfully (n=84).
- 32% of manufacturer cases were closed because a successful resolution was not reached (n=40).
- In less than 1% of mediated cases, at the end of mediation it was found that there was not a valid dispute and was concluded as "other" (n=1).
- 17% of mediated cases with the manufacturer, resulted in the manufacturer buying back the vehicle (n=21).

### Manufacturer Related Safety Cases

Of the Manufacturer Mediated cases (n=125), - 16 cases involved some kind of safety related concern; of which, 2 resulted in a voluntary buyback by the manufacturer (these 2 cases are included in the total count of 21 repurchases/replacements).

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
- How did you hear about us?, Page H

## PREVIOUS YEAR COMPARISON

The table below represents Program statistics from FY 09-10 through FY 11-12 for comparison purposes.

	NUMBER OF PHONE CALLS RECEIVED	NUMBER OF CASES RECEIVED	NUMBER OF CASES MEDIATED	SUCCESSFUL COMPLETION RATE
FY 09-10	732	391	286	68.9%
FY 10-11	736	347	280	70.0%
FY 11-12	640	309	250	73.0%

## **MEDIATION IMPROVEMENT**

### **Improvements for FY 2011/2012 Mediation Program:**

Our office worked with DMV to get a link on DMV's website to the New Motor Vehicle Board's website. This was accomplished on April 27, 2012. Now, under DMV's home page under "featured links", you may click on a link to our website under the caption "Information Regarding the Consumer Mediation Services Program".

Electronic cases reduce the number of days that it takes to mediate a case. In FY 2010/2011 and FY 2011/2012, 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:**

- 2010 average number of days = 69
- 2011 average number of days = 39
- 2012 average number of days = 39

### **Outreach Information**

In May of 2012, the Program started to track "How did you hear about us" from consumers filling out the Mediation Request Form. The results so far from that two month period and 73 Mediation Request Forms submitted are attached in the last Chart, Page H.

### **CONCLUSION**

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

#### **Attachments**

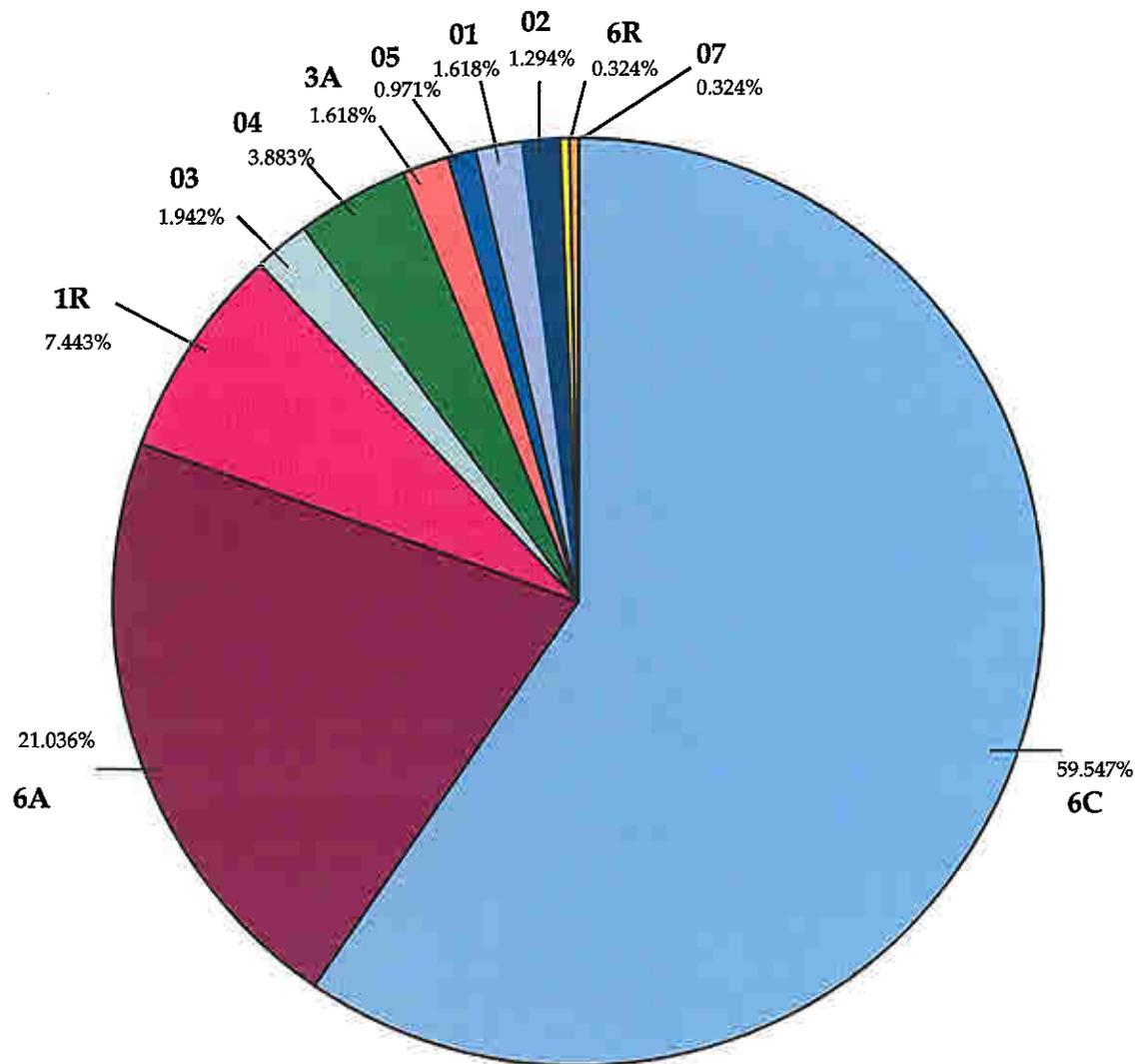
cc: Ramon Alvarez C., President

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# NMVB MEDIATION PROGRAM

## 2011/2012 FY

### Distribution by Outcome of Total Cases Received

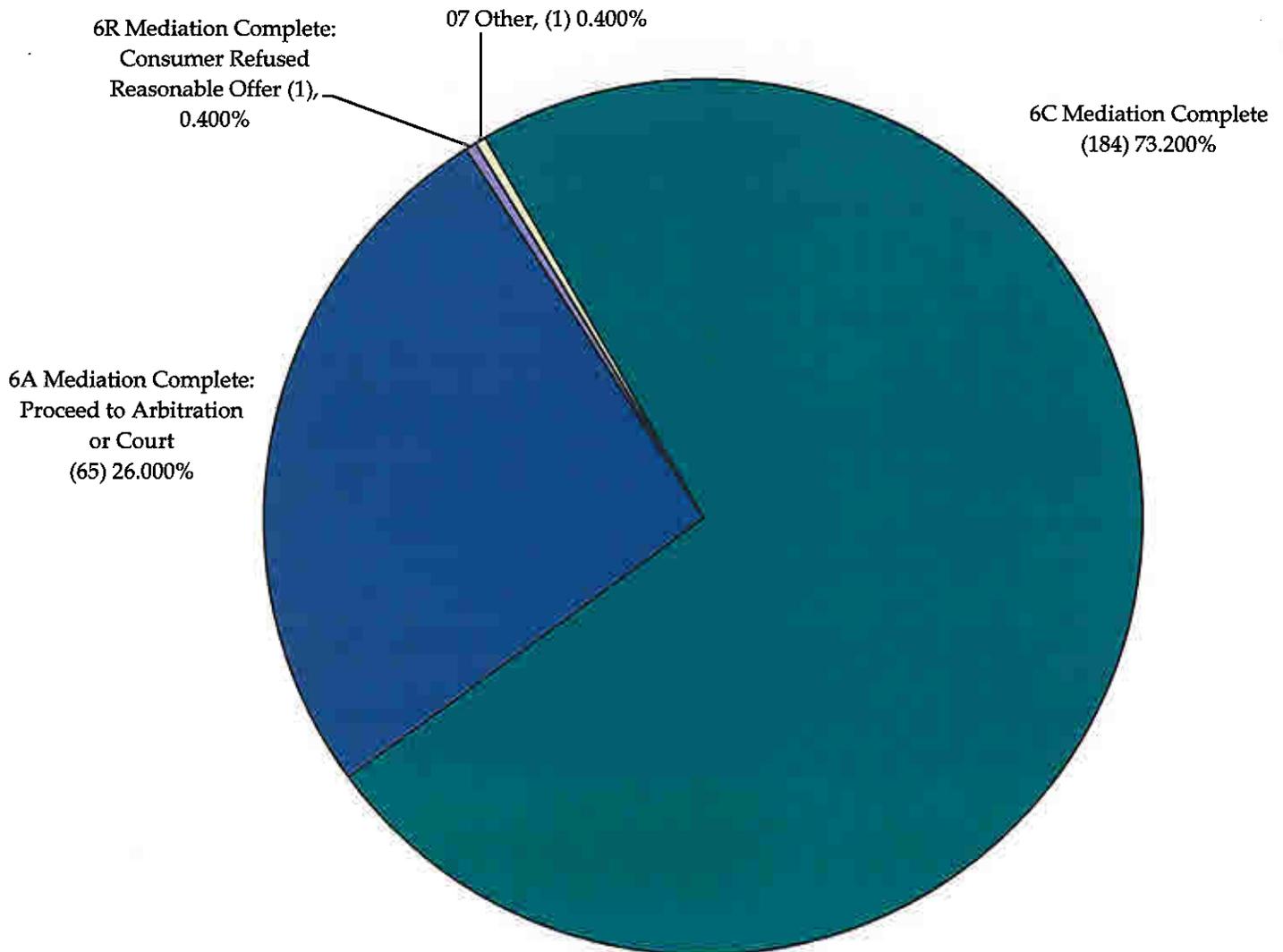


6C Mediation Complete (184)59.547%	6A Mediation Complete proceeded to Arb/Legal (65)21.036%
1R No Jurisdiction referred to proper Agency (23)7.443%	03 Consumer Abandoned (6)1.942%
04 No Dealer Response (12)3.883%	3A Consumer Abandoned - Arb/Legal (5)1.618%
05 No Manufacturer Response (3) 0.971%	01 No Jurisdiction (5)1.618%
02 No Merit/No Action Sought (4)1.294%	6R Mediation complete - Consumer refused offer (1)0.324%
07 Other (1)0.324%	

The Mediation Program received 309 cases in FY 2011-2012

# NMVB MEDIATION PROGRAM

2011/2012 FY Distribution of  
Total Cases Mediated (250)



Note - Out of the 309 cases received, a total of 250 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 that C claimed broken door locks a M's defect, M paid but not for door panel damage - D stated to C the panel might get damaged and no pay or free fix - then D received an anonymous letter stating that C's son in fact caused this damage - includes C's facebook post stating son broke the door locks

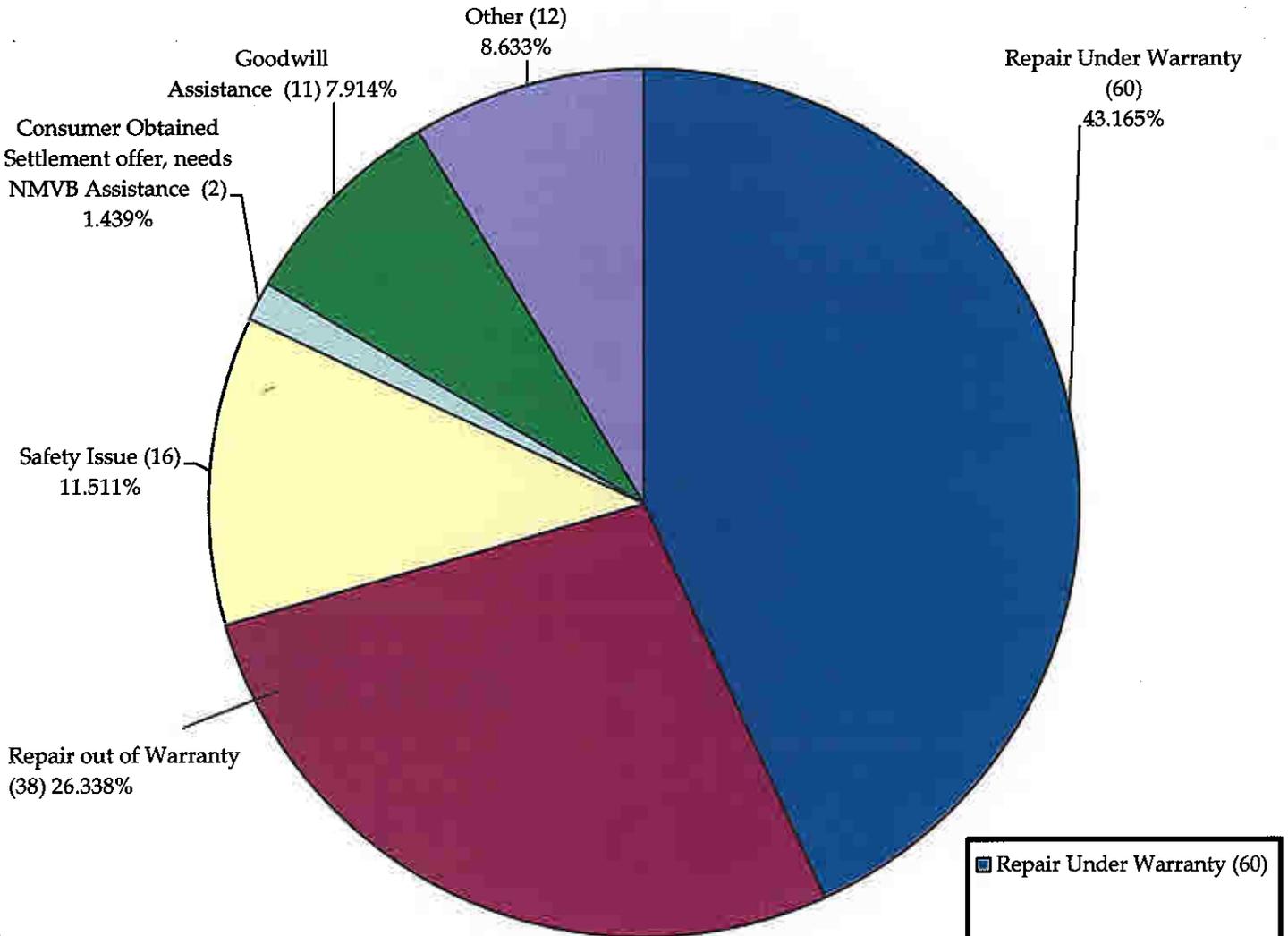
- 6C Mediation Complete (184) 73.200%
- 6A Mediation Complete: Proceed to Arbitration or Court (65) 26.000%
- 6R Mediation Complete: Consumer Refused Reasonable Offer (1) 0.400%
- 07 Other (1) 0.400%

# NMVB MEDIATION PROGRAM

## 2011/2012 FY Distribution of Manufacturer Cases (n=139/309)

This chart shows all Manufacturer cases including no response or consumer abandoned cases.

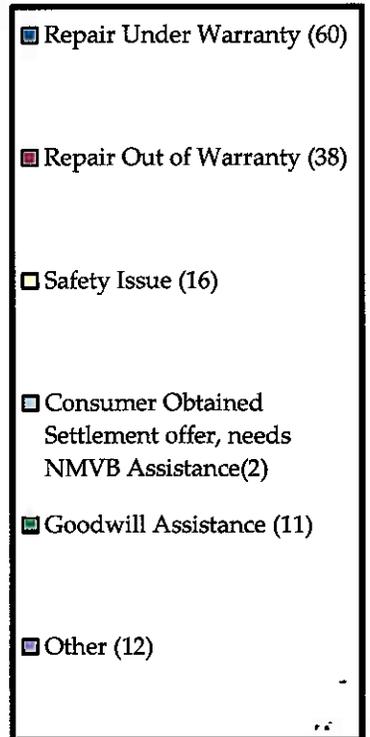
There were 125 Manufacturer cases that were completely mediated.



**Note: Cases under category "Other" include:**

- C states V passenger side wheel broke off and caused crash. M sent engineer and said that they are not at fault.
- V had bad smell unable to duplicate. M refused assistance.
- C says M advertisement wrong on range of electric vehicle
- M Extended Warranty claim that M denied
- C says M advertised bigger gas tank on motorcycle, M says 2012 yr not 2011
- M out of business (SAAB), C can't get warranty work done
- electronic key (2) not holding its memory settings for seats
- C got her credit card co. to reject the charges since scooter not working, D wanted to send to collections, however C resolved by shipping V back to D.
- C obtained notice of reimbursement for repairs made to her V
- M has ad "chrome clad wheels" with option price of \$800 - C says pricing & option make it look like real chrome but it is actually plastic with chrome paint - M says nothing wrong it says chrome "clad"
- C under warranty but could not provide maintenance, however M did reimburse her for her car rental as gesture of goodwill

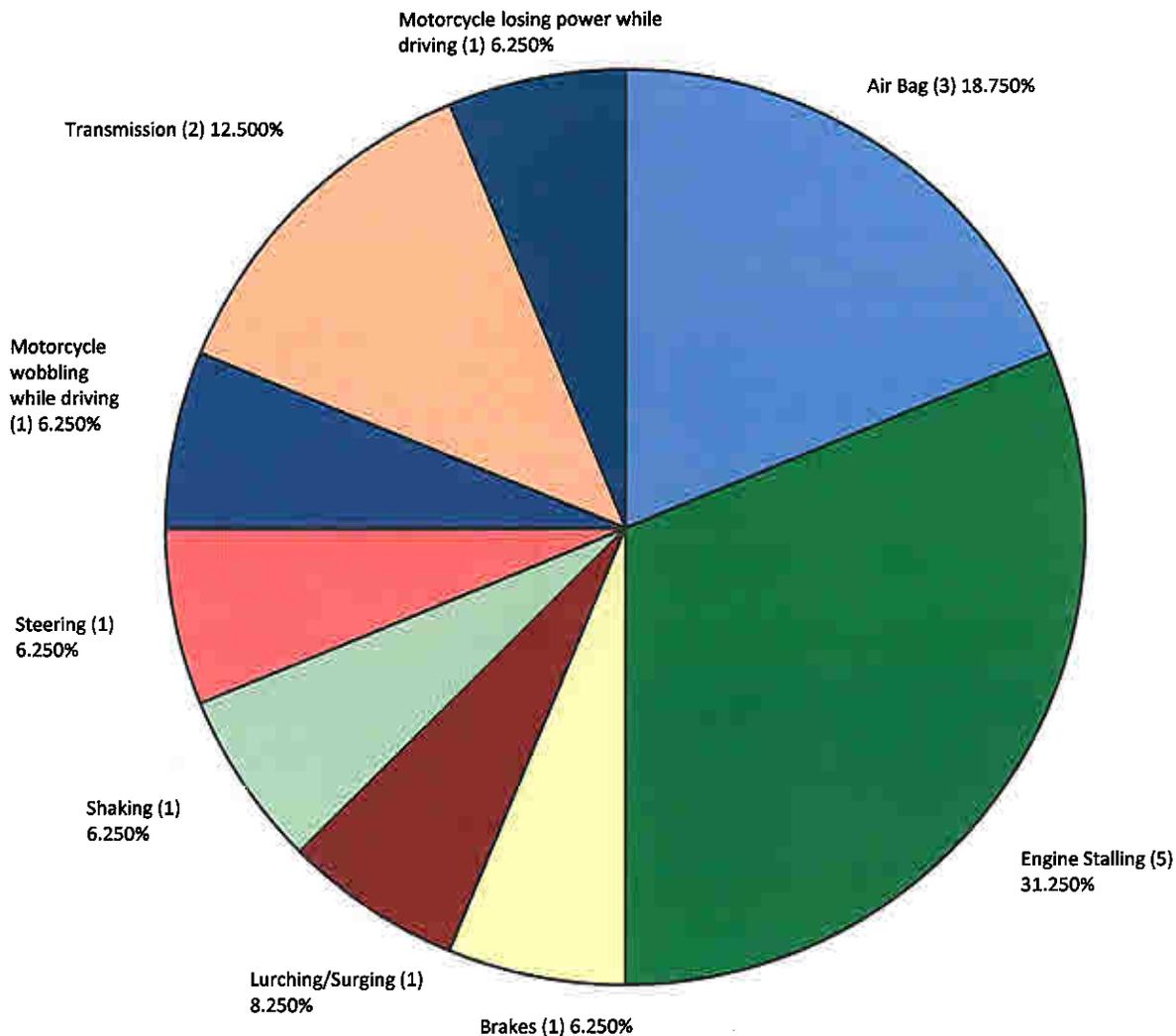
C= Consumer D=Dealer M=Manufacturer V=Vehicle



# NMVB MEDIATION PROGRAM

2011-2012 FY

## Distribution of Safety Related Cases

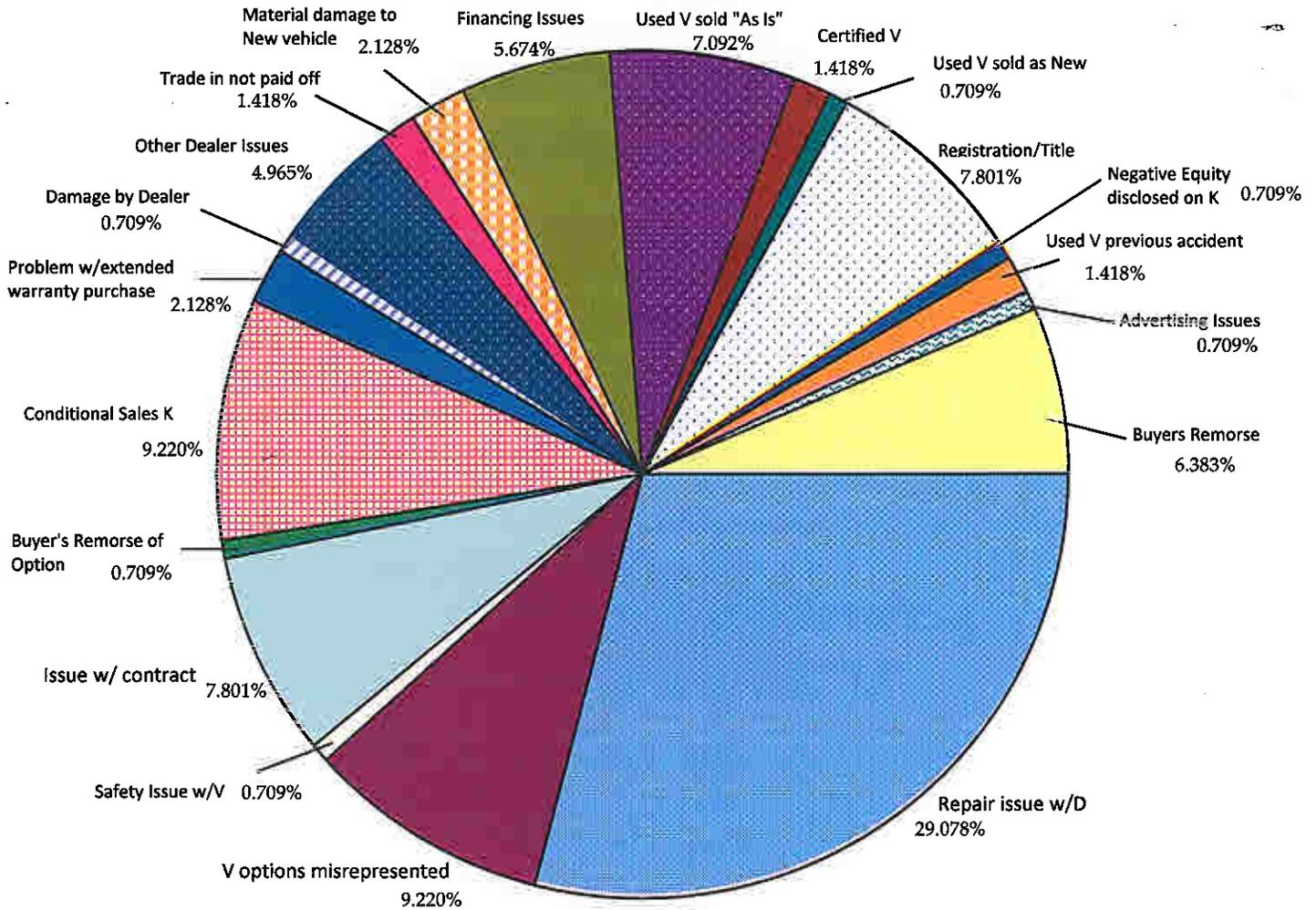


Note: Of the Manufacturer cases (n=141), 16 cases involved some kind of safety related concern, of which, 2 cases resulted in a voluntary buyback by the manufacturer (Lurching/Surging and Shaking). The Mediation Program altogether assisted consumers in 21 repurchases/replacements in FY 2011/2012.

- Air bag (3) (18.750%)
- Brakes (1)(6.250%)
- Shaking (1)(6.250%)
- Motorcycle wobbling while driving (1)(6.250%)
- Motorcycle losing power while driving (1)(6.250%)
- Engine Stalling (5)(31.250%)
- Lurching/Surging (1)(6.250%)
- Steering(1)(6.250%)
- Transmission hesitation (2)(12.500%)

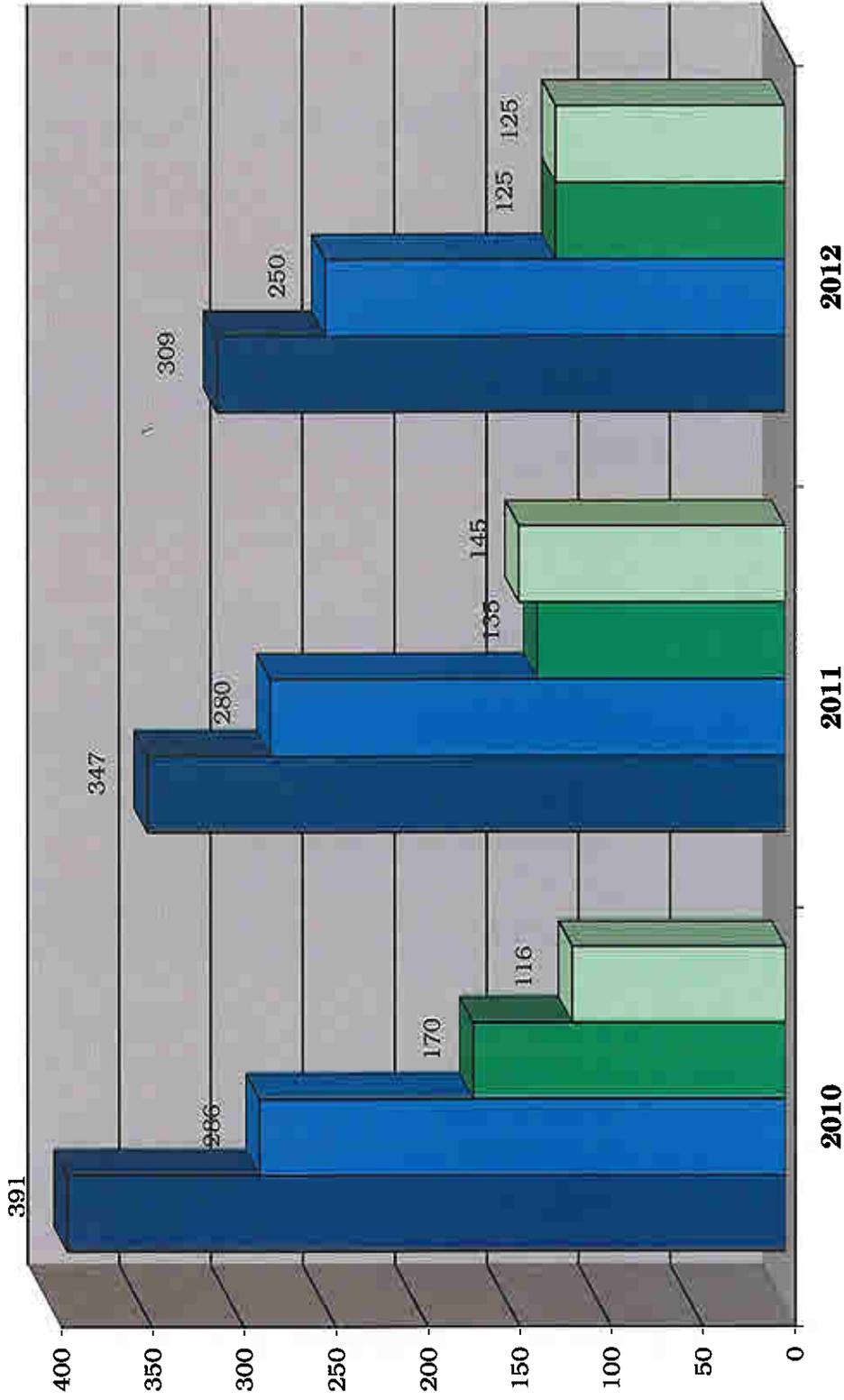
# NMVB MEDIATION PROGRAM 2011/2012 FY

Distribution of Dealer Cases (n=141/309) This chart shows all Dealer cases including no response or consumer abandoned. There were 125 Dealer cases that were completely mediated.



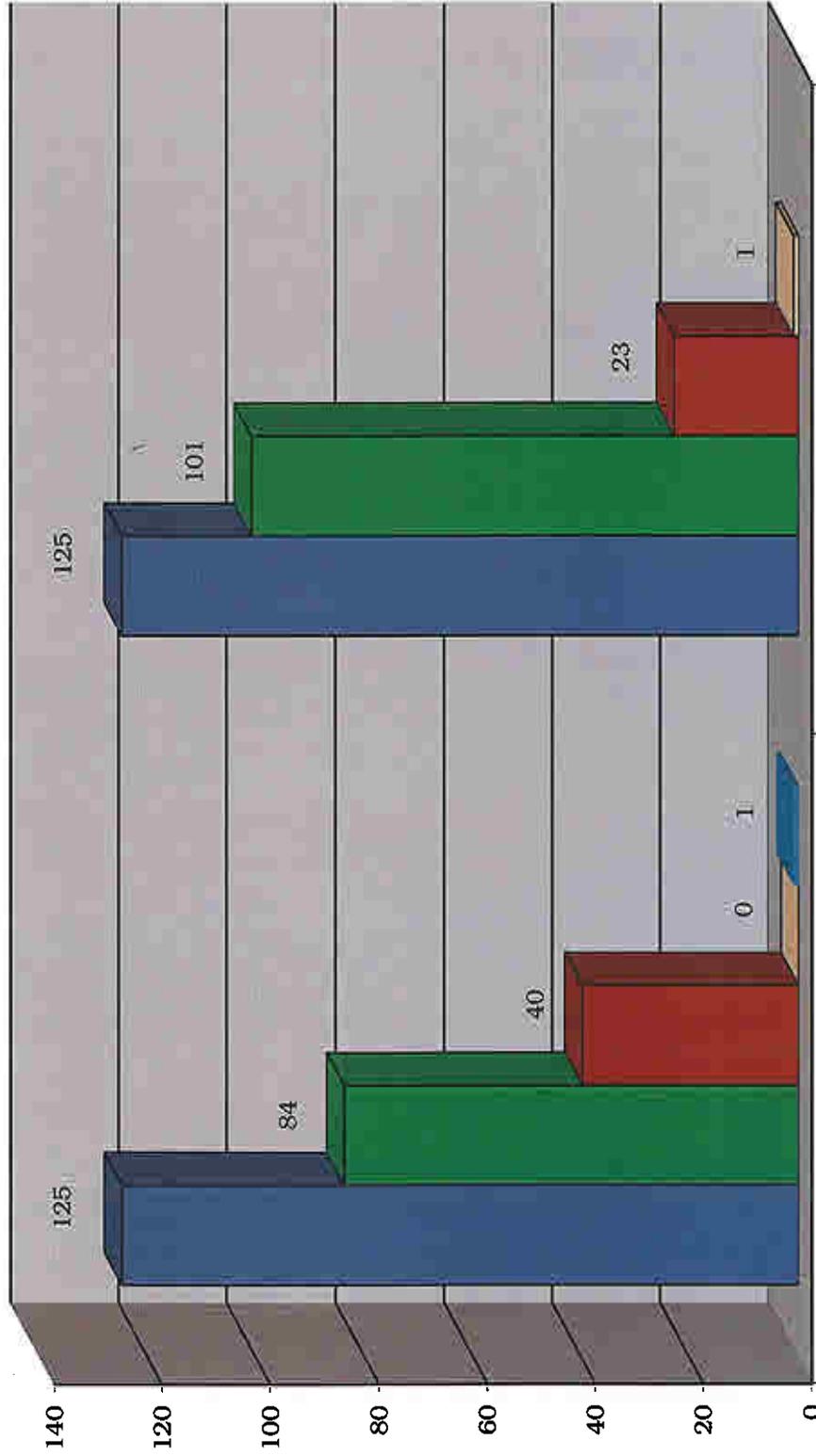
Repair issue w/D only (29.078%)(41/141)	V options Misrepresented (9.220%)(13/141)
Safety Issue w/V (0.709%) (1/141)	Issue with Contract (7.801%)(11/141)
Buyers Remorse of Options (0.709%) (1/141)	Conditional Sales K (9.220%) (13/141)
Problem w/Ext. Warranty Purchase (2.128%)(3/141)	Damage by Dealer (0.709%) (1/141)
Other Dealer Issues (4.965%)(7/141)	Trade in not paid off (1.418%) (2/141)
Material Damage to New V (2.128%) (3/141)	Financing Issues (5.674%)(8/141)
Used V Sold "As Is" (7.092%) (10/141)	Certified Vehicle (1.418%)(2/141)
Used Vehicle Sold as "New" (0.709%) (1/141)	Registration/Title (7.801%) (11/141)
Negative Equity disclosed on Sales Contract (0.709%)(1/141)	Used V Previous Accident Problems (1.418%) (2/141)
Advertising Issues (0.709%)(1/141)	Buyer's Remorse (6.383%) (9/141)

### DISTRIBUTION OF CASES 3 YEAR COMPARISON



- Total Cases Received
- Total Mediated Cases
- Manufacturer Cases
- Dealer Cases

## Comparison of Mediated Cases Manufacturer vs Dealership



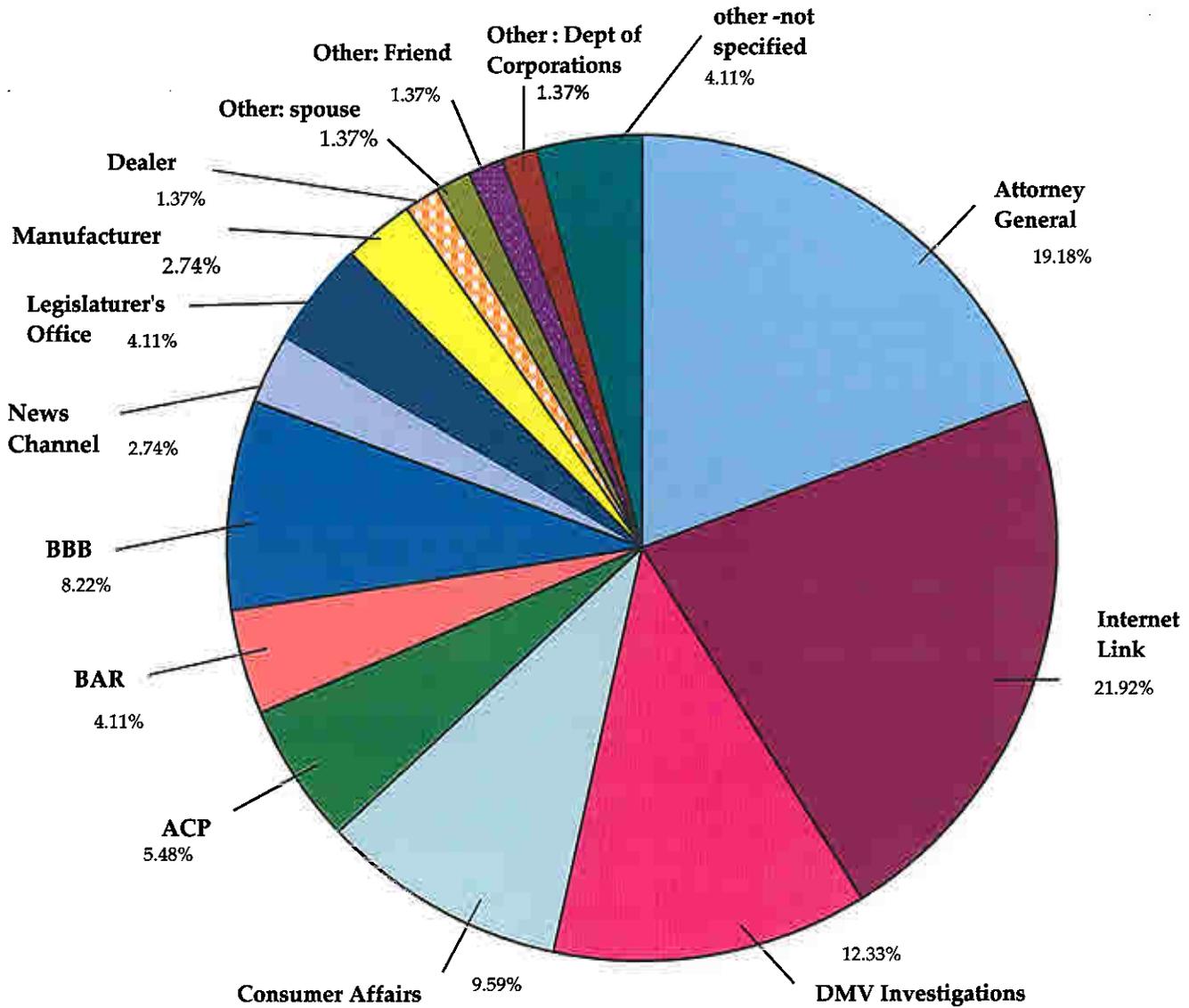
- Total Cases Mediated
- Resolved Successfully
- Not Resolved, Arbitration or Court
- C not accepting Reasonable Offer
- other

Of the total Mediated Cases (250), there were the same amount of Dealer cases (125) as Manufacturer Cases (125). Of the Dealer Cases, 81% (101) were mediated successfully compared to 67% (84) of the Manufacturer Cases. Of the cases not resolved successfully, there were 18% (23) of the Dealer Cases, and 32% (40) of the Manufacturer Cases. There was 1 Dealer case that the consumer did not accept a Reasonable Offer. There was also 1 Manufacturer case that was mediated where the resolution was classified as "other".

# NMVB MEDIATION PROGRAM

2011/2012 FY

"How did you hear about us?"



Attorney General's Office (14)19.178%	Internet Link (16)21.918%
DMV Investigations (9)12.329%	Consumer Affairs (7)9.589%
Arbitration Certification Program (4)5.479%	Bureau of Automotive Repair (3)4.110%
Better Business Bureau (6)8.219%	News Channel Consumer Advocates (2)2.740%
Legislaturer's Office (3)4.110%	Manufacturer (2)2.740%
Dealer (1)1.370%	Other : Friend (1) 1.370%
Other : Department of Corporations (1)1.370%	Other - Not Specified (3)4.110%
Other : Spouse 1.370%	