



**STATE OF CALIFORNIA**

**MEMO**

**To: ADMINISTRATION COMMITTEE  
BISMARCK OBANDO, Chair  
RAHIM HASSANALLY, Member**

**December 20, 2016**

**From : WILLIAM BRENNAN  
JACKIE GRASSINGER**

**Subject: ANNUAL UPDATE ON CONSUMER MEDIATION PROGRAM**

**INTRODUCTION**

The members of the Board have requested an annual update on the Consumer Mediation Program ("Program"). Below is a summary of the Program updates, goals, and case conclusions for the Fiscal Year ("FY") 2015-16.

**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 who have certified programs, the Program offers mediation for disputes involving all new vehicle manufacturers (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 498 cases (an average of 41.5 cases per month) and 687 telephone calls last year (an average of 57.25 consumer calls per month). The Program is progressing at just about the same number of cases and phone inquiries as the last FY period.

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 498 cases received, 343 were mediated. The remaining 155 cases were closed as “not completed mediated cases”. Out of the 155 cases, 51 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 104 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 (36 no responses from dealers and 28 no responses from manufacturers).

### Total Cases Received in the Mediation Program

- The Program received a total of 498 cases, of which 343 of those cases were completely mediated (69%).
- Out of those 343 cases, 60% were mediated successfully (n=207).
- 36% of mediated cases were closed because a successful resolution was not reached (n=122).
- In a less than 1% of the mediated cases, it was the opinion of the mediator that a reasonable offer was made but not accepted (n=4).
- There were 10 cases closed with a resolution of “other” (0.029% n=10). One case closed with “Other” was because the consumer was in the middle of a BBB complaint with the dealer. One was a Lemon Law type case, but the dealer got the consumer into another vehicle. Another dealer case closed with other was that the consumer bought brand new motorcycle and calipers not tightened, brakes failed on way home from dealer, dealer gave offer of replacement motorcycle, consumer accepted, and then dealer took offer off table. The rest of the cases that were closed with “Other” were due to General Motors LLC sending responses that they are “not willing to address the concerns of our customers through other forums or firms such as the one you represent”. Copy of letter attached (see attachment 1). See also explanation of General Motor’s case responses directly after caseload statistics below.

### Dealer Cases

- Of the 343 cases received in Mediation that were completely mediated, 126 were dealer related.
- 72% were mediated successfully (n=90).
- 24% of dealer cases were closed because a successful resolution was not reached (n=30).
- 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 were 3 dealer cases in which the case was completely mediated and the resolution was classified as “Other”.

**Manufacturer Cases**

- Of the 343 cases received in Mediation that were completely mediated, 217 were manufacturer related.
- 54% of manufacturer cases were mediated successfully (n=117).
- 42% of manufacturer cases were closed because a successful resolution was not reached (n=92).
- In a less than 1% of mediated cases, it was the opinion of the mediator that a reasonable offer was made but not accepted (n=1).
- In less than 1% of mediated cases, the conclusion was listed as “other” (n=7). General Motors LLC sent 7 responses to cases stating that they are “not willing to address the concerns of our customers through other forums or firms such as the one you represent”.
- In mediated cases with the manufacturer, 20% resulted in the manufacturer buying back or replacing the vehicle (n=43/217).

Manufacturer Related Safety Cases

Of the Manufacturer Mediated cases (n=217), - 48 cases involved some kind of safety related concern; of which, 21 resulted in a voluntary buyback by the manufacturer (these 21 cases are included in the total count of 48 repurchases/replacements).

You will find attached one letter and seven informational charts:

- Sample of one of the letters sent by General Motors LLC as a response to a mediation case, attachment 1.
- Distribution by Outcome of Total Cases Received, Chart A
- Distribution by Outcome of Total Number of Cases Mediated, Chart B
- Distribution of Manufacturer Cases, Chart C
- Distribution of Safety Related Cases, Chart D
- Distribution of Dealer Cases, Chart E
- Distribution of Cases, 3 year Comparison, Chart F
- Distribution by Outcome, Manufacturer vs. Dealership, Chart G
- How did you hear about us?, Chart H

**PREVIOUS YEAR COMPARISON**

The table below represents Program statistics from FY 12-13 through FY 15-16 for comparison purposes.

|          | <b>NUMBER OF PHONE CALLS RECEIVED</b> | <b>NUMBER OF CASES RECEIVED</b> | <b>NUMBER OF CASES MEDIATED</b> | <b>SUCCESSFUL COMPLETION RATE</b> |
|----------|---------------------------------------|---------------------------------|---------------------------------|-----------------------------------|
| FY 12-13 | 709                                   | 269                             | 222                             | 66.0%                             |
| FY 13-14 | 824                                   | 359                             | 302                             | 67.0%                             |
| FY 14-15 | 726                                   | 511                             | 380                             | 68.0%                             |
| FY 15-16 | 687                                   | 498                             | 343                             | 60.0%                             |

- **General Motors LLC**

As of January of 2016, the New Motor Vehicle Board started getting letters from General Motors stating that they do not wish to participate in mediation through our office. Also, out of the 28 cases in which the manufacturer did not respond at all, General Motors had 10 of those cases that they did not respond to and 7 cases in which they responded with letters specifically stating that they do not want to mediate through our office. Bill Brennan has made several inquiries with General Motors regarding these letters; however after several months, it was beginning to look like we were not getting anywhere in regards to this problem. Finally, on December 15, 2016, Bill Brennan was able to contact Jonathan Huish, the head of the Customer Resources Call Center. Mr. Huish assured our office that this was a mistake that he has already taken steps to address. It seems the problem was that the Call Center did not connect that our office is the same as the other states' Attorney General case inquiries. The problem is resolved, and we have Mr. Huish's assurance and contact information should we ever have any problems like this come up again.

- **Language Survey**

Board members were provided information regarding the Language Survey that DMV conducts every other year in February 2016 in response to previous questions on Spanish speaking consumers. The members were informed that on January 1, 2016 we began our own "survey" to collect data on how many of our callers spoke a language other than English. So far this year, out of 657 calls since January 1, 2016, we received 34 requests for a Spanish interpreter, 1 request for a Mandarin interpreter, 1 request for a Korean interpreter, and 1 request for a Punjabi interpreter. In March 2016 the Board added the Google Translate feature to the Mediation portion of its website. Statistics for how many people are using that feature are pending.

- **Social Media**

On February 17, 2015, in an effort to reach consumers who may be in need of the Program's assistance, the New Motor Vehicle Board started to use social media (Facebook and Twitter) to post on DMV's Facebook and Twitter accounts. Staff continues to monitor social media to make sure that our posts are still being used on DMV's Facebook and Twitter accounts.

- **Case Duration**

Duration of Mediated Cases:

2014 average number of days = 35

2015 average number of days = 35

2016 average number of days = 38

- **How did you hear about us**

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 of 233 of the 498 Mediation Request Forms submitted are attached in the last Chart, Chart H.

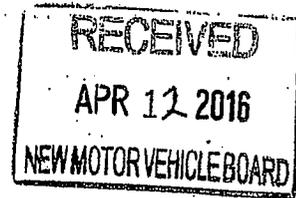
## **CONCLUSION**

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

Attachments

cc: Glenn Stevens, President

P:\MEDIATION\Statistics\Case Completion\2016\Mediation FY2016 Report.doc



New Motor Vehicle Board  
1507 21<sup>st</sup> Street, Suite 330  
Sacramento, CA 95811

Re: [REDACTED] Case# C-0349-2016

Dear: New Motor Vehicle Board,

This office is in receipt of your recent correspondence dated April 7<sup>th</sup> 2016 for and/or in behalf of [REDACTED] owner/lessee of a 2012 Chevrolet Cruze. We appreciate learning that [REDACTED] is experiencing an issue and will research the situation. GM invites customer feedback in any form, however our mechanism for addressing customer concerns is by direct contact with the customer through our network of GM Customer Assistance Centers or through our chosen Third Party Dispute Resolution process (BBB Autoline Program) administered through the Council of Better Business Bureau. Customers may contact us utilizing the published address and/or phone number listed in their vehicle owner manual or warranty booklet. General Motors-California Customer Engagement Center is not willing to address the concerns of our customers through other forums or firms such as the one you represent.

Please advise [REDACTED] to contact General Motors-California Customer Engagement Center via either of the mechanisms referred above and we will be pleased to evaluate the merits of any issue  
Sincerely,

General Motors-California Customer Engagement Center

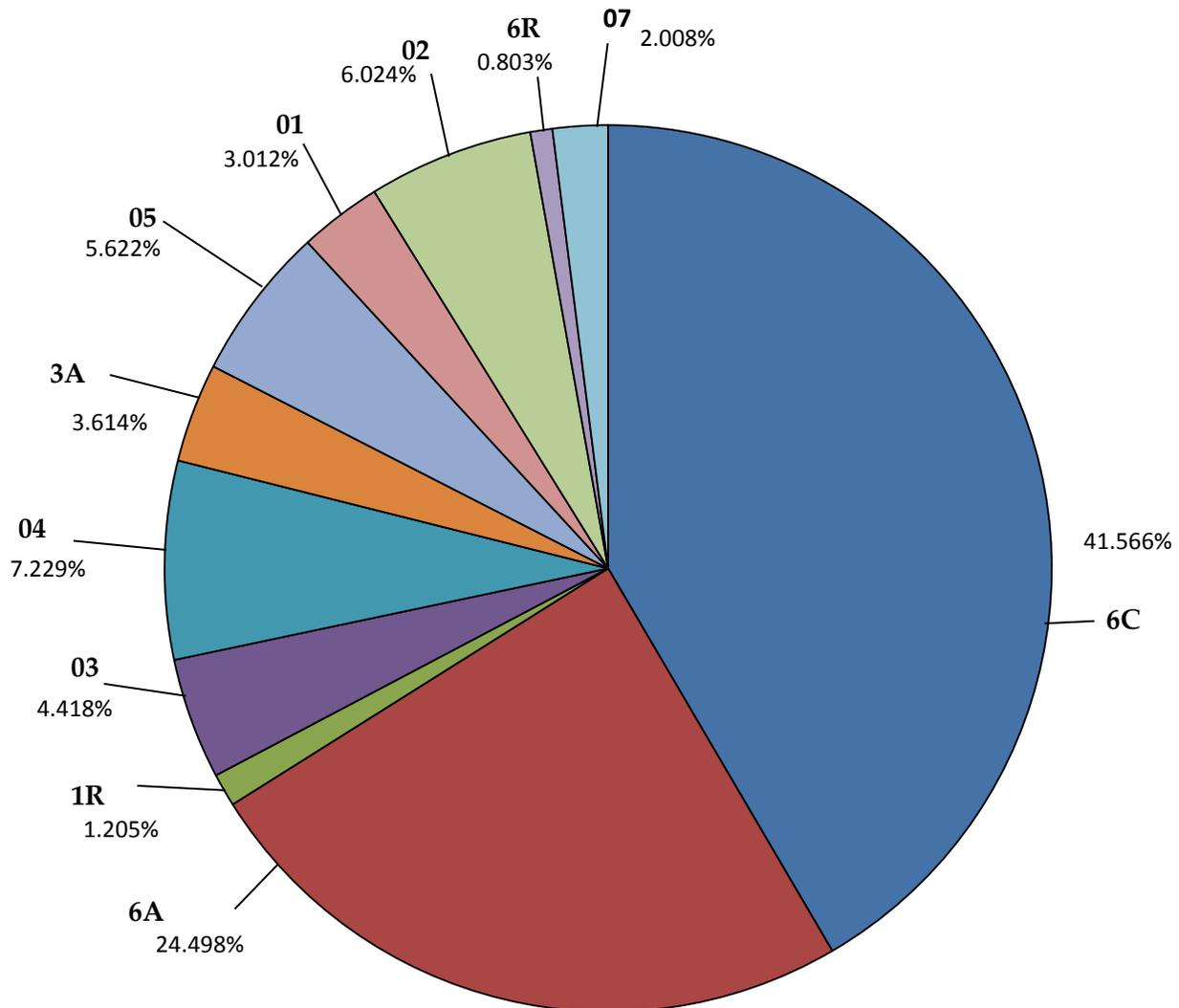
**ATTACHMENT 1**

# NMVB MEDIATION PROGRAM

2015/2016 FY

## Distribution by Outcome of Total Cases Received

(Chart A)



- 6C Mediation Complete (207)41.566%
- 6A Mediation Complete proceeded to Arb/Legal (122)24.498%
- 1R No Jurisdiction referred to proper Agency (6)1.205%
- 03 Consumer Abandoned (22) 4.418%
- 04 No Dealer Response (36) 7.229%
- 3A Consumer Abandoned - Arb/Legal (18)3.614%
- 05 No Manufacturer Response (28) 5.622%
- 01 No Jurisdiction (15) 3.012%
- 02 No Merit/No Action Sought (30)6.024%
- 6R Mediation complete - Consumer refused offer (4) 0.803%
- 07 Other (10) 2.008%

There were 10 cases in FY 2015/2016 that are listed as a case category of "Other". 7 of these cases were from responses given by General Motors LLC that they are "not willing to address the concerns of our customers through other forums or firms such as the one you represent". There was one case that was closed with "other" because the consumer was going through mediation with BBB. One case was a Lemon Law type case, however the dealer was able to get the consumer into another vehicle. And one more case was classified as "other" because the C had Lemon Law type issues, however the dealer offered to repurchase the vehicle, and then the dealer took the offer off of the table.

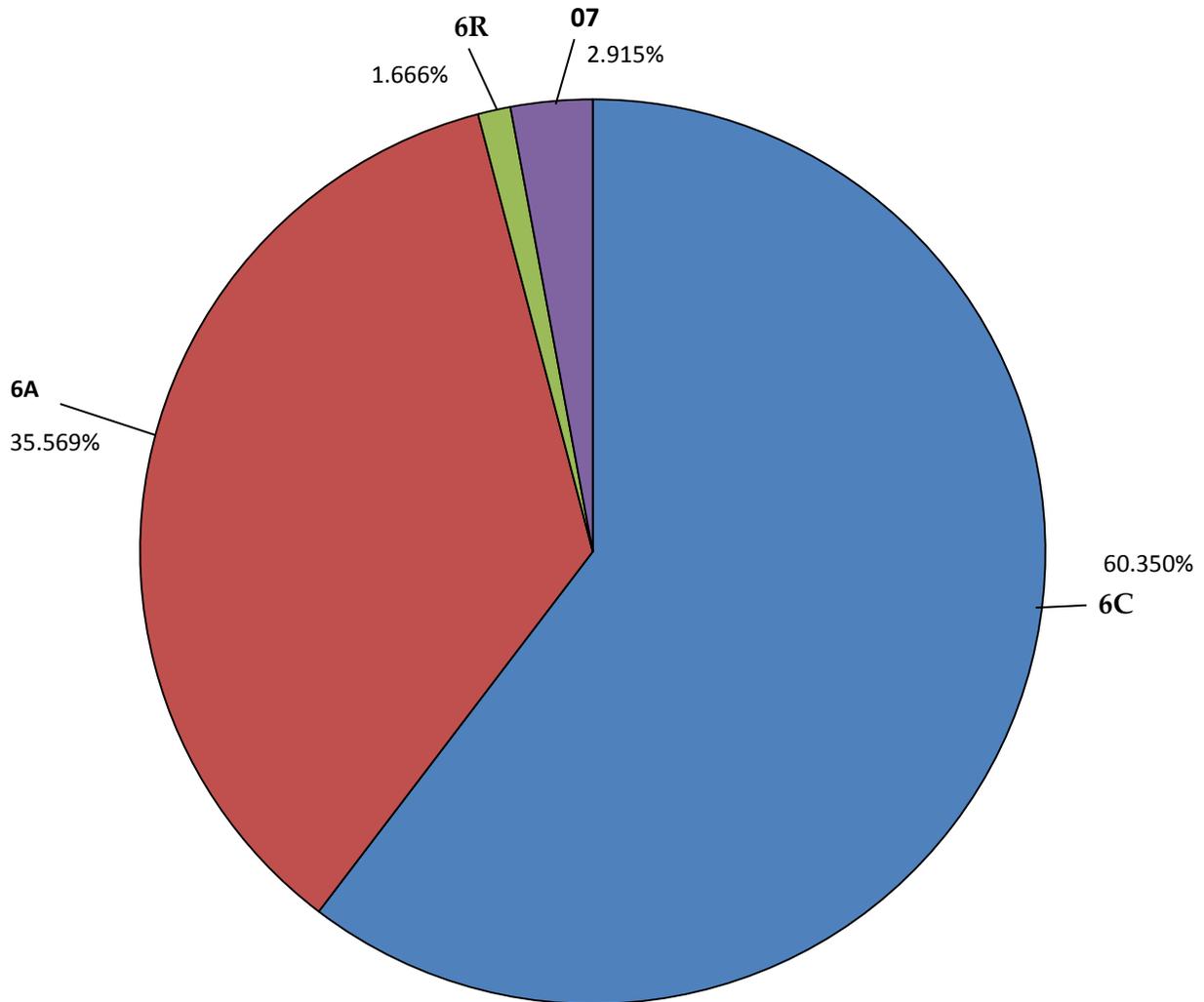
The Mediation Program received 498 cases in FY 2015-2016

# NMVB MEDIATION PROGRAM

2015/2016 FY

## Distribution by Outcome of Total Cases Completely Mediated

The Mediation Program received 498 cases, however only 343 cases were completely mediated.



■ 6C Mediation Complete (207)60.350%

■ 6A Mediation Complete proceeded to Arb/Legal (122)35.569%

■ 6R Mediation complete - Consumer refused offer (4) 1.166%

■ 07 Other (10) 2.915%

The Mediation Program received 498 cases in FY 2015-2016,  
however only 343 cases were completely mediated

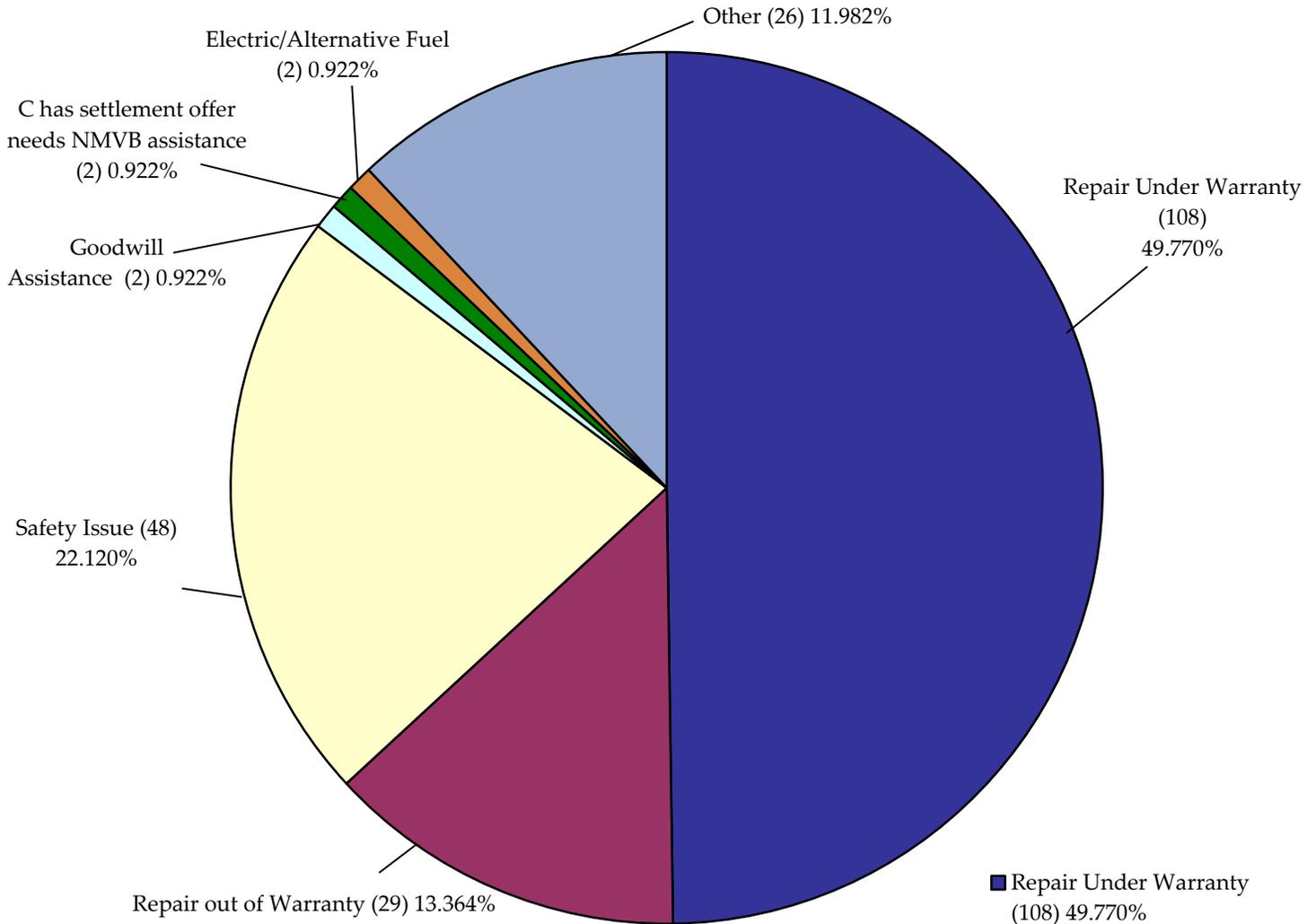
## NMVB Mediation Program

### 2015/2016 FY Distribution of Manufacturer Cases that were mediated (n=217/343)

This chart shows all Manufacturer cases that were completely mediated.

There were 43 cases in which the manufacturer repurchased/replaced the vehicle.

(Chart C)



- Repair Under Warranty (108) 49.770%
- Repair Out of Warranty (29) 13.364%
- Safety Issue (48) 22.120%
- Goodwill Assistance (2) 0.922%
- C obtained settlement offer, needs NMVB assistance (2) 0.922%
- Electric/Alternative Fuel (2) 0.922%
- Other (26) 11.982%

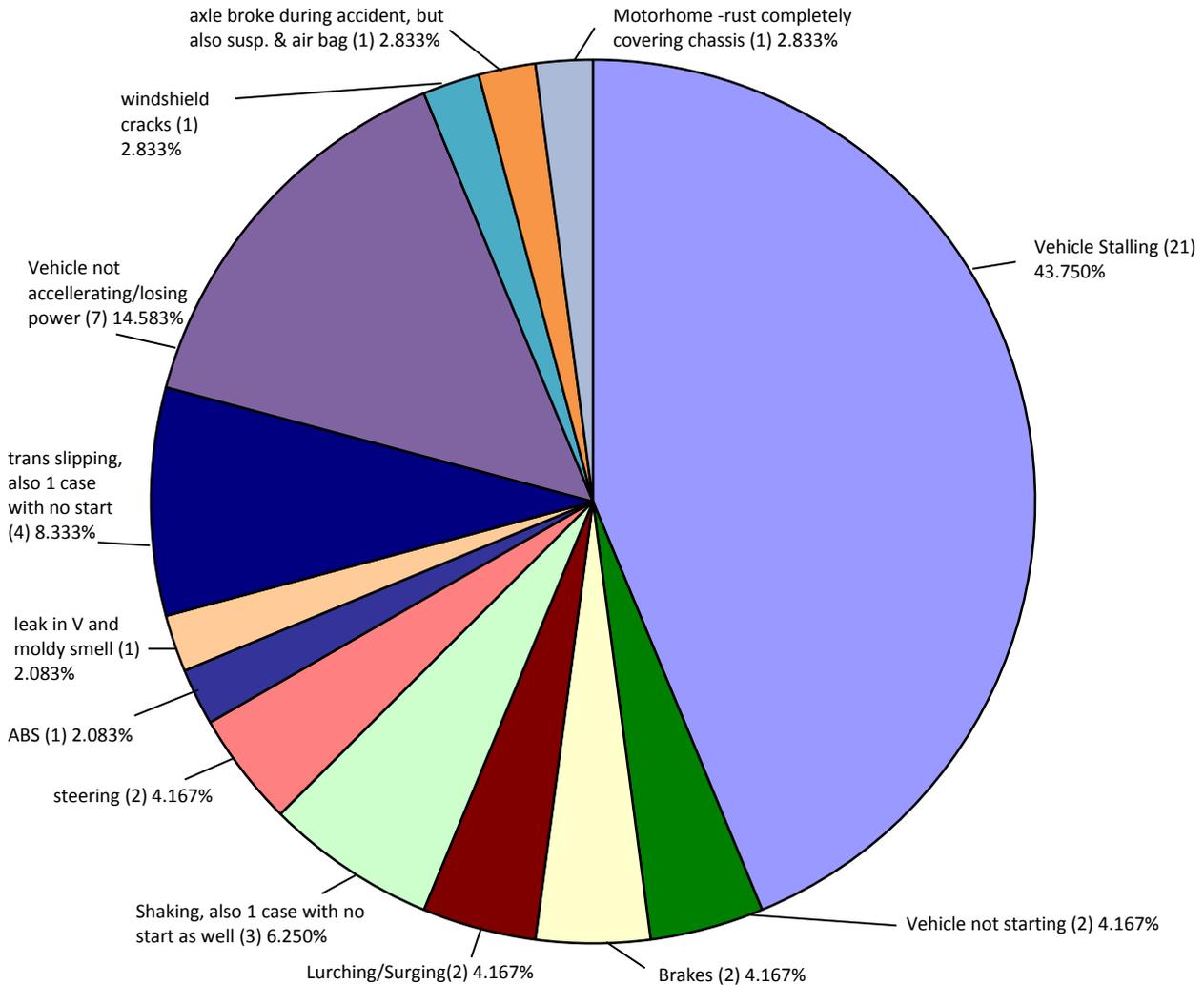
**Note: Cases under category "Other" include:**

- 2 cases M Lemon Law issues- M did not buyback, but D gave emp. discount & incentives and C is happy.
- M Lemon Law issues, but D bought back V.
- C thought he was buying M's extended warranty - M gave M extended warranty to C.
- this case not really resolved like normal, V in accident and totalled. M gave \$1,000 loyalty to help into another V.
- 2 recall complaints
- C says "toxic smell" inside V, M wants inspection, C only wants inspection on "his terms"
- Repair under service bulletin
- recall, but C has after market part and M won't fix recall until back to M specs..
- Smog
- C waiting 7 years for recall on sticky dashboard - Lexus responded sorry, but still waiting to fix 1,000s.
- C having a hard time getting warranty work on his V because it is a Shelby - Ds say C has to go to special D.
- C upset that M does not send notice to Cs on new V sales that after 60 days you do not get full refund on extended warranties.
- Fleet order taking longer than 6 months, M apologized, but special order.
- Hyundai Finance. C has problem with end of lease fees with Hyundai Finance.
- 1 case re Toyota accellerator - not duplicated.
- 6 cases on Takata Air Bags - was able to mediate for rental V until recall done on 4 cases.
- 6 cases on VW emissions - one case not even diesel. VW now has resolutions at website.

# NMVB MEDIATION PROGRAM

## 2015-2016 FY

### Distribution of Safety Related Cases



Note: Of the Manufacturer cases (n=217), 48 cases involved some kind of safety related concern, of which, 21 cases resulted in a voluntary buyback by the manufacturer. The Mediation Program altogether assisted consumers in 43 repurchases/replacements in FY 2014/2015.

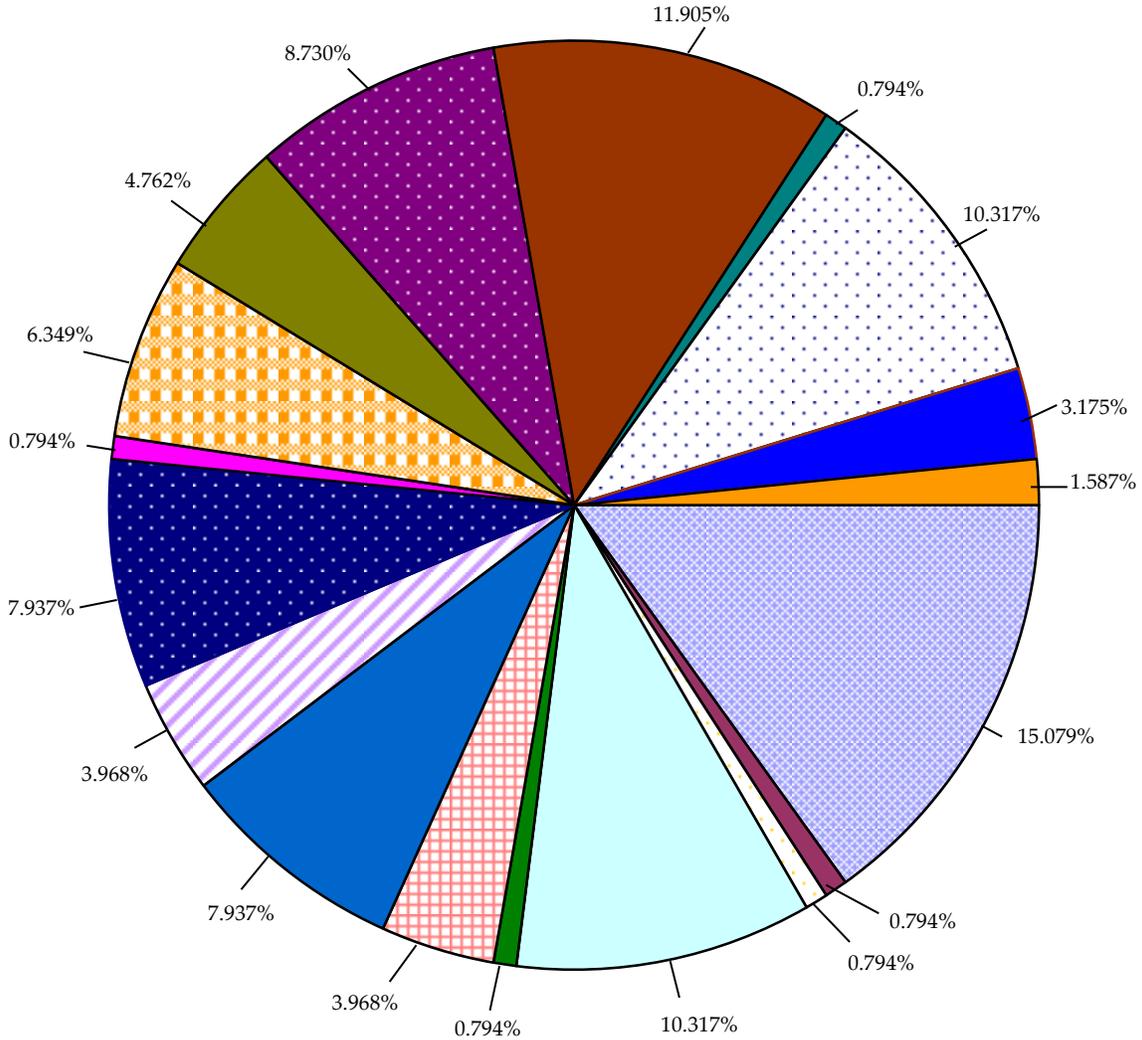
- Vehicle Stalling also 1 case V not starting (21)(43.750%)
- Vehicle not Starting (2) (4.167%)
- Brakes (2)(4.167%)
- Lurching/Surging (2)(4.167%)
- shaking also 1 case with no start as well (3)(6.250%)
- steering(2)(4.167%)
- ABS(1)(2.083%)
- leak in vehicle and moldy smell (1) (2.083%)
- transmission slipping also 1 case with no start (4) (8.333%)
- V not accelerating, hesitating, losing power (7)(14.583%)
- windsheild cracks (1)(2.083%)
- axle broke off in acc.-suspension and airbag issues also (1)(2.083%)
- Motorhome - rust completely covering chassis(1)(2.083%)

# NMVB MEDIATION PROGRAM

2015/2016 FY

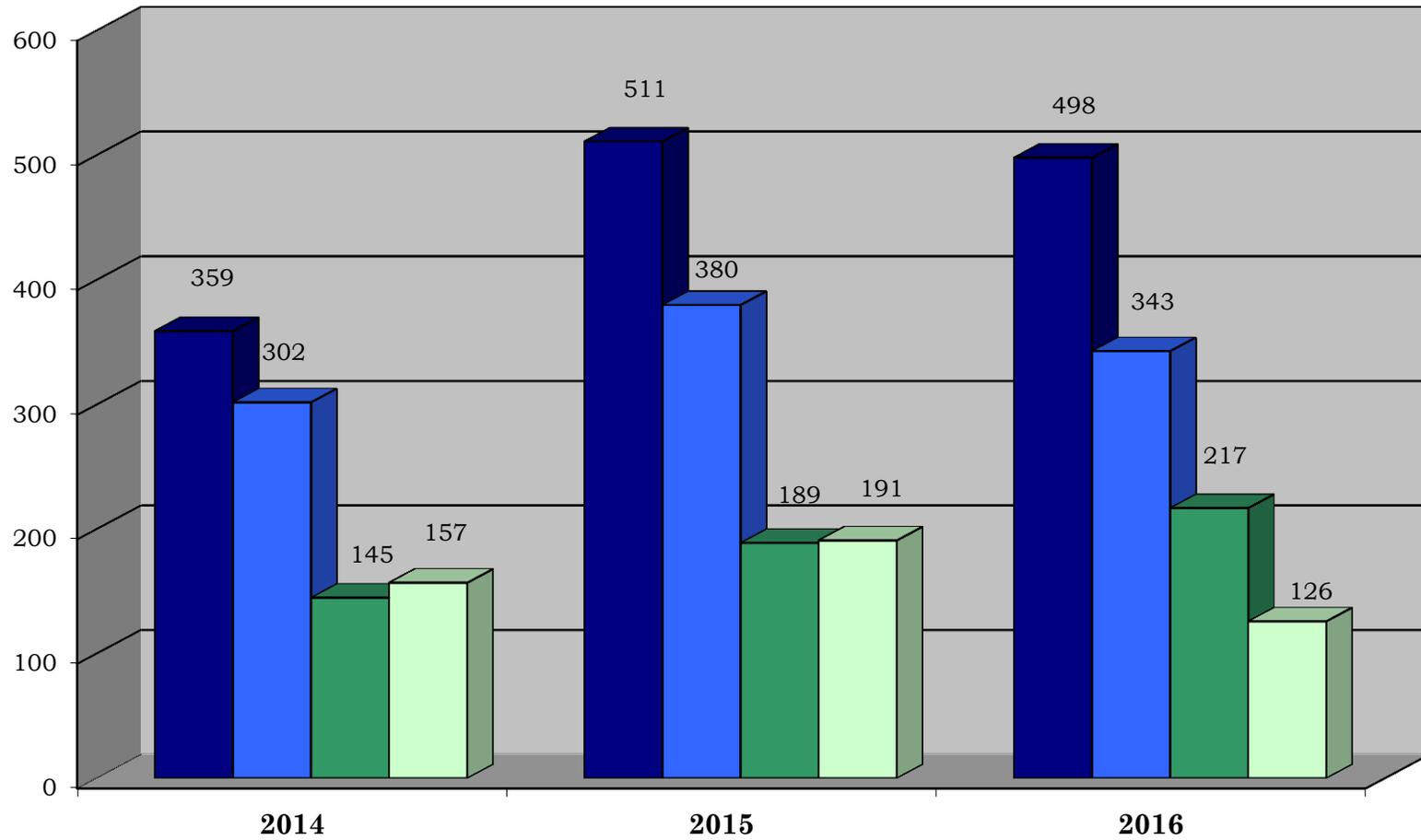
Distribution of Dealer Cases (n=126/343)

(Chart E)



- Repair issue w/D only (15.079%)(19/126)
- Advertising Issues (0.794%)(1/126)
- Non-disclosure previous rental V(0.794%)(1/126)
- V options Misrepresented (10.317%)(13/126)
- Used V Previous Accident Problems (0.794%) (1/126)
- Financing Issues (3.968%)(5/126)
- Material Damage to New V (7.937%) (10/126)
- Issue with Contract (3.968%)(5/126)
- Buyer's Remorse (7.937%) (10/126)
- Damage by Dealer during repair(0.794%) (1/126)
- Conditional Sales K (6.349%) (8/126)
- Problem w/Ext. Warranty Purchase (4.762%)(6/126)
- Registration/Title (8.730%)(11/126)
- Other Dealer Issues (11.905%)(15/126)
- Trade in not paid off (0.794%) (1/126)
- Used V Sold "As Is" (10.317%) (13/126)
- End of Lease Fees 3.175%)(4/126)
- Buyers Remorse of Options (1.587%) (2/126)

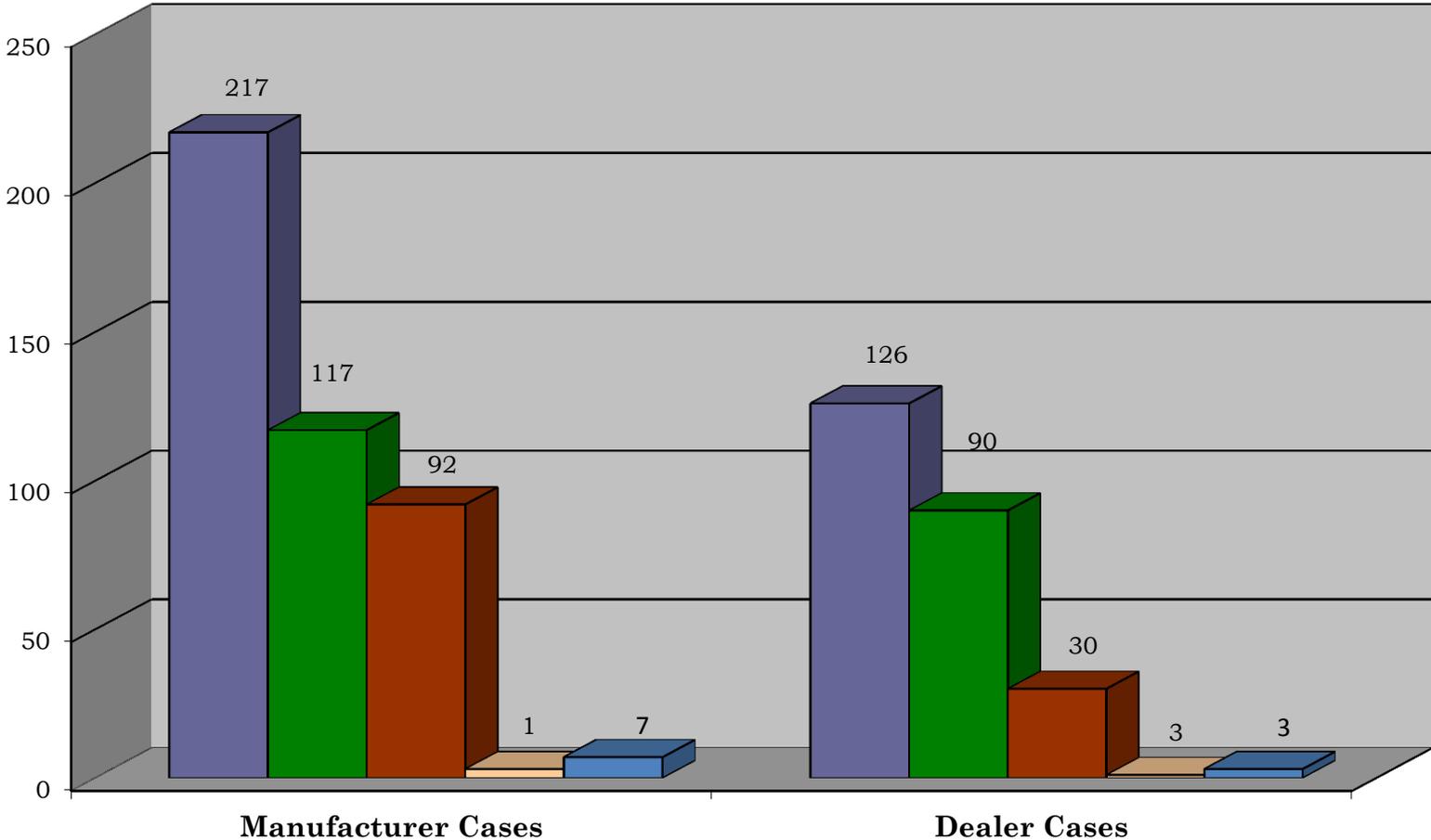
**DISTRIBUTION OF CASES  
3 YEAR COMPARISON  
(Chart F)**



■ Total Cases Received    ■ Total Mediated Cases  
■ Manufacturer Cases    ■ Dealer Cases

## Comparison of Mediated Cases Manufacturer vs Dealership

(Chart G)



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

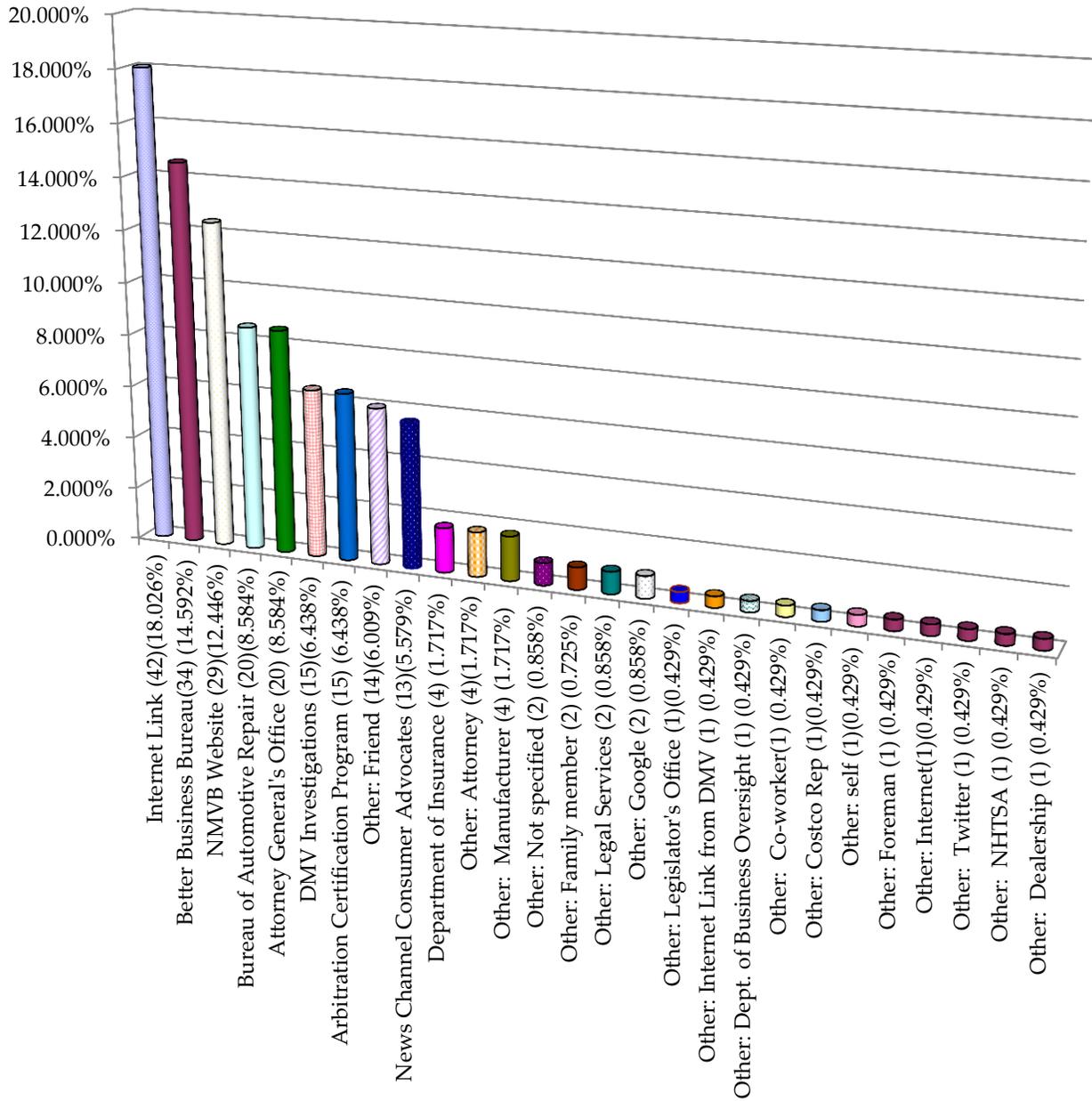
Of the total Mediated Cases (343), there were 126 Dealer cases and 217 Manufacturer Cases. Of the Dealer Cases, 72% (90) were mediated successfully compared to 54% (117) of the Manufacturer Cases. Of the cases not resolved successfully, there were 24% (30) of the Dealer Cases, and 42% (92) of the Manufacturer Cases. There was 1 Manufacturer case that the consumer did not accept a Reasonable Offer. There were also 3 Dealer cases that the consumer did not accept a Reasonable Offer and there was also 3 Dealer cases that were completely mediated where the resolution was classified as "other" and 7 Manufacturer cases that was completely mediated where the resolution was classified as "other". The mediation cases that were not completely mediated are not included.

# NMVB MEDIATION PROGRAM

2015/2016 FY

How did you hear about us?(n=233/498)

(Chart H)



|   |  |
|---|--|
| Internet Link (42)(18.026%)                     | Better Business Bureau(34) (14.592%)       |
| NMVB Website (29)(12.446%)                      | Bureau of Automotive Repair (20)(8.584%)   |
| Attorney General's Office (20) (8.584%)         | DMV Investigations (15)(6.438%)            |
| Arbitration Certification Program (15) (6.438%) | Other: Friend (14)(6.009%)                 |
| News Channel Consumer Advocates (13)(5.579%)    | Department of Insurance (4) (1.717%)       |
| Other: Attorney (4)(1.717%)                     | Other: Manufacturer (4) (1.717%)           |
| Other: Not specified (2) (0.858%)               | Other: Family member (2) (0.725%)          |
| Other: Legal Services (2) (0.858%)              | Other: Google (2) (0.858%)                 |
| Other: Legislator's Office (1)(0.429%)          | Other: Internet Link from DMV (1) (0.429%) |
| Other: Dept. of Business Oversight (1) (0.429%) | Other: Co-worker(1) (0.429%)               |
| Other: Costco Rep (1)(0.429%)                   | Other: self (1)(0.429%)                    |
| Other: Foreman (1) (0.429%)                     | Other: Internet(1)(0.429%)                 |
| Other: Twitter (1) (0.429%)                     | Other: NHTSA (1) (0.429%)                  |
| Other: Dealership (1) (0.429%)                  |  |