



STATE OF CALIFORNIA

MEMO

**To: ADMINISTRATION COMMITTEE
RYAN BROOKS, MEMBER**

January 9, 2014

**From : WILLIAM BRENNAN
JACKIE GRASSINGER**

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") 2012-13.

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 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 269 cases (an average of 22 cases per month) and 709 telephone calls last year (an average of 59 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 269 cases received, 222 were mediated. The remaining 47 cases were closed as “not completed mediated cases”. Out of the 47 cases, 17 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 30 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 269 cases, of which 222 of those cases were mediated (83%).
- Out of those 222 cases, 66% were mediated successfully (n=147).
- 32% of mediated cases were closed because a successful resolution was not reached (n=71).
- In a little more than 1% of the mediated cases, it was the opinion of the mediator that a reasonable offer was made but not accepted (n=3).
- There was one case closed with “other” (0.005% n=1). This case was partially resolved. The Kenworth truck was repaired by the manufacturer, however the manufacturer would not reimburse for leaking LNG fuel.

Dealer Cases

- Of the 269 cases received in Mediation, 161 were dealer related. 17 cases included in the 161 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 (222).
- Of the 222 that were completely mediated, 144 were dealer related.
- 73% were mediated successfully (n=105).
- 26% of dealer cases were closed because a successful resolution was not reached (n=37).
- 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).

Manufacturer Cases

- Of the 269 cases received in Mediation, 95 were manufacturer related. 17 cases included in the 95 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 (222).
- Of the 222 cases that were completely mediated, 78 were manufacturer related.
- 54% of manufacturer cases were mediated successfully (n=42).
- 44% of manufacturer cases were closed because a successful resolution was not reached (n=34).
- In 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=1).
- In mediated cases with the manufacturer, 17% resulted in the manufacturer buying back or replacing the vehicle (n=13).

Manufacturer Related Safety Cases

Of the Manufacturer Mediated cases (n=95), - 13 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 count of 13 repurchases/replacements).

You will find attached seven informational charts:

- 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 09-10 through FY 12-13 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%
FY 12-13	709	269	222	66.0%

- **Survey**

Staff is currently working with DMV to develop a survey for consumers, dealers, and manufacturers to complete once a case is closed (a previous survey was conducted in 2009). This survey will help to measure the effectiveness and consumer, dealer, and manufacturer satisfaction with the Mediation Program. We are hopeful that this will be accomplished this year, and that we will be able to include these statistics in next year's annual report.

- **Case Duration**

Duration of Mediated Cases:

- 2010 average number of days = 69
- 2011 average number of days = 39
- 2012 average number of days = 39
- 2013 average number of days = 26

- **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 238 of the 269 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: Bismarck Obando, President

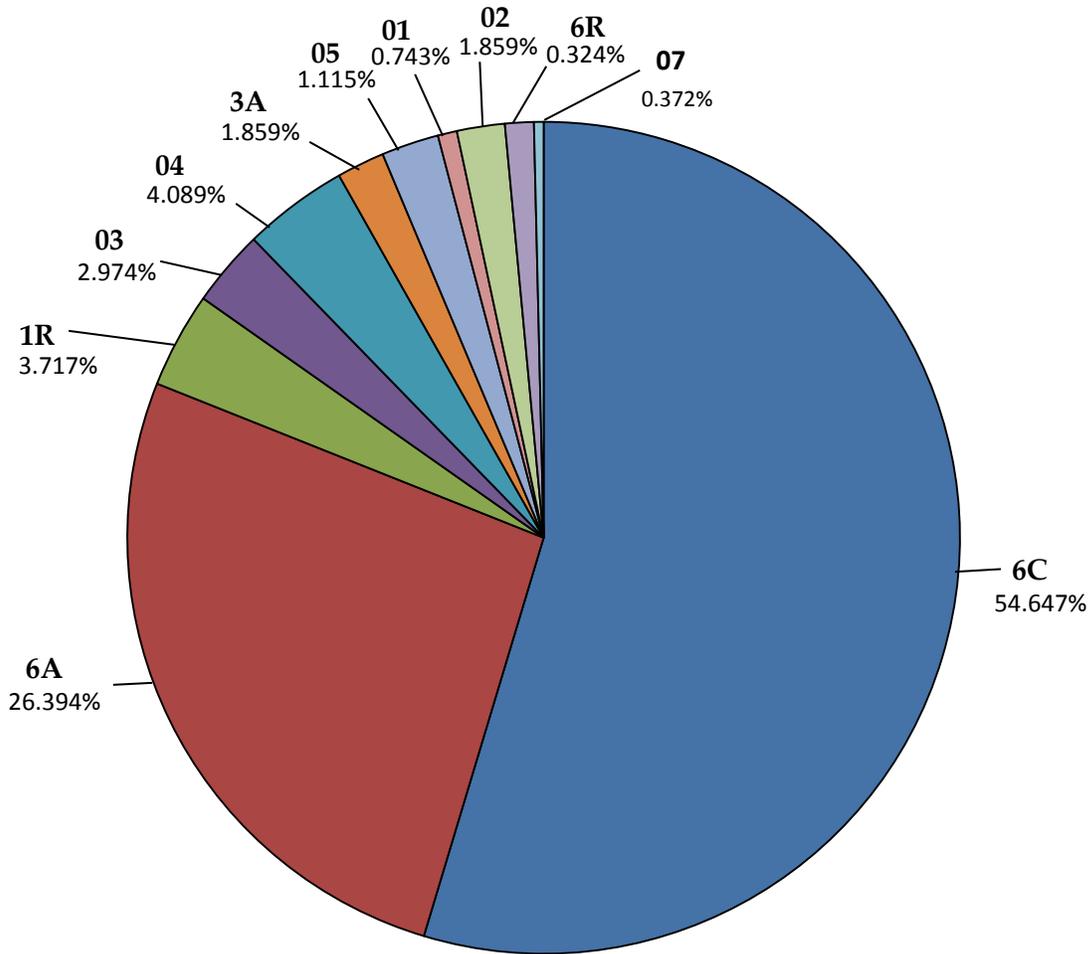
P:\MEDIATION\Statistics\Case Completion\2013\Mediation FY2013 Report.doc

NMVB MEDIATION PROGRAM

2012/2013 FY

Distribution by Outcome of Total Cases Received

(Chart A)



- 6C Mediation Complete (147)54.647%
- 6A Mediation Complete proceeded to Arb/Legal (71)26.394%
- 1R No Jurisdiction referred to proper Agency (10) 3.717%
- 03 Consumer Abandoned (8) 2.974%
- 04 No Dealer Response (11) 4.089%
- 3A Consumer Abandoned - Arb/Legal (5)1.859%
- 05 No Manufacturer Response (6) 2.230%
- 01 No Jurisdiction (2) 0.743%
- 02 No Merit/No Action Sought (5)1.859%
- 6R Mediation complete - Consumer refused offer (3) 1.115%
- 07 Other (1) 0.372%

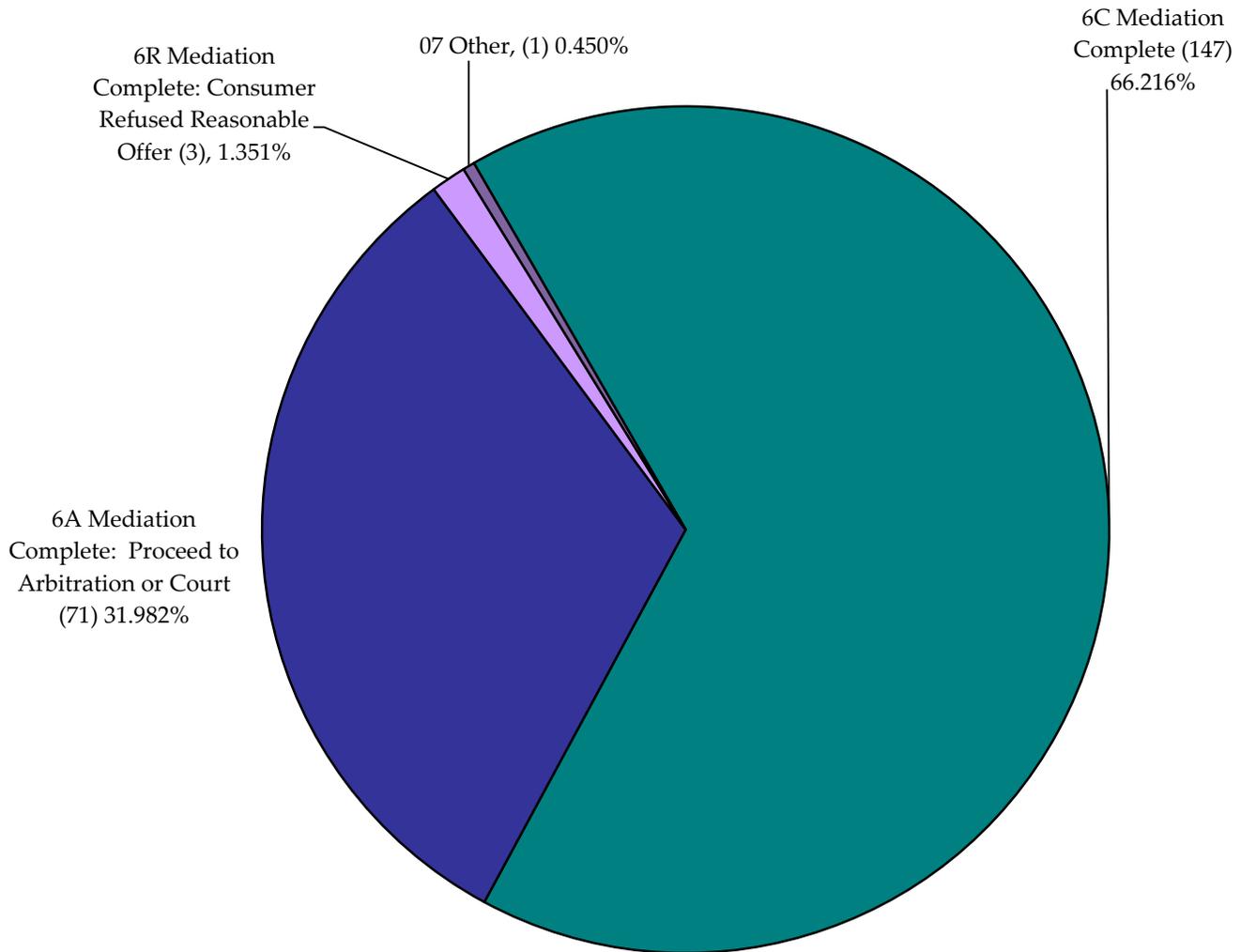
There was 1 case in FY 2012/2013 that is listed as a case completion of "Other". This case was partially resolved. The Kenworth truck was repaired; however the manufacturer would not reimburse for leaking LNG fuel.

The Mediation Program received 269 cases in FY 2012-2013

NMVB MEDIATION PROGRAM

2012/2013 FY Distribution of
Total Cases Mediated (222)

(Chart B)



Note - Out of the 269 cases received, a total of 222 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.

There was 1 case in FY 2012/2013 that is listed as a case completion of "Other". This case was partially resolved. The Kenworth truck was repaired; however the manufacturer would not reimburse for leaking LNG fuel.

■ 6C Mediation Complete (147) 66.216%
■ 6A Mediation Complete: Proceed to Arbitration or Court (71) 31.982%
■ 6R Mediation Complete: Consumer Refused Reasonable Offer (3) 1.351%
■ 07 Other (1) 0.450%

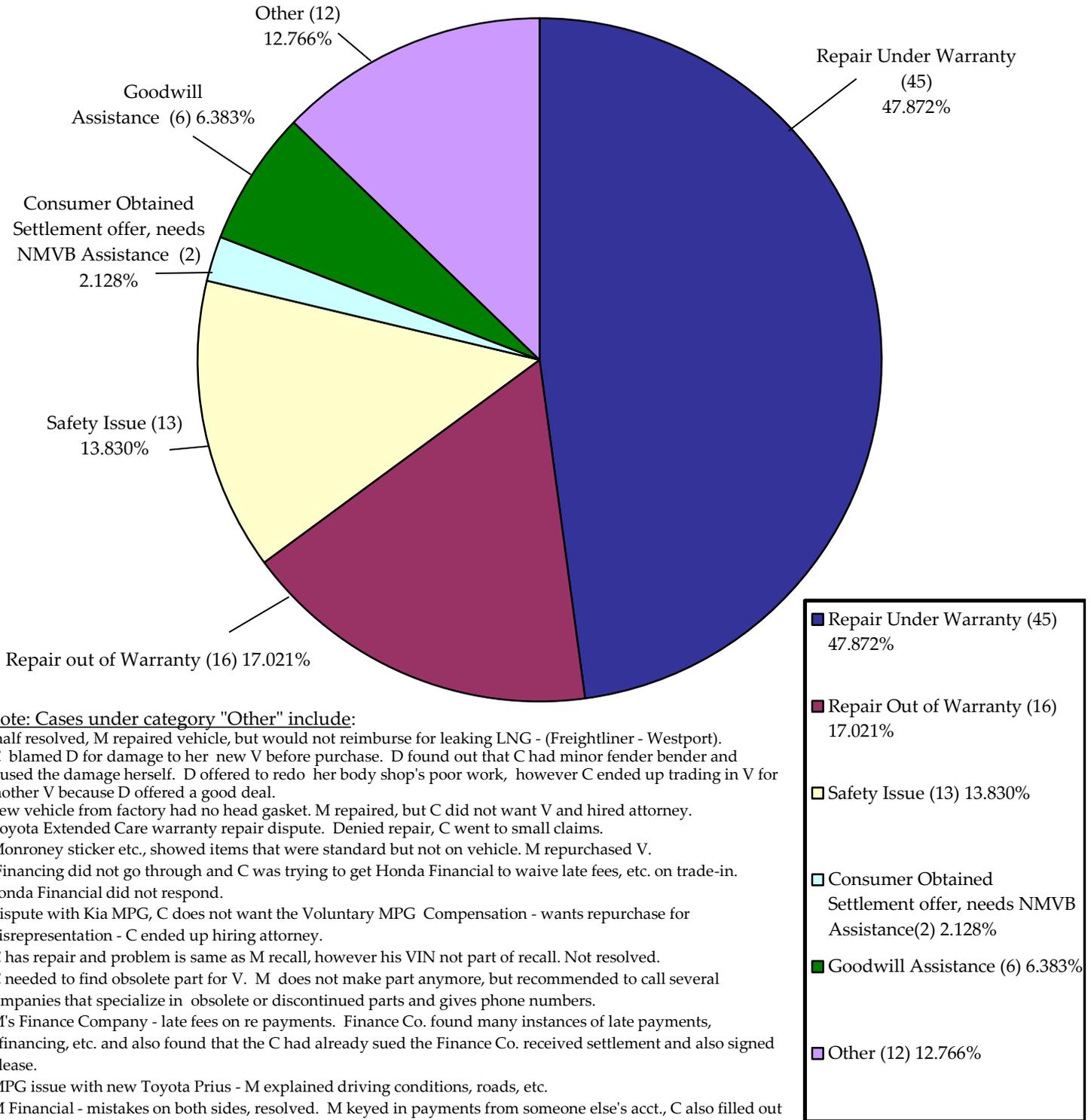
NMVB Mediation Program

2012/2013 FY Distribution of Manufacturer Cases (n=95/260)

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

There were 12 cases in which the manufacturer repurchased/replaced the vehicle.

(Chart C)

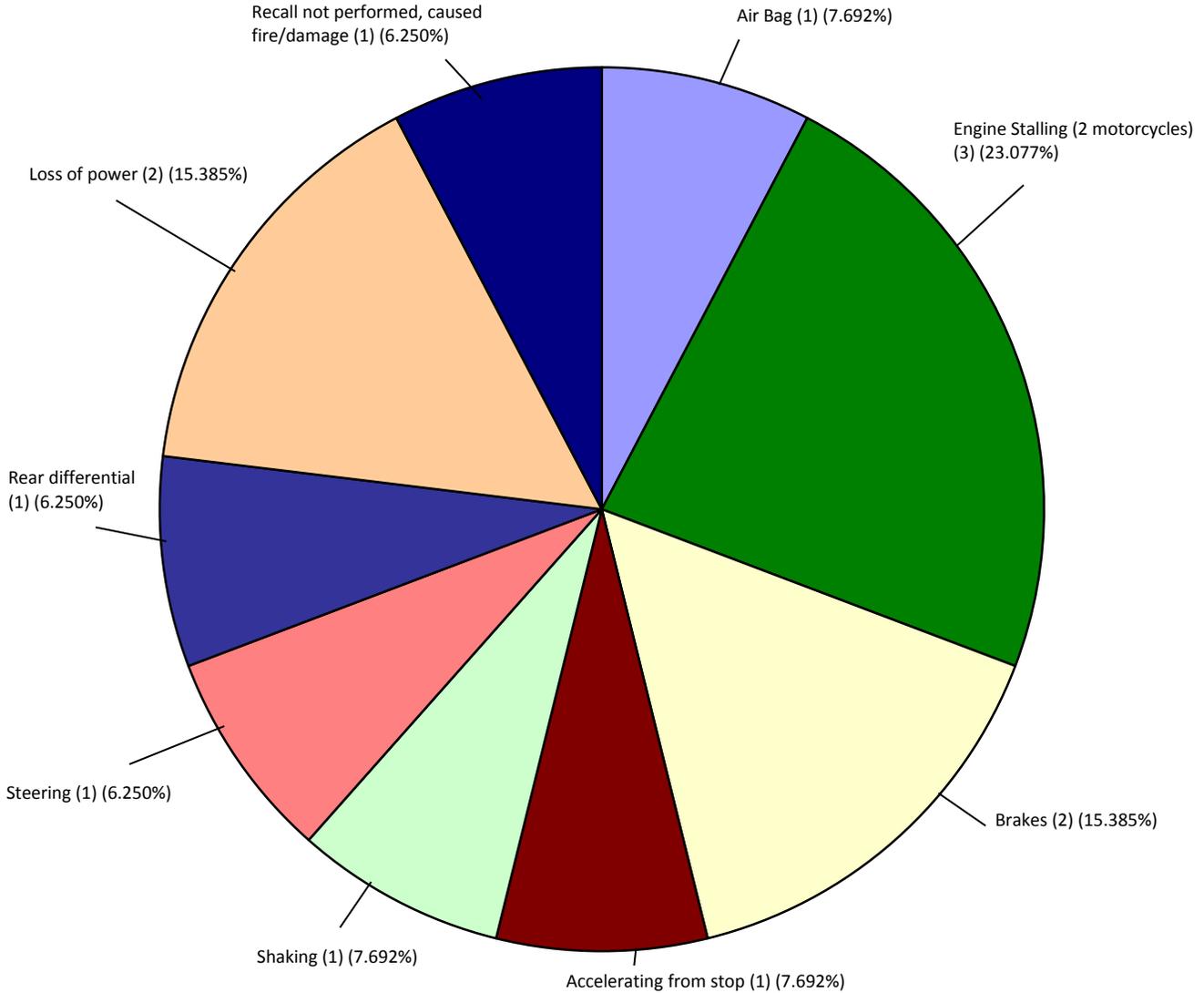


NMVB MEDIATION PROGRAM

2012-2013 FY

Distribution of Safety Related Cases

(Chart D)



Note: Of the Manufacturer cases (n=95), 13 cases involved some kind of safety related concern, of which, 1 case resulted in a voluntary buyback by the manufacturer (brake issue). The Mediation Program altogether assisted consumers in 13 repurchases/replacements in FY 2012/2013.

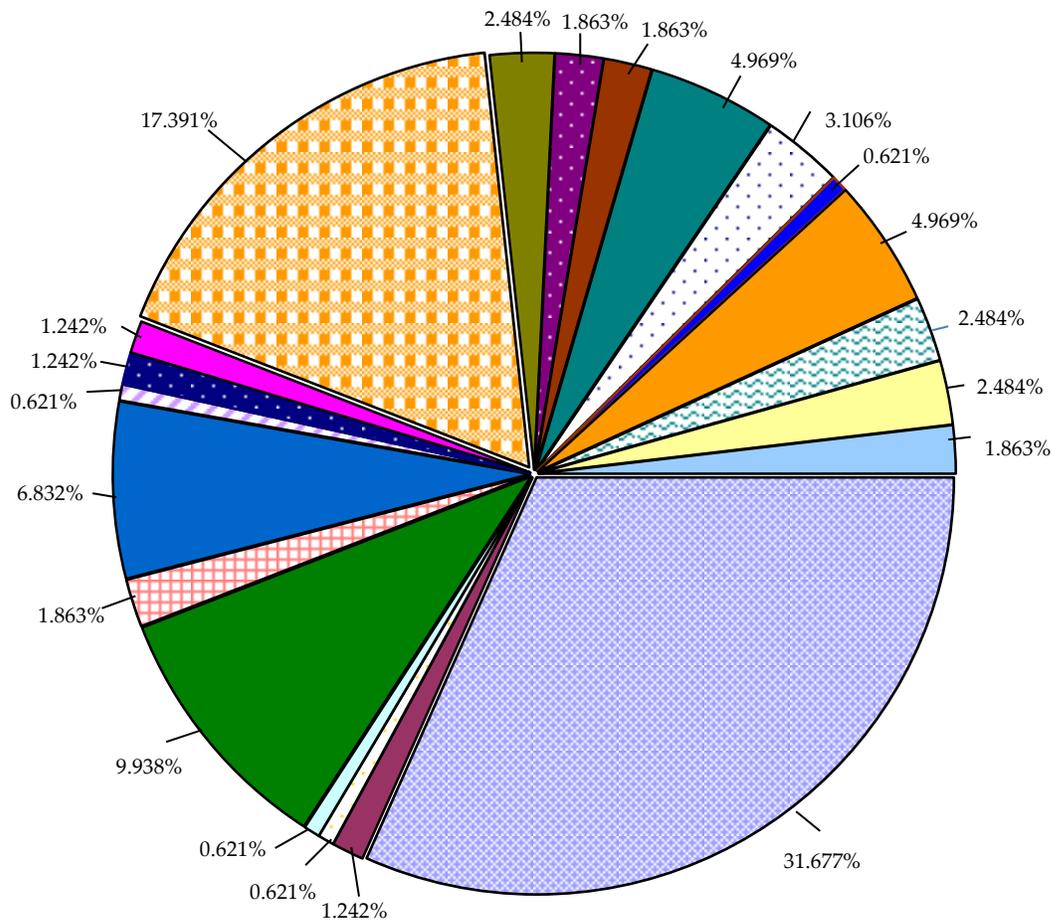
- Air bag (1) (7.692%)
- Engine Stalling (2 motorcycles)(3)(23.077%)
- Brakes (2)(15.385%)
- Accelerating from stop (1)(7.692%)
- Shaking (1)(7.692%)
- Steering(1)(7.692%)
- rear differential(1)(7.692%)
- Loss of power (2)(15.385%)
- recall not performed, caused fire/damage (1)(7.692%)

NMVB MEDIATION PROGRAM

2012/2013 FY

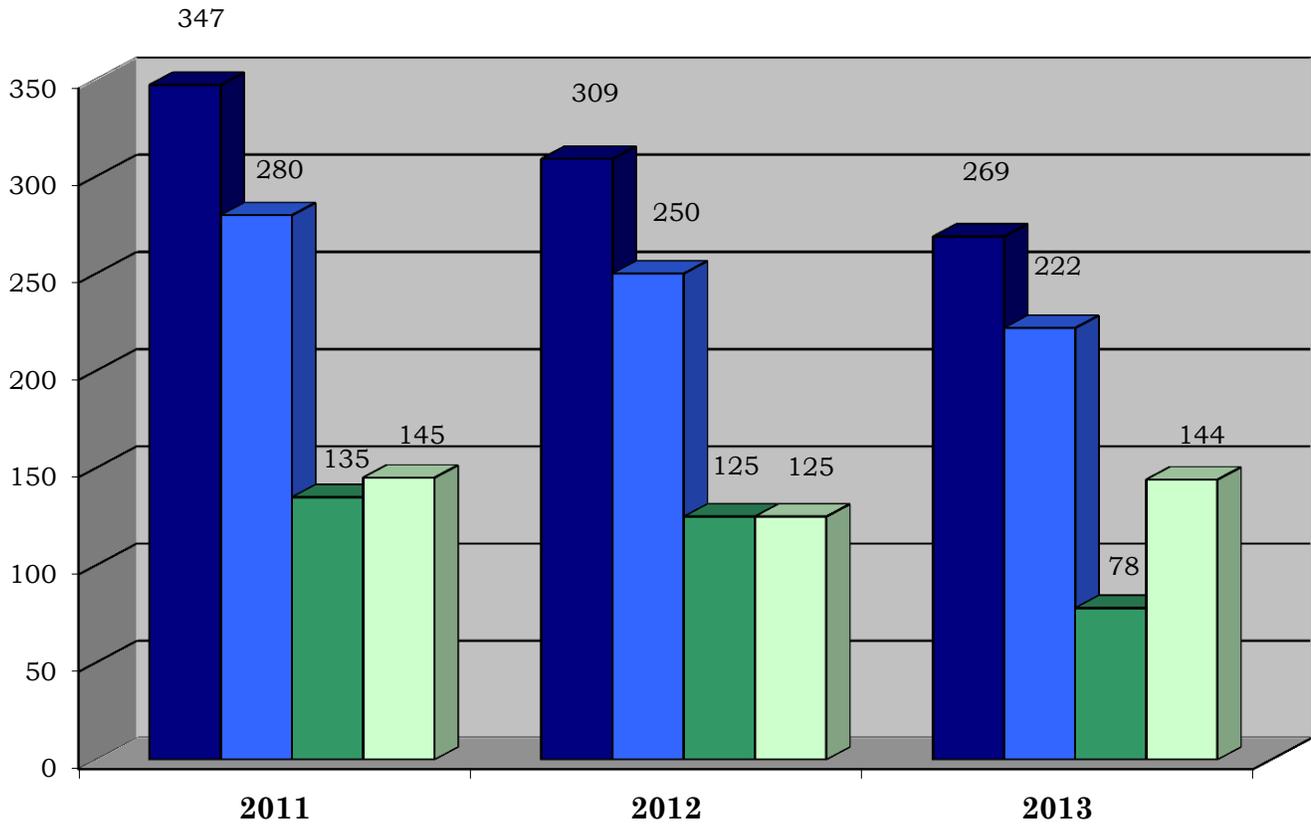
Distribution of Dealer Cases (n=161/269)

(Chart E)



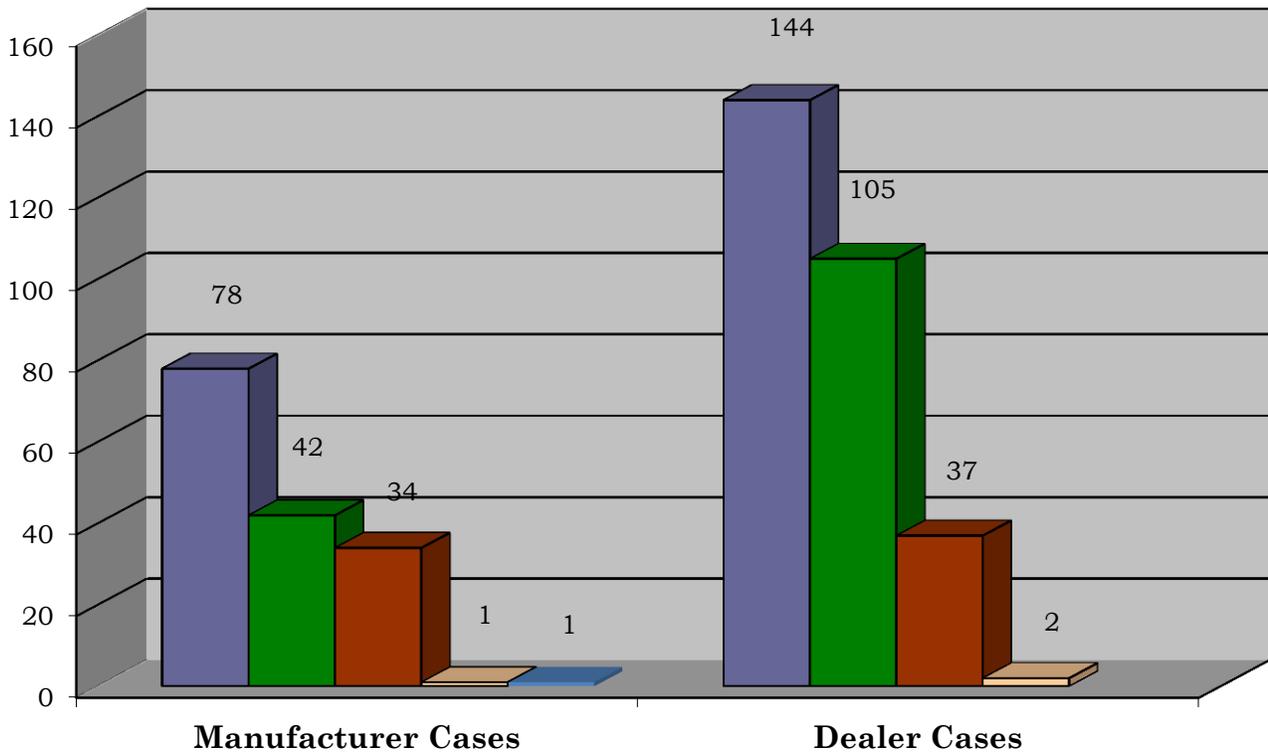
Repair issue w/D only (31.677%)(51/161)	Advertising Issues (1.242%)(2/161)
Smog (0.621%) (1/161)	Certified Vehicle (0.621%)(1/161)
V options Misrepresented (9.938%)(16/161)	Used V Previous Accident Problems (1.863%) (3/161)
Financing Issues (6.832%)(11/161)	Removal of Window Sticker (0.621%) (1/161)
Damage by Dealer (1.242%) (2/161)	Material Damage to New V (1.242%) (2/161)
Issue with Contract (17.391%)(28/161)	Buyer's Remorse (2.484%) (4/161)
Conditional Sales K (1.863%) (3/161)	Problem w/Ext. Warranty Purchase (1.863%)(3/161)
Registration/Title (4.969%)(8/161)	Other Dealer Issues (3.106%)(5/161)
Trade in not paid off (0.621%) (1/161)	Used V Sold "As Is" (4.969%) (8/161)
Used Vehicle Sold as "New" (2.484%) (4/1618)	End of Lease Fees (2.484%)(4/161)
Buyers Remorse of Options (1.863%) (3/161)	

**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

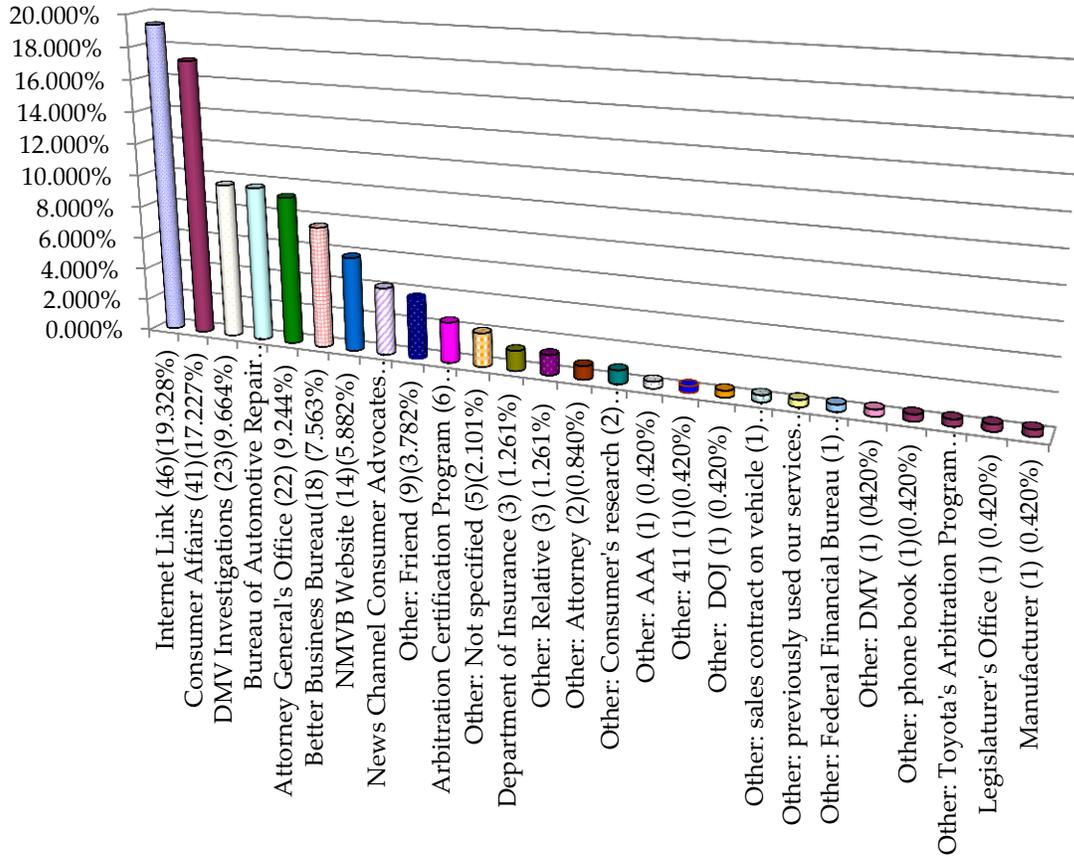
Of the total Mediated Cases (222), there were 144 Dealer cases and 78 Manufacturer Cases. Of the Dealer Cases, 73% (105) were mediated successfully compared to 54% (42) of the Manufacturer Cases. Of the cases not resolved successfully, there were 26% (37) of the Dealer Cases, and 44% (34) of the Manufacturer Cases. There were 2 Dealer cases that the consumer did not accept a Reasonable Offer. There was also 1 Manufacturer case that the consumer did not accept a Reasonable Offer and there was also 1 Manufacturer case where the resolution was classified as "other" (partially resolved).

NMVB MEDIATION PROGRAM

2012/2013 FY

How did you hear about us?(n=238/269)

(Chart H)



Internet Link (46)(19.328%)	Consumer Affairs (41)(17.227%)
DMV Investigations (23)(9.664%)	Bureau of Automotive Repair (23)(9.664%)
Attorney General's Office (22) (9.244%)	Better Business Bureau(18) (7.563%)
NMVB Website (14)(5.882%)	News Channel Consumer Advocates (10)(4.202%)
Other: Friend (9)(3.782%)	Arbitration Certification Program (6) (2.521%)
Other: Not specified (5)(2.101%)	Department of Insurance (3) (1.261%)
Other: Relative (3) (1.261%)	Other: Attorney (2)(0.840%)
Other: Consumer's research (2) (0.840%)	Other: AAA (1) (0.420%)
Other: 411 (1)(0.420%)	Other: DOJ (1) (0.420%)
Other: sales contract on vehicle (1) (0.420%)	Other: previously used our services (1) (0.420%)
Other: Federal Financial Bureau (1) (0.420%)	Other: DMV (1) (0.420%)
Other: phone book (1)(0.420%)	Other: Toyota's Arbitration Program (1)(0.420%)
Legislaturer's Office (1) (0.420%)	Manufacturer (1) (0.420%)