



STATE OF CALIFORNIA

MEMO

**To: ADMINISTRATION COMMITTEE
 RYAN BROOKS, CHAIR
 RAHIM HASSANALLY, MEMBER**

January 21, 2014

**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 goals and case conclusions for the Fiscal Year ("FY") 2013-14.

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 359 cases (an average of 30 cases per month) and 824 telephone calls last year (an average of 69 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 359 cases received, 302 were mediated. The remaining 57 cases were closed as “not completed mediated cases”. Out of the 57 cases, 24 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 33 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 (16 no responses from dealers and 5 no responses from manufacturers).

Total Cases Received in the Mediation Program

- The Program received a total of 359 cases, of which 302 of those cases were mediated (84%).
- Out of those 302 cases, 67% were mediated successfully (n=201).
- 32% of mediated cases were closed because a successful resolution was not reached (n=95).
- 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=4).
- There were two cases closed with a resolution of “other” (0.662% n=2). One case was partially resolved – the vehicle had a misaligned chassis that was repaired, however the consumer also disputed that all incentives were not given at the time of purchase and that was not resolved. The other case involved a Toyota Prius with acceleration concern and the consumer ended up trading the vehicle in for a resolution.

Dealer Cases

- Of the 359 cases received in Mediation, 190 were dealer related. 20 cases included in the 190 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 (302).

- Of the 302 that were completely mediated, 170 were dealer related.
- 76% were mediated successfully (n=129).
- 23% of dealer cases were closed because a successful resolution was not reached (n=39).
- 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).
- In less than 1% of the mediated cases, the resolution was listed as “other”.

Manufacturer Cases

- Of the 359 cases received in Mediation, 145 were manufacturer related. 13 cases included in the 145 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 (302).
- Of the 302 cases that were completely mediated, 132 were manufacturer related.
- 56% of manufacturer cases were mediated successfully (n=74).
- 41% of manufacturer cases were closed because a successful resolution was not reached (n=54).
- 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, 22% resulted in the manufacturer buying back or replacing the vehicle (n=29).

Manufacturer Related Safety Cases

Of the Manufacturer Mediated cases (n=132), - 11 cases involved some kind of safety related concern; of which, 4 resulted in a voluntary buyback by the manufacturer (these 4 cases are included in the total count of 29 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 10-11	736	347	280	70.0%
FY 11-12	640	309	250	73.0%
FY 12-13	709	269	222	66.0%
FY 13-14	824	359	302	67.0%

- **Survey**

Staff has completed a sample survey to be sent to previously closed cases to measure the effectiveness and consumer, dealer, and manufacturer satisfaction with the Mediation Program (a previous survey was conducted in 2009). This survey may result in separate reports to the Board on findings or results of the survey in the upcoming months.

- **Case Duration**

Duration of Mediated Cases:

2011 average number of days = 39

2012 average number of days = 39

2013 average number of days = 26

2014 average number of days = 35

- **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 342 of the 359 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

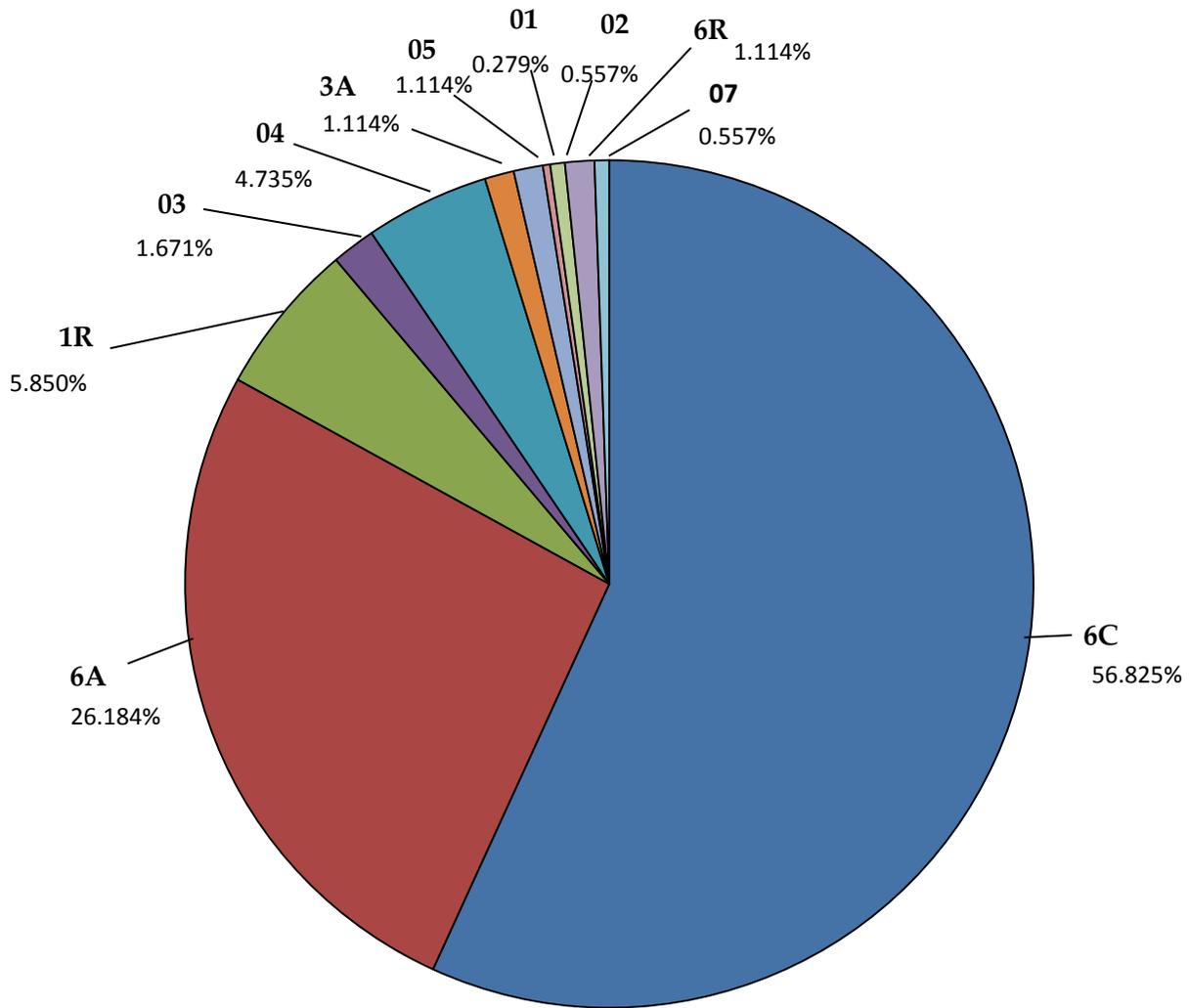
P:\MEDIATION\Statistics\Case Completion\2014\Mediation FY2014 Report.doc

NMVB MEDIATION PROGRAM

2013/2014 FY

Distribution by Outcome of Total Cases Received

(Chart A)



- 6C Mediation Complete (204)56.825%
- 6A Mediation Complete proceeded to Arb/Legal (94)26.184%
- 1R No Jurisdiction referred to proper Agency (21)5.850%
- 03 Consumer Abandoned (6) 1.671%
- 04 No Dealer Response (17) 4.735%
- 3A Consumer Abandoned - Arb/Legal (4)1.114%
- 05 No Manufacturer Response (4) 1.114%
- 01 No Jurisdiction (1) 0.279%
- 02 No Merit/No Action Sought (2)0.557%
- 6R Mediation complete - Consumer refused offer (4) 1.114%
- 07 Other (2) 0.557%

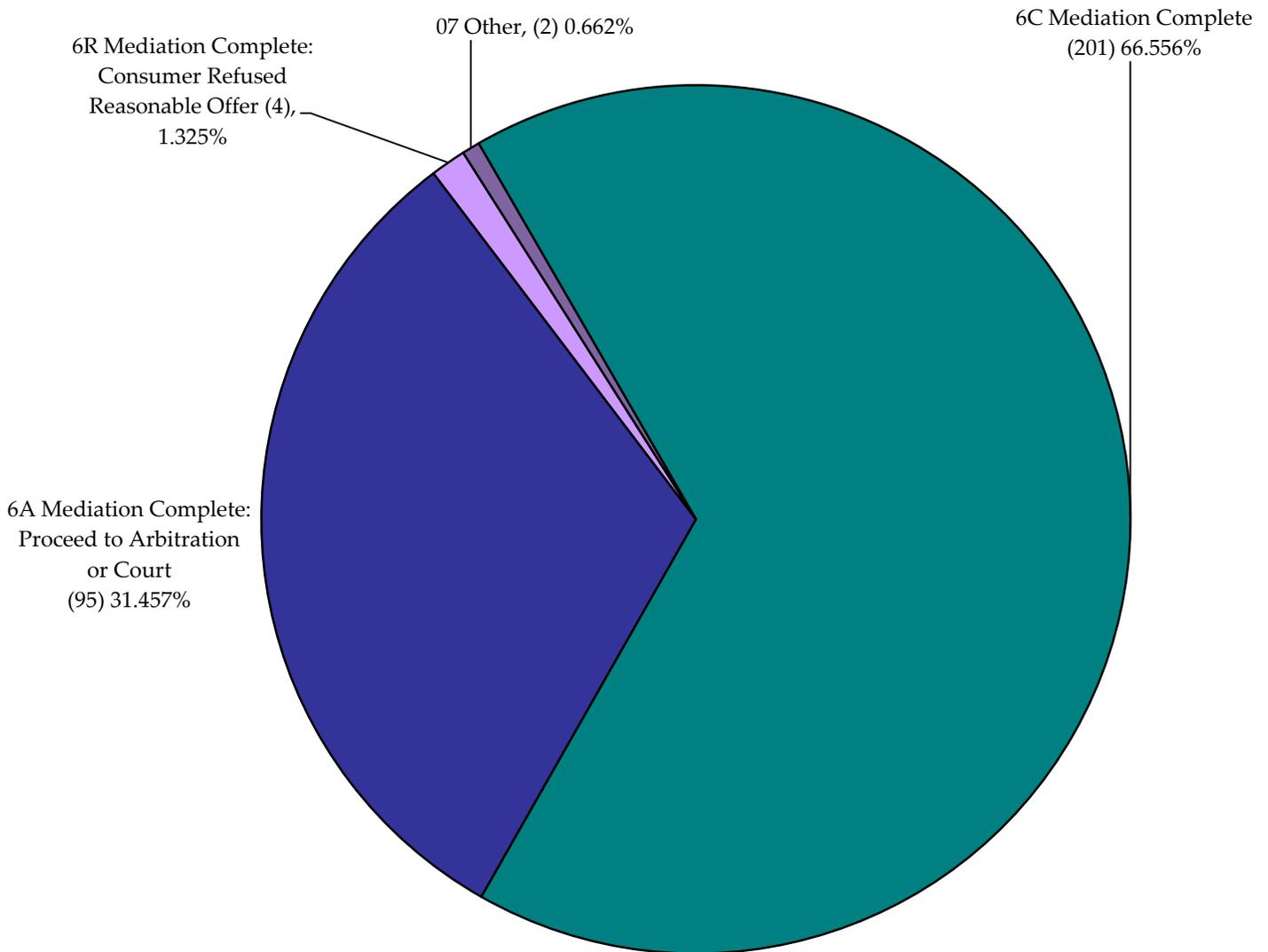
There were 2 cases in FY 2013/2014 that is listed as a case completion of "Other". One case was partially resolved, C received repair on unaligned chassis, but still disputes that not all incentives were given at purchase. The second case closed with other involves a Prius with acceleration concern - C ended up selling

The Mediation Program received 359 cases in FY 2013-

NMVB MEDIATION PROGRAM

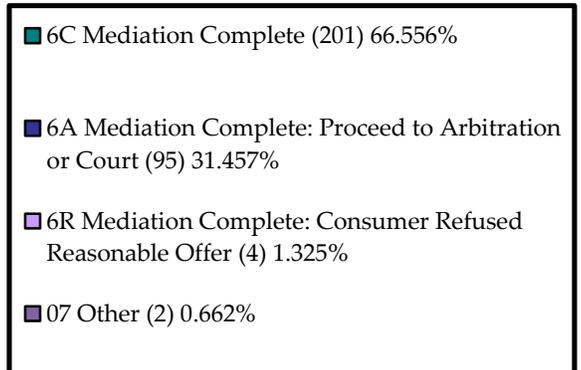
2013/2014 FY Distribution of
Total Cases Mediated (302)

(Chart B)



Note - Out of the 359 cases received, a total of 302 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 were 2 cases in FY 2013/2014 that is listed as a case completion of "Other". One case was partially resolved, C received repair on unaligned chassis, but still disputes that all incentives were not given at purchase. The second case closed with other involves a Prius with acceleration concern - C ended up selling the V for resolution.

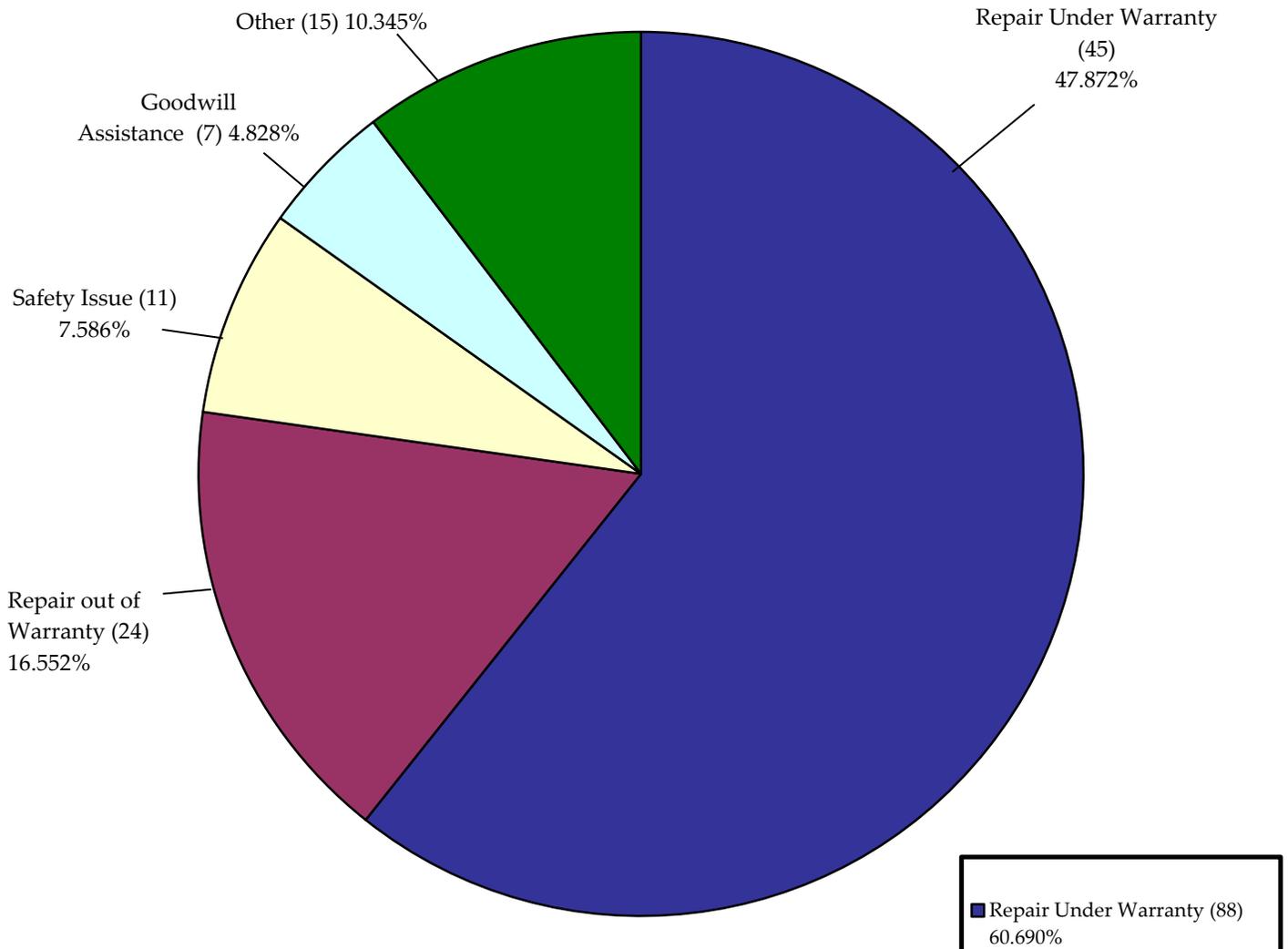


NMVB Mediation Program

2013/2014 FY Distribution of Manufacturer Cases (n=145/359)

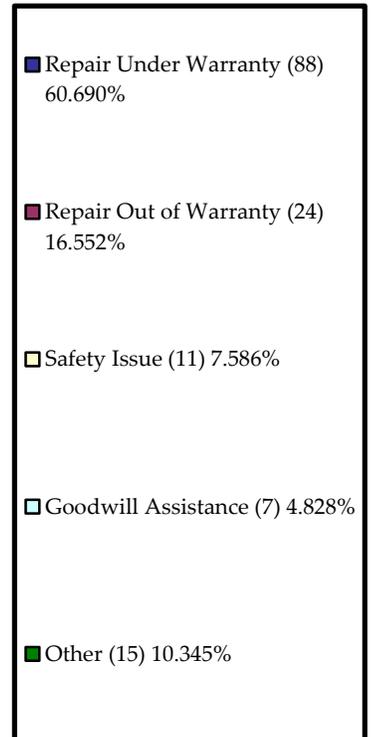
This chart shows all Manufacturer cases including no response or consumer abandoned cases. There were 29 cases in which the manufacturer repurchased/replaced the vehicle.

(Chart C)



Note: Cases under category "Other" include:

- TSB warranty issue with M.
- M issues, but D bought back V
- D issues, Used V sold as new, however M reinstated warranty from zero miles and refunded Ext. warranty as goodwill.
- C wants repair done without software upgrade and M states they have to do upgrade.
- All Zap Vs recalled - C's was finally scheduled for pick up.
- C refused replacement V
- D ended up unwinding deal on LL issue - brakes, safety
- Rust throughout new V inside and out - M responds with no repetitive repairs.
- Prius with acceleration concern - C ended up selling the V for resolution.
- MPG issue with Hybrid Lincoln.
- American Honda Finance and problems with payments from C not being submitted correctly in DB.
- new vehicle's truck bed not aligned right, C got replacement vehicle from M.
- C's purchased V because they could take to Modesto D, Volvo terminated D and C's are elderly and don't drive freeway. M is sympathetic, but nothing they can do.
- driving range of electric V between charges.
- M Finance Company - C says info on new address given but late bills still sent to old address. M waived late fees, but did not contact credit bureaus about 30 day late reports to them.

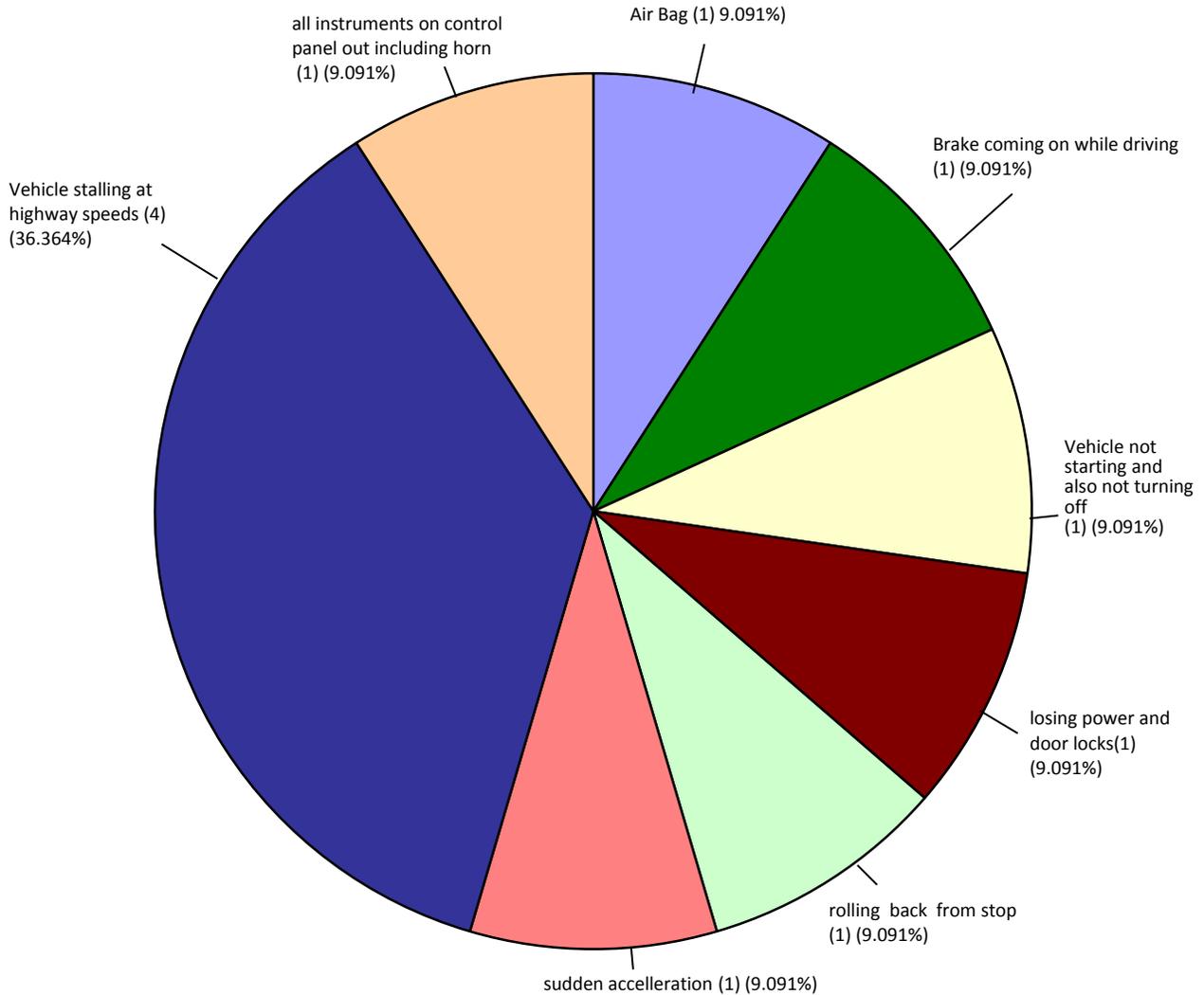


NMVB MEDIATION PROGRAM

2013-2014 FY

Distribution of Safety Related Cases

(Chart D)



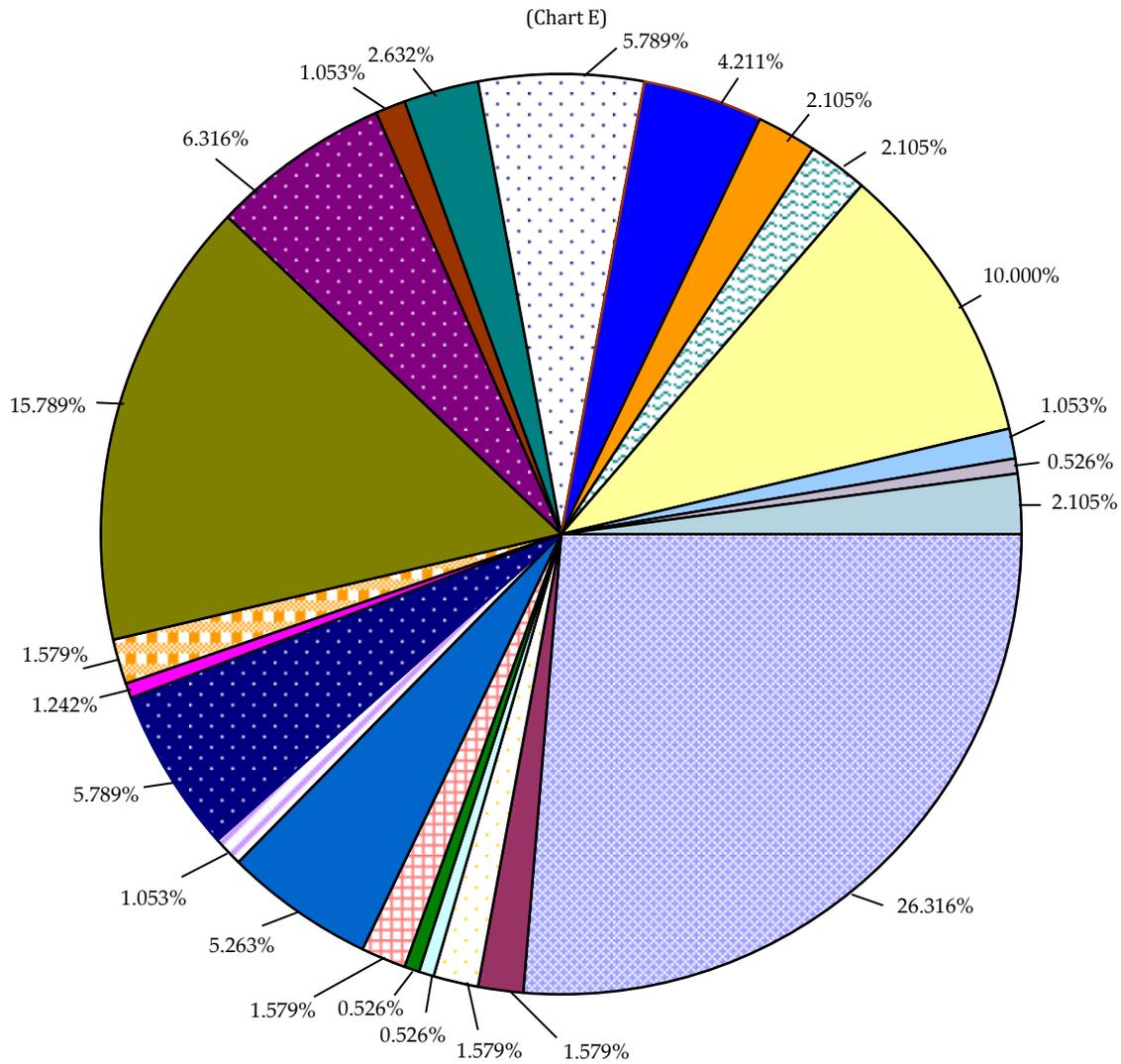
Note: Of the Manufacturer cases (n=145), 11 cases involved some kind of safety related concern, of which, 4 cases resulted in a voluntary buyback by the manufacturer . The Mediation Program altogether assisted consumers in 29 repurchases/replacements in FY 2013/2014.

- Air bag light and stalling (1) (9.091%)
- brake coming on while driving - M repaired. (1)(9.091%)
- V not starting and also not turning off (1)(9.091%)
- losing power and door locks - not duplicated (1)(9.091%)
- rolling back when stopped - design of new vehicle.(1)(9.091%)
- V sudden acceleration, M says burr in driveway and automatic trans, but nothing wrong with V - designed that way(1)(9.091%)
- vehicle stalling at highway speeds (4)(36.364%)
- all instruments on control panel steering wheel out including horn (1)(9.091%)

NMVB MEDIATION PROGRAM

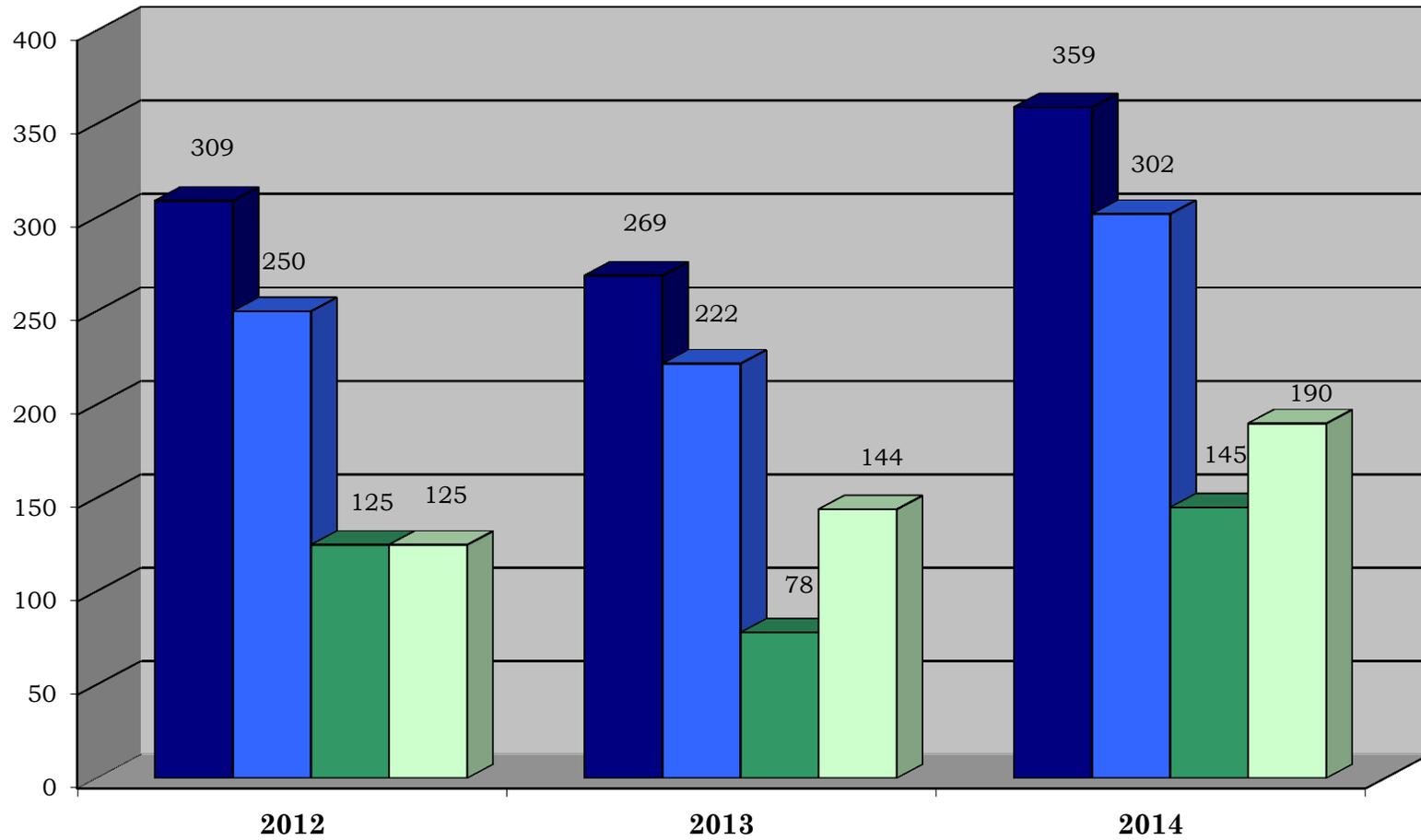
2013/2014 FY

Distribution of Dealer Cases (n=190/359)



Repair issue w/D only (26.316%)(50/190)	Advertising Issues (1.579%)(3/190)
Safety issue w/V (unlawful Act by D)(1.579%)(3/190)	Bait & Switch (0.526%) (1/190)
Sales Tax and License (0.526%) (1/190)	Certified Vehicle (1.579%)(3/190)
V options Misrepresented (5.263%)(10/190)	Used V Previous Accident Problems (1.053%) (2/190)
Financing Issues (5.789%)(11/190)	Removal of Window Sticker (0.526%) (1/190)
Material Damage to New V (1.579%) (3/190)	Issue with Contract (15.789%)(30/190)
Buyer's Remorse (6.316%) (12/190)	Damage by Dealer during repair(1.053%) (2/190)
Conditional Sales K (2.632%) (5/190)	Problem w/Ext. Warranty Purchase (5.789%)(11/190)
Registration/Title (4.211%)(8/190)	Other Dealer Issues (2.105%)(4/190)
Trade in not paid off (2.105%) (4/190)	Used V Sold "As Is" (10.000%) (19/190)
Used Vehicle Sold as "New" (1.053%) (2/190)	End of Lease Fees (0.526%)(1/190)
Buyers Remorse of Options (2.105%) (4/190)	

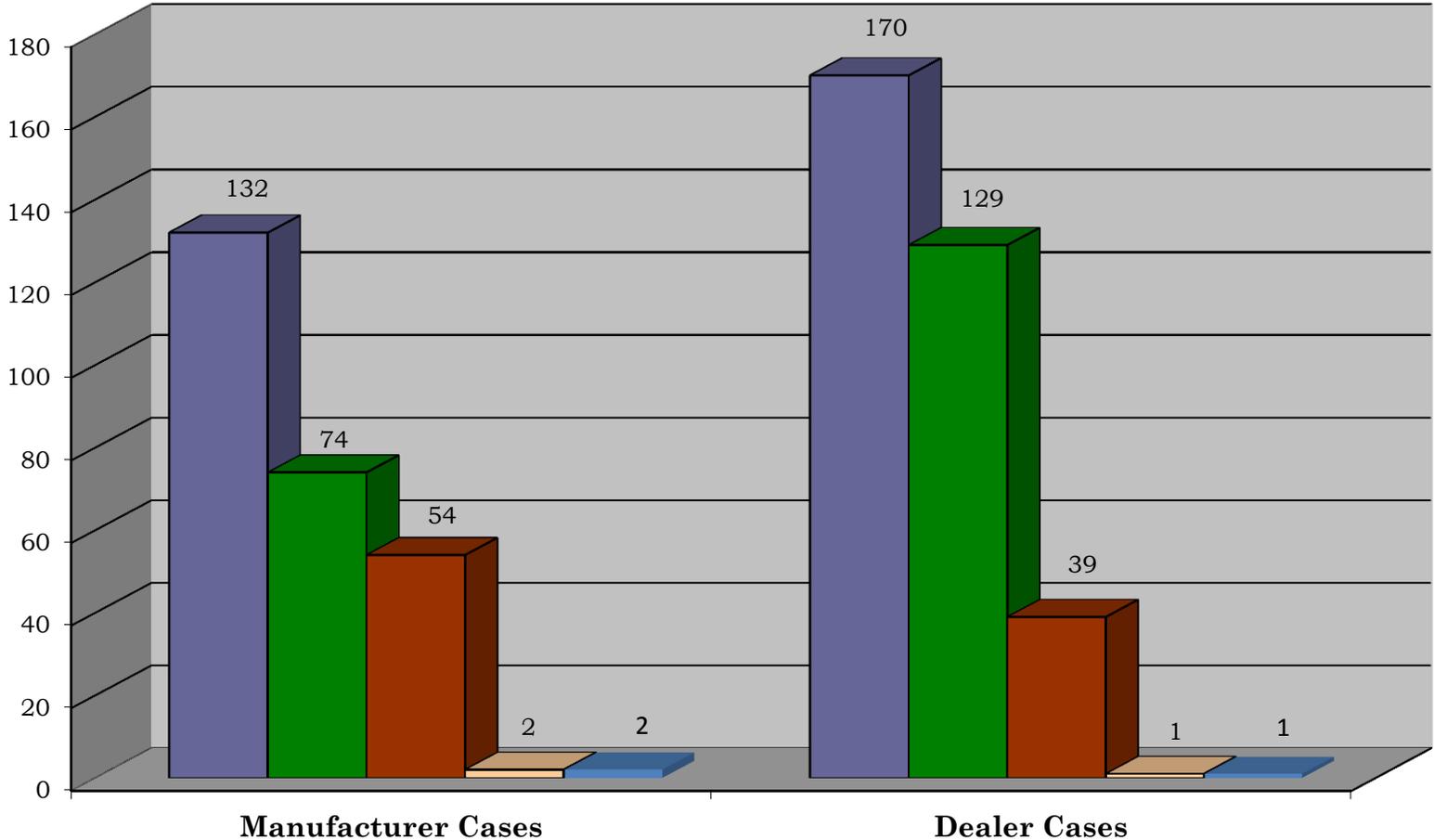
**DISTRIBUTION OF CASES
3 YEAR COMPARISON
(Chart F)**



■ 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

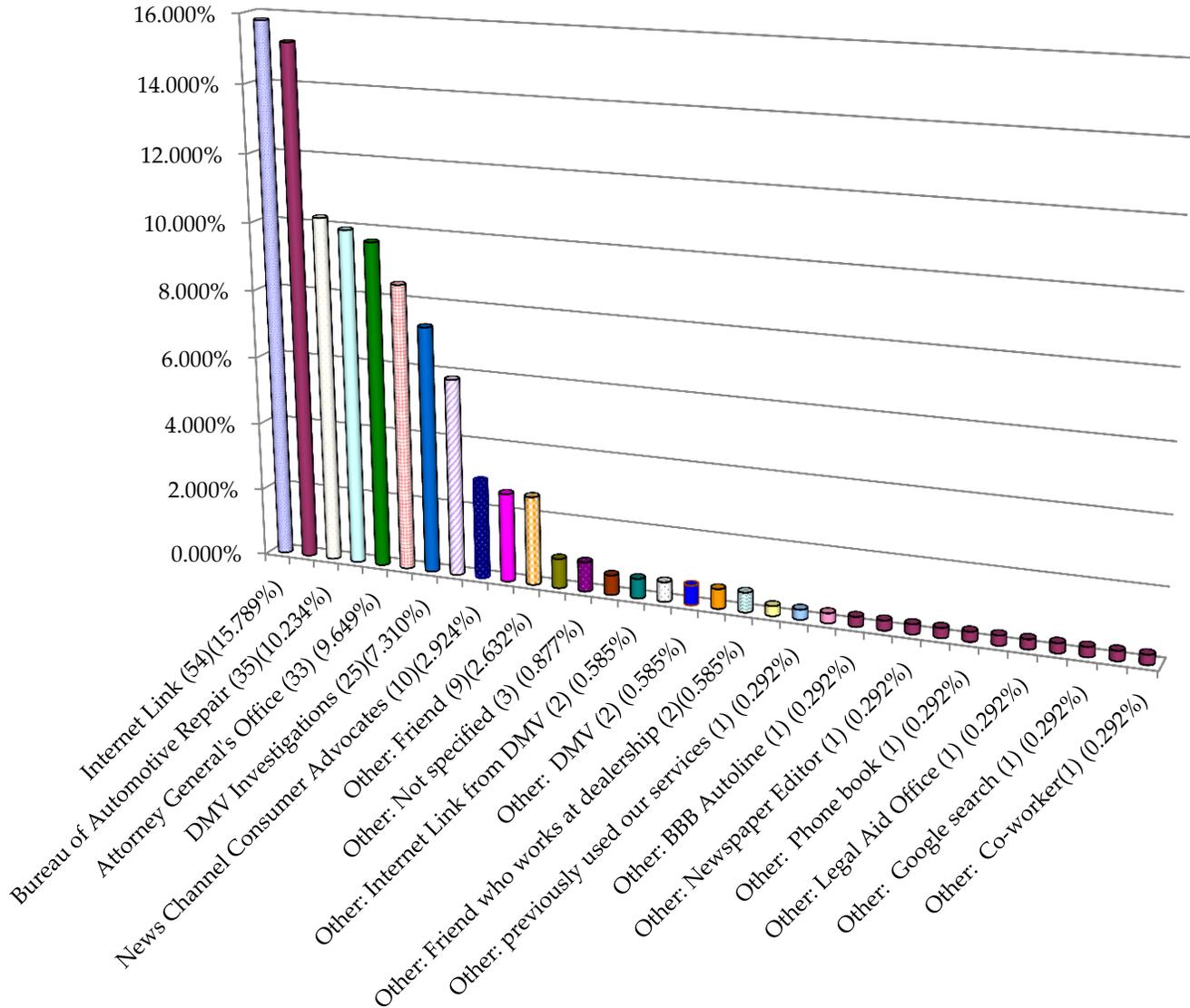
Of the total Mediated Cases (302), there were 170 Dealer cases and 132 Manufacturer Cases. Of the Dealer Cases, 76% (129) were mediated successfully compared to 56% (74) of the Manufacturer Cases. Of the cases not resolved successfully, there were 23% (39) of the Dealer Cases, and 41% (54) of the Manufacturer Cases. There was 1 Dealer case that the consumer did not accept a Reasonable Offer. There were also 2 Manufacturer cases that the consumer did not accept a Reasonable Offer and there was also 1 Manufacturer case and 1 Dealer case that were completely mediated where the resolution was classified as "other" (partially resolved).

NMVB MEDIATION PROGRAM

2013/2014 FY

How did you hear about us?(n=342/359)

(Chart H)



Internet Link (54)(15.789%)	Consumer Affairs (52)(15.205%)
Bureau of Automotive Repair (35)(10.234%)	Better Business Bureau(34) (9.942%)
Attorney General's Office (33) (9.649%)	NMVB Website (29)(8.480%)
DMV Investigations (25)(7.310%)	Arbitration Certification Program (20) (5.848%)
News Channel Consumer Advocates (10)(2.924%)	Other: Attorney (9)(2.632%)
Other: Friend (9)(2.632%)	Department of Insurance (3) (0.877%)
Other: Not specified (3) (0.877%)	Other: Salesperson at dealership (2) (1.261%)
Other: Internet Link from DMV (2) (0.585%)	Other: Manufacturer (2)(0.585%)
Other: DMV (2) (0.585%)	Other: Dept. of Business Oversight (2) (0.585%)
Other: Friend who works at dealership (2)(0.585%)	Legislaturer's Office (1) (0.292%)
Other: previously used our services (1) (0.292%)	Other: McGeorge School of Law (1) (0.292%)
Other: BBB Autoline (1) (0.292%)	Other: Dealer (1)(0.292%)
Other: Newspaper Editor (1) (0.292%)	Other: Employer legal benefits (1) (0.292%)
Other: Phone book (1) (0.292%)	Other: Oregon DMV (1) (0.292%)