



STATE OF CALIFORNIA

MEMO

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

January 7, 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 goals and case conclusions for the Fiscal Year ("FY") 2014-15.

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 511 cases (an average of 43 cases per month) and 726 telephone calls last year (an average of 60 consumer calls per month). The Program received 359 cases last year. That is an increase of 152 cases in one year's time. We believe this increase is mainly due to our outreach and website modifications, and also our involvement with Social Media such as Facebook and Twitter that were initiated a year ago.

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 511 cases received, 380 were mediated. The remaining 131 cases were closed as "not completed mediated cases". Out of the 131 cases, 59 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 80 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 (33 no responses from dealers and 19 no responses from manufacturers).

Total Cases Received in the Mediation Program

- The Program received a total of 511 cases, of which 380 of those cases were completely mediated (74%).
- Out of those 380 cases, 68% were mediated successfully (n=257).
- 31% of mediated cases were closed because a successful resolution was not reached (n=118).
- 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 was one case closed with a resolution of "other" (0.263% n=1). Case closed with "Other" because the consumer received a repurchase of his vehicle, but is uncooperative. He was asked to send documentation in to start repurchase process, and he told the manufacturer to track down all of the documentation themselves stating that it should be available to them and why should he have to provide it.

Dealer Cases

- Of the 380 cases received in Mediation that were completely mediated, 191 were dealer related.
- 72% were mediated successfully (n=137).
- 28% of dealer cases were closed because a successful resolution was not reached (n=53).
- 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 380 cases received in Mediation that were completely mediated, 189 were manufacturer related.
- 62% of manufacturer cases were mediated successfully (n=118).
- 36% of manufacturer cases were closed because a successful resolution was not reached (n=67).
- In a little over 1% of mediated cases, it was the opinion of the mediator that a reasonable offer was made but not accepted (n=3).
- In less than 1% of mediated cases, the conclusion was listed as “other” (n=1).
- In mediated cases with the manufacturer, 30% resulted in the manufacturer buying back or replacing the vehicle (n=57/189).

Manufacturer Related Safety Cases

Of the Manufacturer Mediated cases (n=189), - 30 cases involved some kind of safety related concern; of which, 13 resulted in a voluntary buyback by the manufacturer (these 13 cases are included in the total count of 57 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 11-12 through FY 14-15 for comparison purposes.

	NUMBER OF PHONE CALLS RECEIVED	NUMBER OF CASES RECEIVED	NUMBER OF CASES MEDIATED	SUCCESSFUL COMPLETION RATE
FY 11-12	640	309	250	73.0%
FY 12-13	709	269	222	66.0%
FY 13-14	824	359	302	67.0%
FY 14-15	726	511	380	68.0%

- **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. The chart above shows the increase in cases that the program received from fiscal year 2013/2014 to fiscal year 2014/2015 and we think much of this can be attributed to the New Motor Vehicle Board's involvement now with the internet and social media (including Facebook and Twitter). Chart F (attached) also shows a dramatic increase in cases with a 3 year comparison of cases received. The fact that vehicle sales and registrations have increased since 2009's recession may also be a factor in the increase in cases.

- **Case Duration**

Duration of Mediated Cases:

- 2012 average number of days = 39
- 2013 average number of days = 26
- 2014 average number of days = 35
- 2015 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 313 of the 511 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

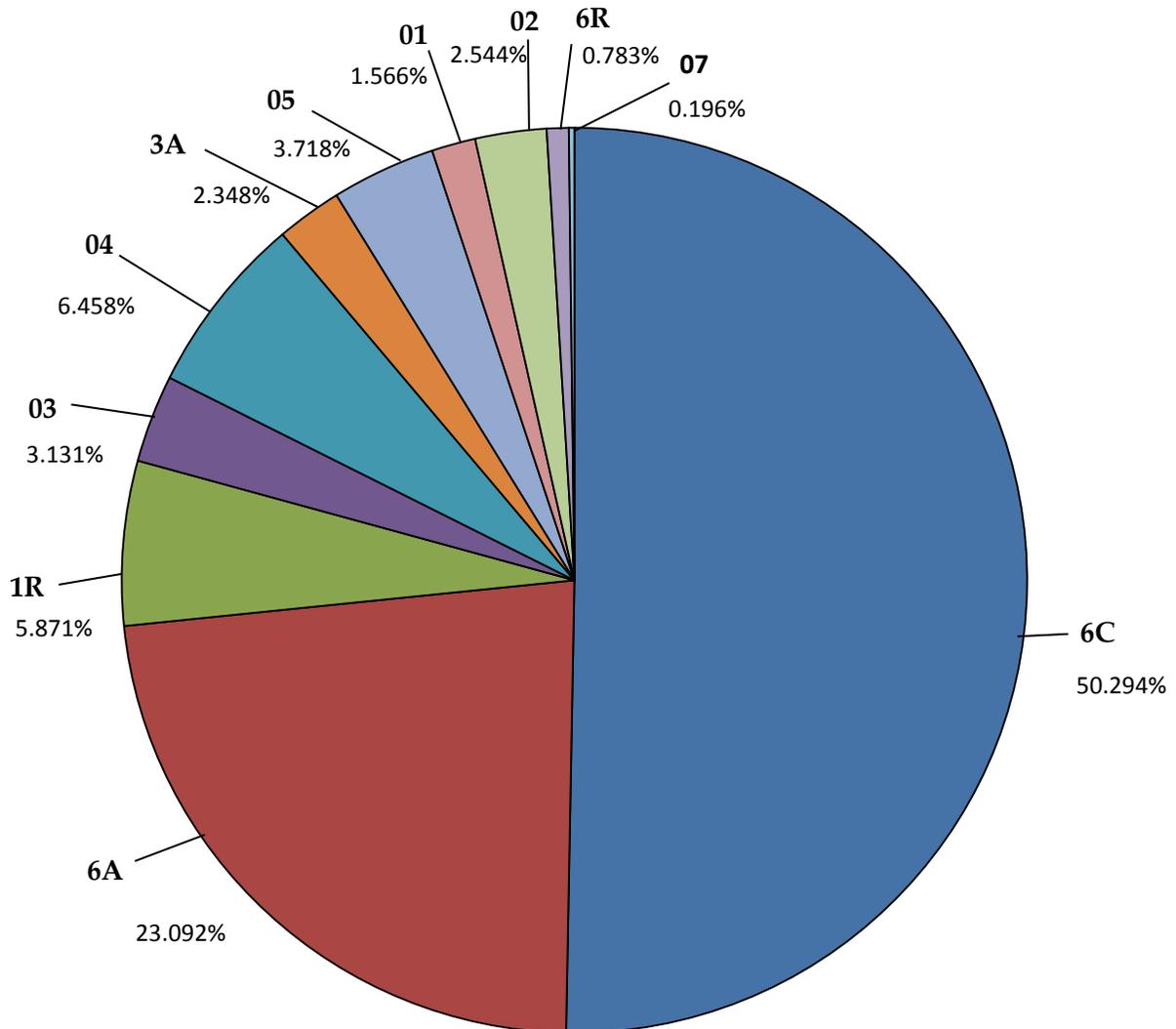
P:\MEDIATION\Statistics\Case Completion\2015\Mediation FY2015 Report.doc

NMVB MEDIATION PROGRAM

2014/2015 FY

Distribution by Outcome of Total Cases Received

(Chart A)



- 6C Mediation Complete (257)50.294%
- 6A Mediation Complete proceeded to Arb/Legal (118)23.092%
- 1R No Jurisdiction referred to proper Agency (30)5.871%
- 03 Consumer Abandoned (16) 3.131%
- 04 No Dealer Response (33) 6.458%
- 3A Consumer Abandoned - Arb/Legal (12)2.348%
- 05 No Manufacturer Response (19) 3.718%
- 01 No Jurisdiction (8) 1.566%
- 02 No Merit/No Action Sought (13)2.544%
- 6R Mediation complete - Consumer refused offer (4) 0.783%
- 07 Other (1) 0.196%

There was 1 case in FY 2014/2015 that is listed as a case category of "Other". This is a case where the consumer was already offered a repurchase/replacement of his vehicle, but then was uncooperative. Consumer refused to provide paperwork and said that the manufacturer should be able to provide it, etc. Finally convinced the consumer to provide paperwork, but then consumer upset that he has to wait to process repurchase.

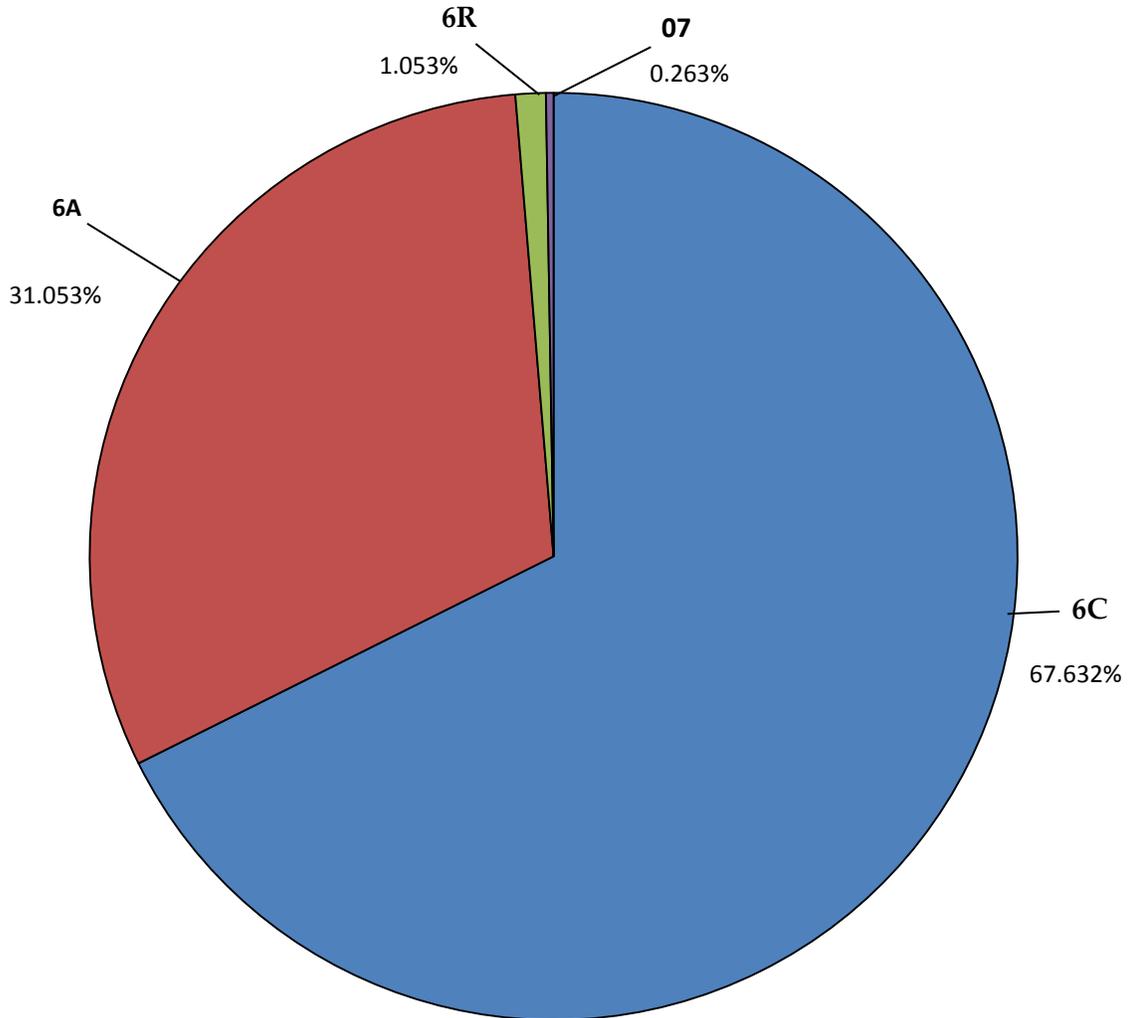
The Mediation Program received 511 cases in FY 2014-2015

NMVB MEDIATION PROGRAM

2014/2015 FY

Distribution by Outcome of Total Cases Completely Mediated

The Mediation Program received 511 cases, however only 380 cases were completely mediated.



■ 6C Mediation Complete (257)67.632%

■ 6A Mediation Complete proceeded to Arb/Legal (118)31.053%

■ 6R Mediation complete - Consumer refused offer (4) 1.053%

■ 07 Other (1) 0.263%

The Mediation Program received 511 cases in FY 2014-2015,
however only 380 cases were completely mediated

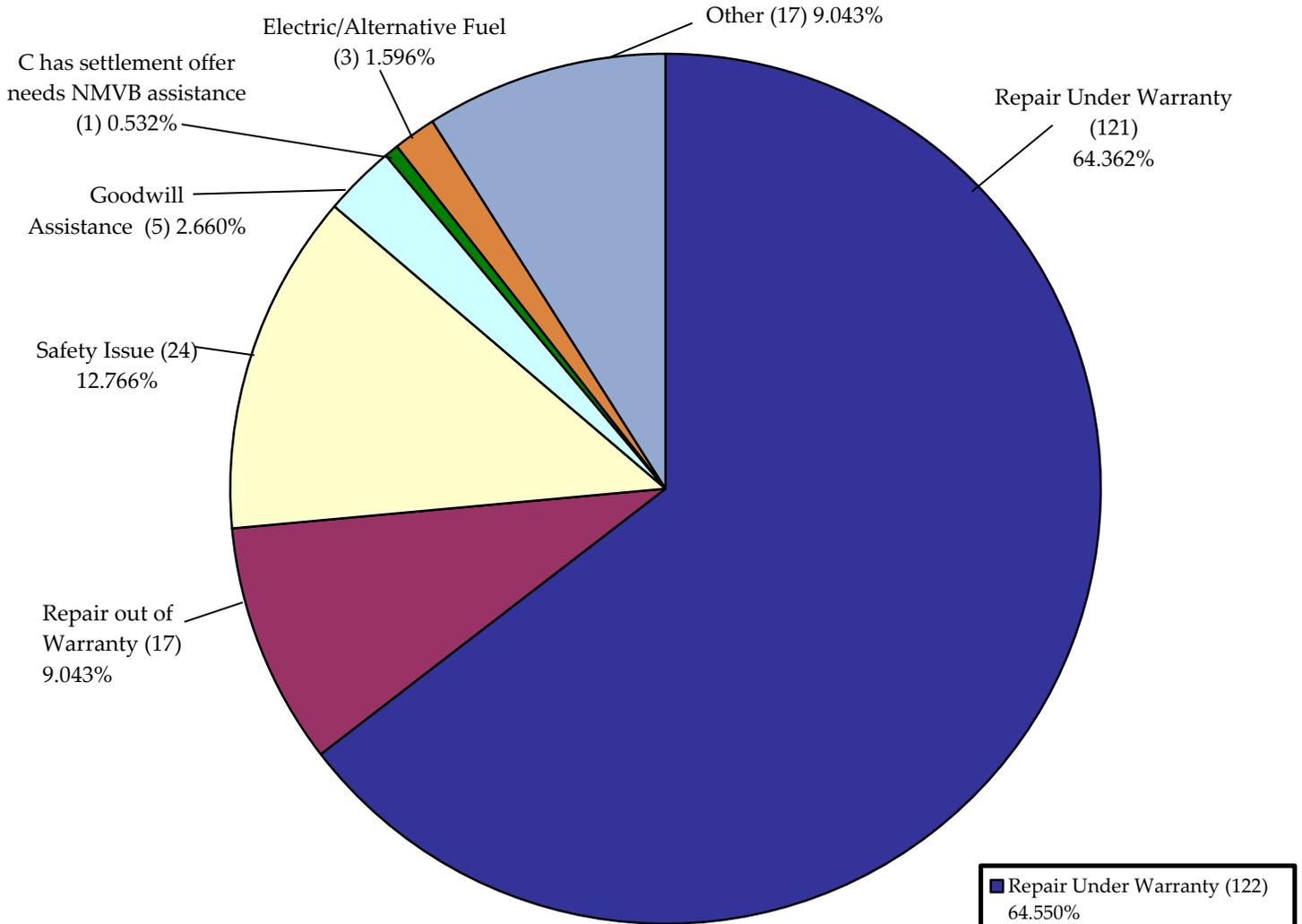
NMVB Mediation Program

2014/2015 FY Distribution of Manufacturer Cases that were mediated (n=189/380)

This chart shows all Manufacturer cases that were completely mediated.

There were 57 cases in which the manufacturer repurchased/replaced the vehicle.

(Chart C)



Note: Cases under category "Other" include:

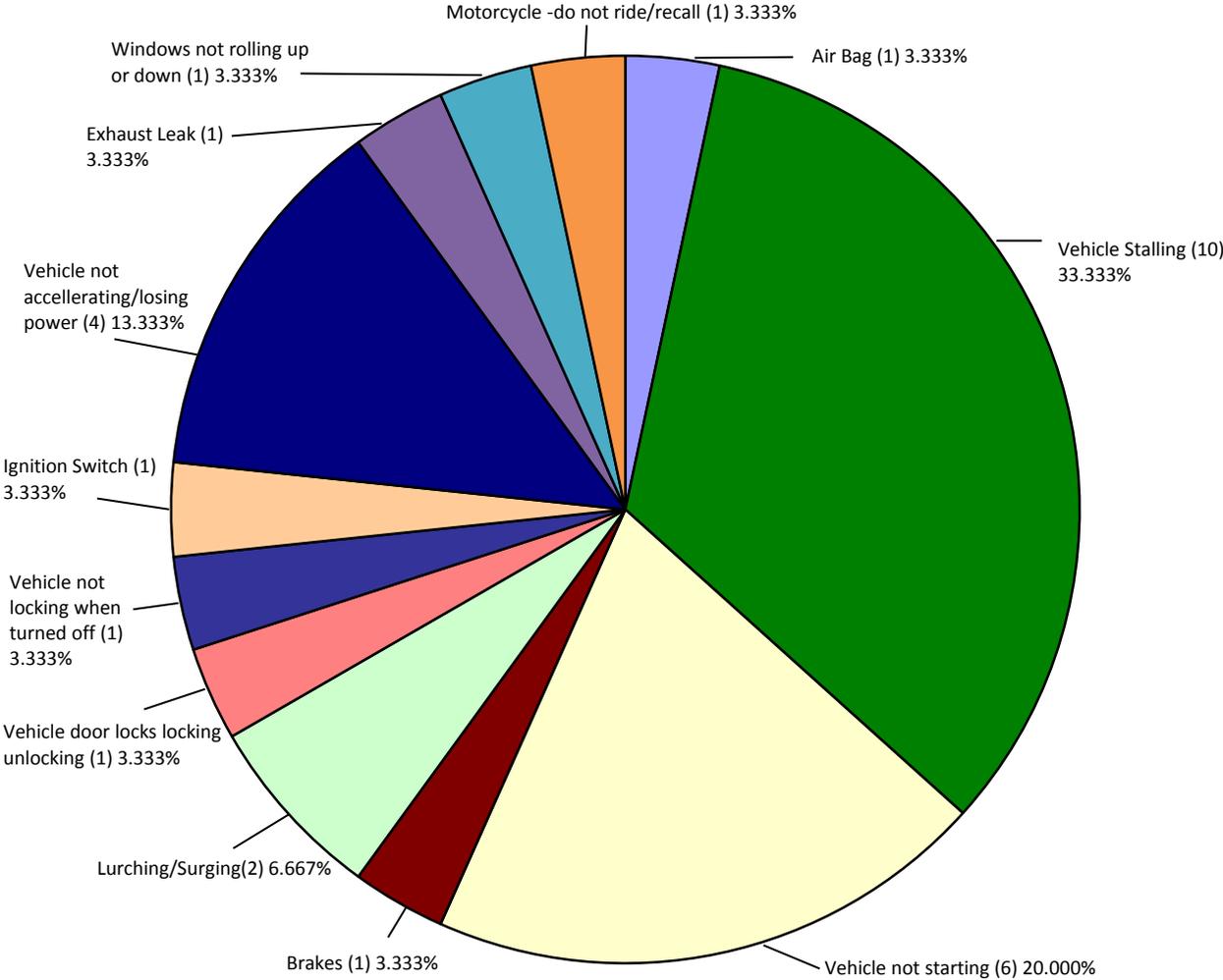
- C having trouble with Owner's Loyalty Rebate , clerical - C received rebate.
- M issues, but D bought back V.
- C wants specs for seats so that he can give to upholterer who is making new seats because of C's back. M responded back that they do not recommend altering the V from M specifications.
- M issue, but D bought back V - also safety with stalling.
- recalls but C only has problem now 2015 and recall states repairs to be made in 2012 and 2013.
- Seatcovers wearing out after 2 yrs.
- bluetooth system not compatible with android phones.
- Wiring possible rodent.
- Smell from Air Vent / Steering went out.
- No Spare Tire.
- problems with V are M problems, but SM at D helped C get into another V and C is very happy.
- recall not being fixed. M fixed.
- C has problem with "feature" on V. V has "brake assist" and C does not like it - M says it can be disabled, C does not like the fact that she has to disable every time she drives.
- Need door replacement has been 72 days.
- Key on new V worn already after 3 yrs., asked M to reimburse for new key and they would not.
- C is concerned about blind spots on V, but V is designed that way.
- problems with V are M problems, but SD at D helped C get into another V and C is very happy

■ Repair Under Warranty (122)	64.550%
■ Repair Out of Warranty (17)	9.043%
■ Safety Issue (24)	12.766%
■ Goodwill Assistance (5)	2.660%
■ C obtained settlement offer, needs NMVB assistance (1)	0.532%
■ Electric/Alternative Fuel (3)	1.596%
■ Other (17)	9.043%

NMVB MEDIATION PROGRAM

2014-2015 FY

Distribution of Safety Related Cases



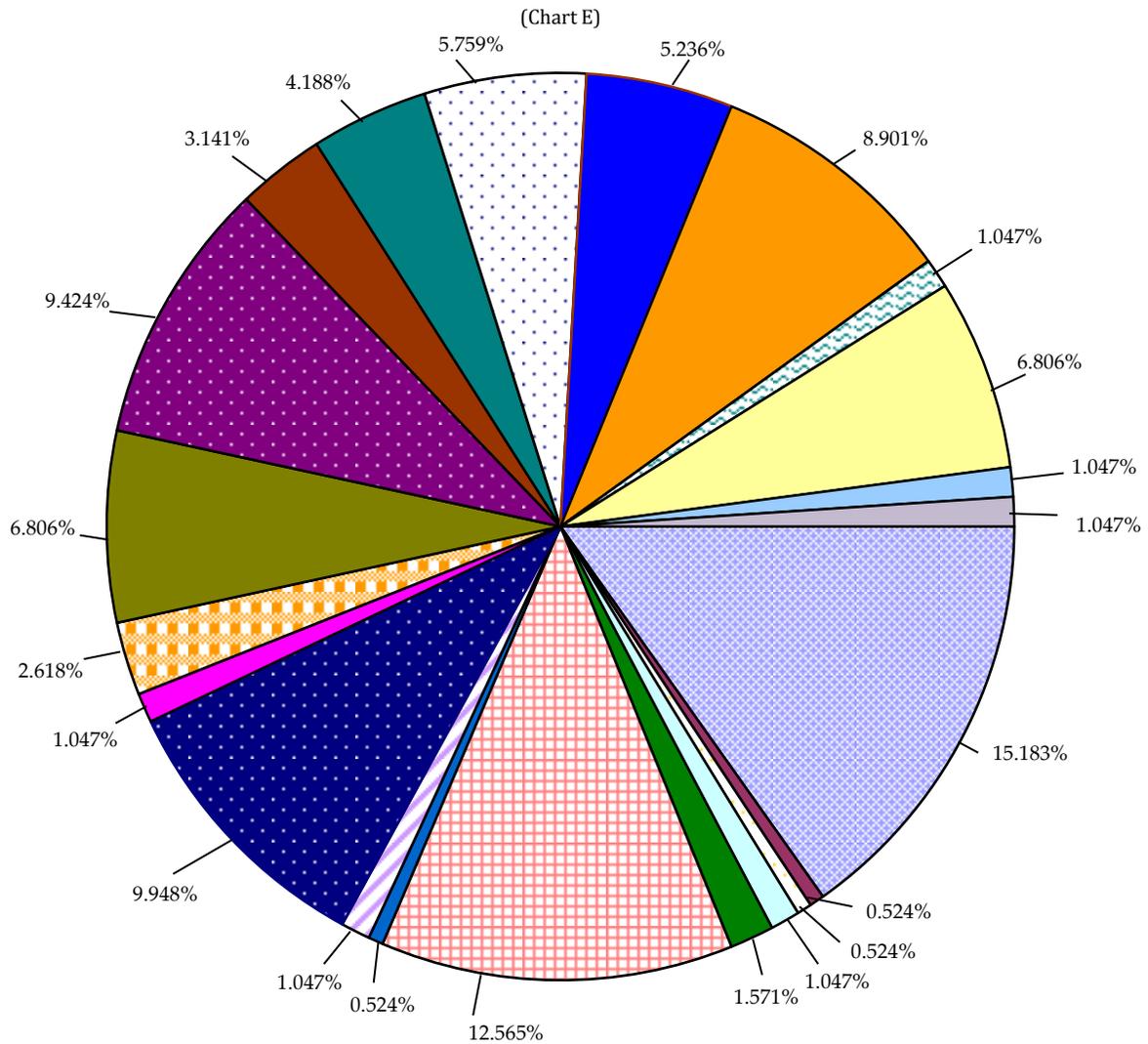
Note: Of the Manufacturer cases (n=189), 30 cases involved some kind of safety related concern, of which, 13 cases resulted in a voluntary buyback by the manufacturer. The Mediation Program altogether assisted consumers in 57 repurchases/replacements in FY 2014/2015.

- Air bag (1) (3.333%)
- Vehicle Stalling (10)(33.333%)
- Vehicle not Starting (6) (20.000%)
- Brakes (1)(3.333%)
- Lurching/Surging (2)(6.667%)
- Vehicle door locks locking and unlocking on their own (1)(3.333%)
- Vehicle not locking when turned off (1)(3.333%)
- Ignition Switch (1)(3.333%)
- V not accelerating, losing power (4)(13.333%)
- Exhaust Leak (1)(3.333%)
- Windows not rolling up or down (1)(3.333%)
- Motorcycle - do not ride/recall (1)(3.333%)

NMVB MEDIATION PROGRAM

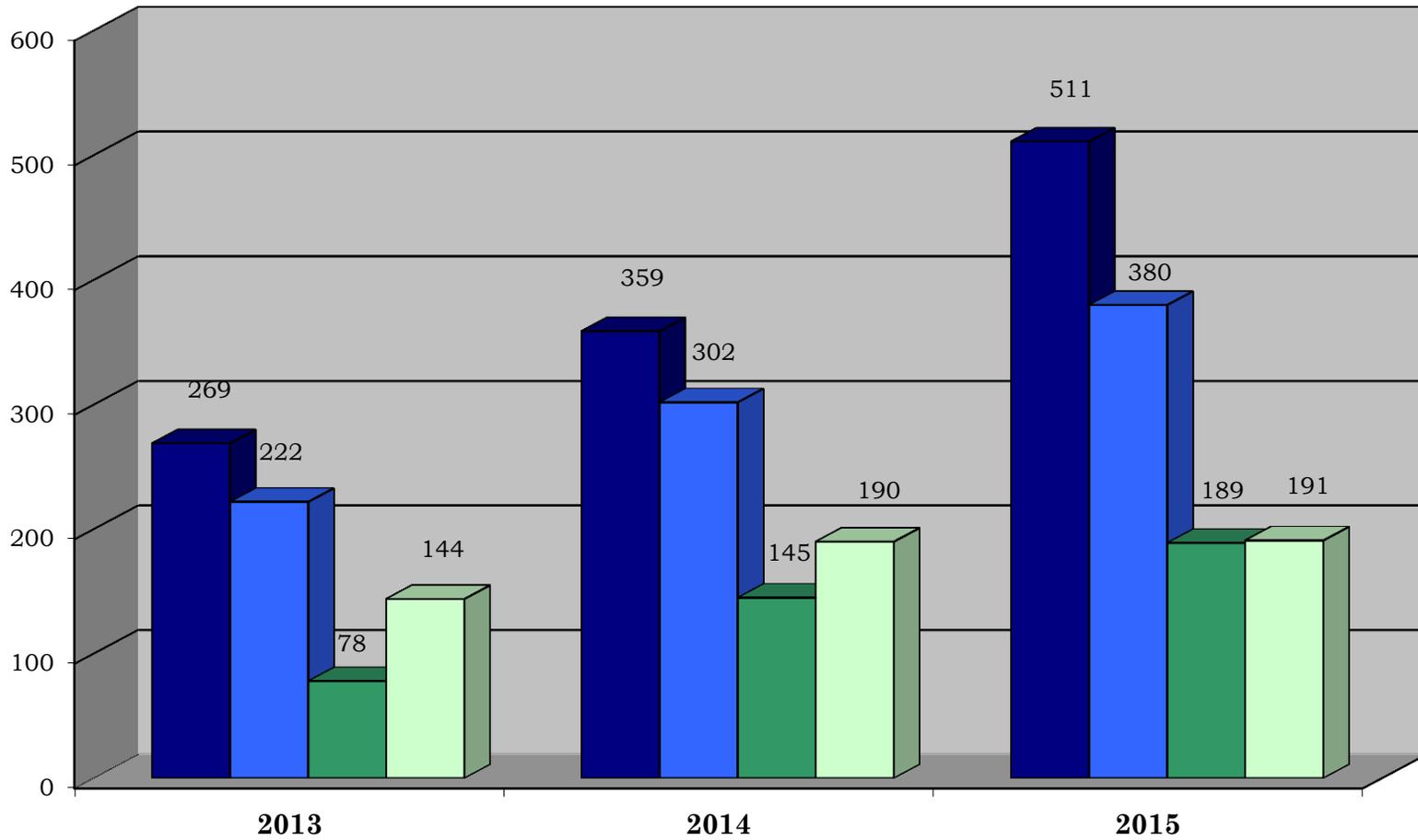
2014/2015 FY

Distribution of Dealer Cases (n=191/380)



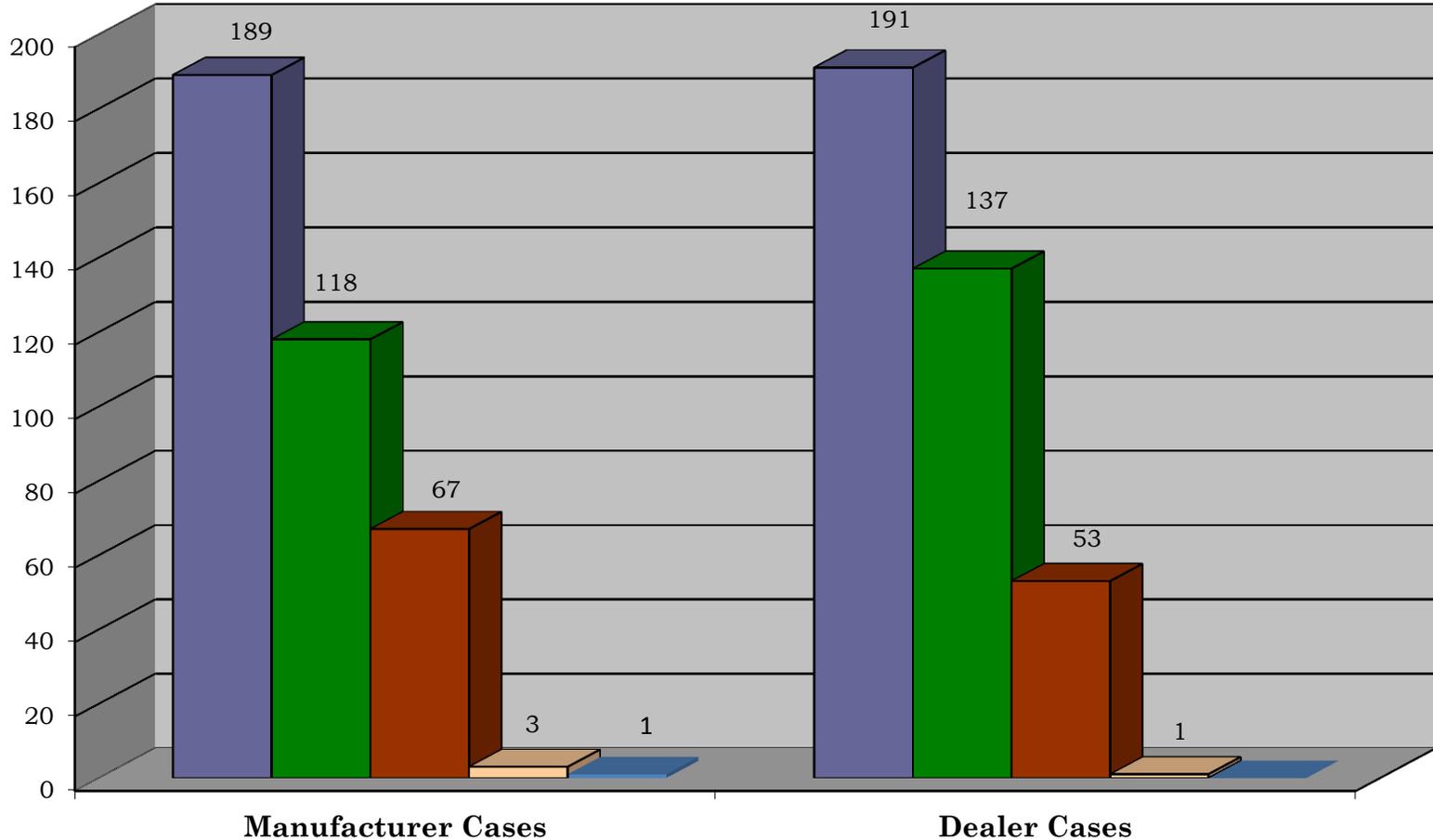
Repair issue w/D only (15.183%)(29/191)	Advertising Issues (0.524%)(1/191)
Safety issue w/V (unlawful Act by D)(0.524%)(1/191)	Bait & Switch (1.047%) (2/191)
Certified Vehicle (1.571%)(3/191)	V options Misrepresented (12.565%)(24/191)
D Modified New V Voided Warranty (0.524%)(1/191)	Used V Previous Accident Problems (1.047%) (2/191)
Financing Issues (9.948%)(19/191)	Used V sold as New (1.047%) (2/191)
Material Damage to New V (2.618%) (5/191)	Issue with Contract (6.806%)(13/191)
Buyer's Remorse (9.424%) (18/191)	Damage by Dealer during repair(3.141%) (6/191)
Conditional Sales K (4.188%) (8/191)	Problem w/Ext. Warranty Purchase (5.759%)(11/191)
Registration/Title (5.236%)(10/191)	Other Dealer Issues (8.901%)(17/191)
Trade in not paid off (1.047%) (2/191)	Used V Sold "As Is" (6.806%) (13/191)
End of Lease Fees 1.047%(2/191)	Buyers Remorse of Options (1.047%) (2/191)

**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

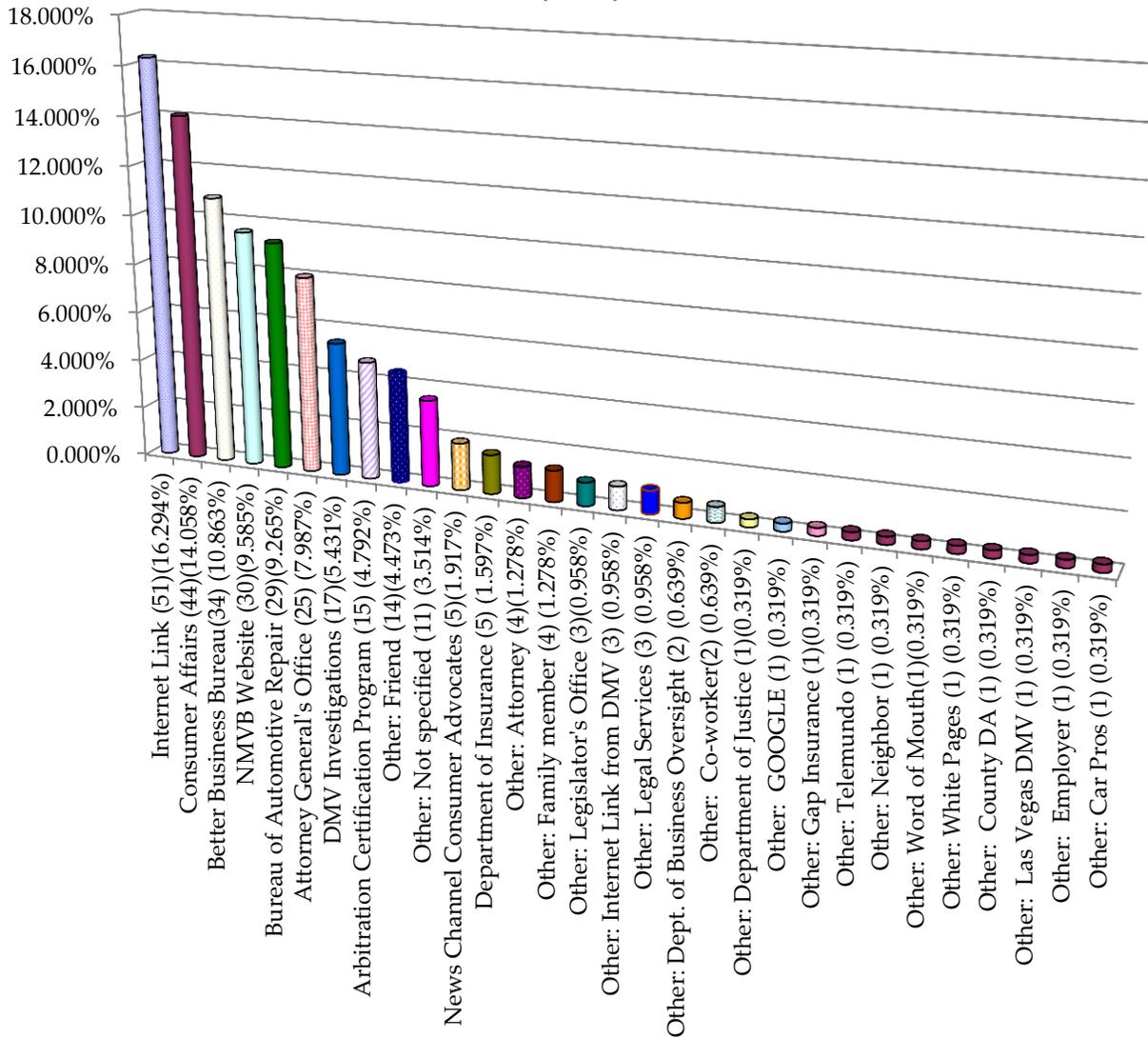
Of the total Mediated Cases (380), there were 191 Dealer cases and 189 Manufacturer Cases. Of the Dealer Cases, 72% (137) were mediated successfully compared to 62% (118) of the Manufacturer Cases. Of the cases not resolved successfully, there were 28% (53) of the Dealer Cases, and 36% (67) of the Manufacturer Cases. There was 1 Dealer case that the consumer did not accept a Reasonable Offer. There were also 3 Manufacturer cases that the consumer did not accept a Reasonable Offer and there was also 1 Manufacturer case that was completely mediated where the resolution was classified as "other" .

NMVB MEDIATION PROGRAM

2014/2015 FY

How did you hear about us?(n=313/511)

(Chart H)



Internet Link (51)(16.294%)	Consumer Affairs (44)(14.058%)
Better Business Bureau(34) (10.863%)	NMVB Website (30)(9.585%)
Bureau of Automotive Repair (29)(9.265%)	Attorney General's Office (25) (7.987%)
DMV Investigations (17)(5.431%)	Arbitration Certification Program (15) (4.792%)
Other: Friend (14)(4.473%)	Other: Not specified (11) (3.514%)
News Channel Consumer Advocates (5)(1.917%)	Department of Insurance (5) (1.597%)
Other: Attorney (4)(1.278%)	Other: Family member (4) (1.278%)
Other: Legislator's Office (3)(0.958%)	Other: Internet Link from DMV (3) (0.958%)
Other: Legal Services (3) (0.958%)	Other: Dept. of Business Oversight (2) (0.639%)
Other: Co-worker(2) (0.639%)	Other: Department of Justice (1)(0.319%)
Other: GOOGLE (1) (0.319%)	Other: Gap Insurance (1)(0.319%)
Other: Telemundo (1) (0.319%)	Other: Neighbor (1) (0.319%)
Other: Word of Mouth(1)(0.319%)	Other: White Pages (1) (0.319%)
Other: County DA (1) (0.319%)	Other: Las Vegas DMV (1) (0.319%)