

United States Federal Trade Commission

***National Center for Dispute Settlement
(Automobile Warranty Arbitration Program)***

2016 Audit

(January – December 2016)

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Table of Contents

	PAGE
INTRODUCTION	3
I. COMPLIANCE SUMMARY	4
II. DETAILED FINDINGS	6
III. FIELD AUDIT OF THREE GEOGRAPHICAL AREAS	36
A. IOWA	36
B. OHIO	42
C. VIRGINIA	48
IV. ARBITRATION TRAINING	55
V. SURVEY AND STATISTICAL INDEX COMPARATIVE ANALYSES	61
VI. AUDIT RELATED REGULATORY REQUIREMENTS	86
VII. APPENDIX/CODEBOOK	87

Introduction

This 2016 audit of NCDS' arbitration process is performed pursuant to the 1975 federal warranty law, the Magnuson-Moss Warranty Federal Trade Commission Improvement Act and Rule on Informal Dispute Settlement Procedures, 16 C.F.R. Part 703 (hereafter referred to as Rule 703).

Claverhouse Associates, a firm specializing in arbitration, mediation, and program auditing, performed the audit which was conducted under the supervision of Kent S. Wilcox, President and Senior Auditor. The statistical survey and analysis section of the report is based on a random sample drawn from data supplied by the manufacturers in cooperation with the staff of NCDS. For details see the Survey Section of the audit report.

Arrangements to conduct the audit were initiated by an invoice submitted in late 2016. Claverhouse Associates coordinated field audits, statistical survey planning, and arbitration training with the program's independent administrator, the National Center for Dispute Settlement (NCDS). This year's report performed a review of the National Center for Dispute Settlement, an independent administrator for multiple automobile manufacturers. The manufacturers participating in the NCDS automobile warranty arbitration program included in this national audit are: Acura, Chrysler,¹ Honda, Lexus, Mitsubishi, Suzuki, Tesla, and Toyota. The audit primarily assesses the dispute resolution Mechanism itself, but there are a few exceptions, wherein our review is manufacturer-specific, such as the requirement for manufacturers to inform consumers of the availability of the dispute resolution program whenever a warranty dispute arises.

The hearing that was scheduled in Cedar Rapids, Iowa, was held on January 11, 2017. The hearing scheduled in Bedford, Ohio was held on March 31, 2017. The hearing scheduled in Harrisonburg, Virginia was held on April 7, 2017. The assessments made of these hearings are described in the on-site field inspections sections of this report. Visits to these locations were arranged to coordinate with scheduled arbitration hearings. In addition, we audited an arbitrator training conducted in Dallas, Texas, from June 9 - 11, 2017 in Irving (Dallas), Texas, at the Westin Dallas/Ft. Worth Airport. Audits of the arbitration hearings and arbitrator training are sometimes conducted in the current calendar year rather than in the audit year but are assumed to reflect operations as they existed in the audit year (2016). Performing the field audits during the actual audit year would require initiating an audit much earlier and using a two-phased format: one commencing during the actual audit period and the other in the following year, after all annual statistics had been compiled. All case files inspected were generated during 2016 as required.

1. In the recent past, Chrysler only offered arbitration in four states: Arkansas, Idaho, Kentucky, and Minnesota, but they began gradually expanding into the other states and are now operating nationwide under the NCDS program.

SECTION I

Compliance Summary

This is the fourteenth Claverhouse Associates independent annual audit of the National Center for Dispute Settlement's (NCDS) national third-party informal dispute resolution mechanism, the Automobile Warranty Arbitration Program (AWAP). We have conducted several prior audits of the NCDS administered warranty arbitration program, some of which were manufacturer centered and manufacturer-specific. This review and several prior reviews, is more general in that the program itself is evaluated for compliance with the various applicable regulations, both federal and state. While some sections are devoted to specific participating manufacturers, our overall conclusions are applicable to the entire NCDS program.

Overall NCDS Dispute Settlement Program Evaluation

The NCDS third-party dispute mechanism, Automobile Warranty Arbitration Program (AWAP) is, in our view, in substantial compliance with the requirements of the Magnuson-Moss Warranty Federal Trade Commission Improvement Act and Rule on Informal Dispute Settlement Procedures, 16 C.F.R. Part 703. Individual manufacturers however, are at serious risk in that regard.

The three regions of the NCDS program audited: Iowa, Ohio, and Virginia, all functioned during 2016 in compliance with FTC Rule 703.² Details of the field audits and any minor irregularities found are discussed in Section III of this report.

Our random sample survey confirmed the overall validity of the statistical indexes created by the National Center for Dispute Settlement.³ Our original survey sample consisted of 2,269 closed cases⁴, of which we completed surveys for 507 customers. As we have found in other audits, surveyed customers tended to report favorably on the program when the results of their cases were, in their view, positive. Conversely, those who received no award, or received less than they expected, were more likely to report dissatisfaction with the AWAP. As has been true in most audits we have conducted for various programs, the few statistically significant differences between the figures reported by the AWAP and the survey findings were deemed to be easily understandable and do not suggest unreliable reporting by the program. For a detailed discussion, see the Survey Section of this report.

2. As was related last year (2016): "One aspect of the audit review has reached the stage where cumulatively manufacturers have so frequently failed to carry out their responsibility to inform inquiring individuals of the availability of the company's alternative dispute resolution process (in this case NCDS) and how to access it. The various manufacturers are subjecting themselves to the very real possibility of being found to be "out of compliance" with this provision of Rule 703 of the Magnuson-Moss Warranty Act with its attendant serious potential ramifications, especially as regards class-action law suits. Regulators are hereby advised of this situation. Rule 703 mandates that manufacturers must provide this information in the service departments of their dealership agents. Inquirers are not supposed to have to call a manufacturer to receive this information, but many service advisors now simply refer those seeking assistance and information, to someone else at the manufacturer's offices. This practice is inconsistent with Rule 703, and is increasingly problematic for all manufacturers."

3. There are discrepancies in some areas but those identified are either of no meaningful consequence or are understandable and without significant regulatory implications. Discrepancies are detailed in the Survey Section of the report.

4. The universe of available cases amounted to 3,229 but the operating universe from which the sample was drawn only included the 2,229 closed arbitrated, or mediated, cases. For details see Survey Section.

Arbitrators, AWAP personnel, and regulators we interviewed at both the state and federal jurisdictions viewed training for arbitrators as an important component of the program. The training provided for the AWAP arbitrators advances many of the AWAP objectives. Providing such training is, in our view, consistent with the broad regulatory requirement for fairness. The training component, in our view, comports with the substantial compliance requirements for a fair and expeditious process pursuant to the federal requirements. For more details concerning our assessment of this years arbitrator training see the Arbitrator Training Section of this report.

SECTION II

Detailed Findings

This section addresses the requirements set forth in 16 C.F.R. Para 703.7, of Public Law 93-637 (Magnuson-Moss Warranty Act, 15 U.S. C. 2301. et seq.).

After each regulatory requirement is set forth, the audit's findings are recorded, discrepancies are noted, and recommendations are made where appropriate.

This audit covers the full calendar year 2016. An important component of the audit is the survey of a randomly selected sample of 2,229 NCDS' Dispute Settlement Program applicants whose cases were closed in 2016 and found to be within the AWAP's jurisdiction.

We analyzed several NCDS generated statistical reports covering the AWAP operations in the United States. The reports were provided to us by the Detroit (Sterling Heights) office of the National Center for Dispute Settlement.

We performed field audits of the AWAP as it operates in Iowa, Ohio, and Virginia. We also examined a sample of current (i.e., 2016) case files for accuracy and completeness. A sample of case files was drawn from all case files for the years 2013-2016 and inspected to ensure that these records are maintained for the required four-year period. In the areas covered by each region, we surveyed several dealerships to see how effectively they carry out the information dissemination strategy developed by manufacturers to assist them in making customers aware of the AWAP.

In addition, we visited arbitration hearing sites in Cedar Rapids, Iowa; Bedford, Ohio; and Harrisonburg, Virginia, to audit the scheduled hearings. We also interviewed participants including arbitrators and AWAP/NCDS administrative personnel.

To assess arbitrator training, we monitored the NCDS-sponsored training session held in Dallas, Texas, June 9 - 11 of 2017. In addition to monitoring the training itself, we interviewed the trainees (both before and after the training), the training staff, and reviewed the training materials.

REQUIREMENT: § 703.7 (a) [Audits]

(a) The mechanism shall have an audit conducted at least annually to determine whether the mechanism and its implementation are in compliance with this part. All records of the mechanism required to be kept under 703.6 shall be available for audit.

FINDINGS:

This is the fourteenth annual audit (2016) conducted by Claverhouse Associates of the NCDS AWAP informal dispute settlement program. Records pertaining to the NCDS' AWAP that are required to be maintained by 703. 6 (Record-keeping) are being kept and were made available for our review.

REQUIREMENT: § 703.6 (a) [Record-keeping]

- (a) The mechanism shall maintain records on each dispute referred to it which shall include:**
- (1) Name, address, telephone number of the consumer;**
 - (2) Name, address, telephone number and contact person of the warrantor;**
 - (3) Brand name and model number of the product involved;**
 - (4) The date of receipt of the dispute and the date of disclosure to the consumer of the decision.**

FINDINGS:

The information referenced in subsections 1 through 4 is available from the staff of the National Center for Dispute Settlement, who provided us with access to all pertinent information, which is maintained as required. Our inspection of randomly selected case files for each of the three regions validated these findings. The inspections of case files typically take place at the Detroit (Sterling Heights) office of the program's independent administrator. Our review of randomly selected cases drawn from the four-year period (2013-2016) demonstrated that the case files were maintained in 2016, as required.

The pertinent data/records are maintained in the individual case file folders housed at the NCDS' arbitration program's offices in suburban Detroit, Michigan. Most of the required information can be found in these files or in the computer system.

The program provided us with access to all pertinent information, which is maintained as required. The individual case file inspection of randomly selected 2016 cases validated these findings. The review of selected cases drawn from the four-year period 2013-2016 was done this year in the same manner as that used in most previous years. Our review of selected cases drawn from the four-year period (2013-2016) demonstrated that the case files were maintained in 2016, as required.

DISCREPANCIES:

The few administrative irregularities found, while appropriately noted, are relatively inconsequential and do not pose any serious undermining of the program's *substantial compliance* status. The AWAP meets this regulatory requirement and any inconsistencies we found were of the minor and inconsequential variety likely to be found in any large administrative program. The minor inconsistencies are highlighted in the appropriate sections of the report. For example, a particular case file may not contain a hard copy of the arbitrator's decision even though the decision was in fact sent out and can be found in the electronic file. We found some arbitrator decision statements which were poorly worded or lacking in sufficient specificity. Nevertheless, the files were complete and maintained as required.

REQUIREMENT: § 703.6 (a) (5)

- (5) All letters or other written documents submitted by either party;**
- (6) All other evidence collected by the mechanism relating to the dispute including summaries of relevant and material portions of telephone calls and meetings between the mechanism and any other person (including consultants described in 703.4 (b));**
- (7) A summary of any relevant and material information presented by either party at an oral presentation;**
- (8) The decision of the members including information as to date, time and place of meeting, and the identity of members voting; or information on any other resolution.**

FINDINGS:

Some case files contained, in addition to the various standard file entries, other communications submitted by the parties. Nothing in our findings suggests that any material submitted by a party was not included in the file, and every indication is that the files were complete. We made no attempt, however, to validate the existence of "summaries of relevant and material telephone calls" and other such information since we had no way of knowing whether such telephone calls took place. This is also true for documents such as follow-up letters. A review of this type may be theoretically possible, but it is not practical without having some objective measure against which to compare the contents of the file. Even in the theoretical sense, such a review assumes customers keep exact files of all correspondence, notes, and phone calls pertaining to their AWAP-cases. To validate this dimension, the audit would entail retrieving all such files as a first step. The obvious impracticality of that places such a review beyond the scope of the audit.

Information required in subsection 8 can be found on the *Arbitration Data Entry* form used by NCDS. This form also contains the essence of the decision along with most other information pertinent to the case.

DISCREPANCIES:

None

The required records were all available, appropriately maintained, and properly kept. Any exceptions were merely incidental and have no significant bearing on the program's compliance with the regulations.

REQUIREMENT: § 703.6 (a) (9-12)

- (9) A copy of the disclosure to the parties of the decision;**
- (10) A statement of the warrantor's intended action(s);**

(11) Copies of follow-up letters (or summaries of relevant and material portions of follow - up telephone calls) to the consumer, and responses thereto; and (12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

FINDINGS:

The information set forth in items 9 and 10 is maintained as required.⁵ As such, the information was readily accessible for audit.

The information set forth in items 11 and 12 was not audited for accuracy and completeness because of the impracticality of such a review. The examination of the case file contents revealed few instances of this type of information included in the file, and yet nothing indicated that information was missing.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (b)

(b) The mechanism shall maintain an index of each warrantor's disputes grouped under brand name and subgrouped under product model.

FINDINGS:

These indices are currently [2017] maintained by the NCDS staff at the NCDS headquarters in Detroit (Sterling Heights), Michigan.

The audit includes a review and assessment of a data printout for the calendar year 2016.

The *AWAP Statistics* identifies 3,615 AWAP disputes filed in 2016. Of these, 2,269 cases were eligible for AWAP review, and 663 cases were determined by the AWAP to be out-of-jurisdiction. Of the in-jurisdiction closed cases, NCDS reports that 2,295 were arbitrated⁶ and 86 were mediated.⁷ There were 2,099 arbitrated decisions which were reported as "adverse to the consumer" per § 703.6 (E) representing 91.4% of all arbitrated cases.

5. The warrantor's intended actions are a basic part of the program and are generally applicable to all cases. All decisions rendered by arbitrator(s) will be honored by all NCDS' AWAP participating manufacturers, thereby negating any necessity for providing a document in each individual file.

6. This number is not aggregated in the statistical reports provided for the audit. We arrived at this number by summing the "decided" items (4-7) listed on the AWAP mandated statistical report. [Note: the number we report here does not include those cases listed as "Pending Decision".

7. The term "mediation" in the AWAP context does not necessarily imply that a neutral third-party assisted the parties in resolving a warranty dispute, but rather that the dispute was settled prior to an arbitrator rendering a decision. The number provided above is not aggregated in the statistical reports provided for the audit. We arrived at this number by summing the "Resolved" items (1-3) listed on the AWAP mandated statistical report.

Each of the participating manufacturers submitted an index of their disputes grouped under brand name and subgrouped under product model as required.

Indices are complete and consistent with all requirements. Some of the data included in these reports are compared with the findings of our sample survey discussed in the Survey Section of this report.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (c)

(c) The mechanism shall maintain an index for each warrantor as will show: (1) All disputes in which the warrantor has promised some performance (either by settlement or in response to a mechanism decision) and has failed to comply; and (2) All disputes in which the warrantor has refused to abide by a mechanism decision.

FINDINGS:

AWAP reports that there were no such cases in 2016. Concerning subsection 2, the auditors are advised by NCDS that there is no reported incidence in which a NCDS AWAP participating manufacturer failed or refused to abide by a panel or arbitrator decision. As a matter of general corporate policy, all AWAP participating manufacturers agree to comply with all AWAP decisions. This information is supplied as part of NCDS' Annual FTC -703.6 (c) (1) and (2) Report.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (d)

(d) The Mechanism shall maintain an index as will show all disputes delayed beyond 40 days

FINDINGS:

According to AWAP statistical index reports, as of December 2016, two cases were delayed beyond 40 days. The National Center for Dispute Settlement typically provides a comprehensive report of all individual cases delayed beyond 40 days during the period of the audit. Such reports include the customer's name, case file number, and the number of days the case has been in process as of the date of the generation of the report. Our analysis indicates that these reports have always met the above requirement. Our review of reports, however, is not

designed to test the accuracy of a report. We merely determine that the mandated report is being generated.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (e)

(e) The mechanism shall compile semi-annually and maintain statistics which show the number and percent of disputes in each of the following categories:

- (1) Resolved by staff of the Mechanism and warrantor has complied;**
- (2) Resolved by staff of the Mechanism and time for compliance has occurred, and warrantor has not complied;**
- (3) Resolved by staff of the Mechanism and time for compliance has not yet occurred;**
- (4) Decided by members and warrantor has complied;**
- (5) Decided by members, time for compliance has occurred, and warrantor has not complied;**
- (6) Decided by members and time for compliance has not yet occurred;**
- (7) Decided by members adverse to the consumer;**
- (8) No jurisdiction;**
- (9) Decision delayed beyond 40 days under 703.5 (e) (1);**
- (10) Decision delayed beyond 40 days under 703.5 (2);**
- (11) Decision delayed beyond 40 days for any other reason; and**
- (12) Pending decision.**

FINDINGS:

NCDS collects and maintains the information required by § 703.6 (e) in the AWAP Statistics Report supplied to us by NCDS.

The information is available for inspection and is complete in all respects.

The figures reported in this index are analyzed in further detail in the Survey Section of this report.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (f)

THE MECHANISM SHALL RETAIN ALL RECORDS SPECIFIED IN PARAGRAPHS (a) - (e) of this section for at least 4 years after final disposition of the dispute.

FINDINGS:

(a) All of the information listed in the 12 subsections detailed in the previous section [§ 703.6 (e)] is maintained for the required four years. Any inconsistencies found would be addressed in the Survey Section of this report.

We inspected the collection of all case files for each region provided to us by the NCDS headquarters in Sterling Heights (Detroit), Michigan, and inspected and evaluated a random selection of case files from the four-year period for completeness. The files were appropriately maintained and readily available for audit.

(b) NCDS provided us with the various 2016 indices and statistical reports required by Rule 703. The corresponding reports for the previous four years are, of course, not available from any NCDS participating manufacturers which were not participating in the program for the entire four applicable years.

(c) [The two potential “non-compliance” categories] The information required by subsection (1) is, when applicable, maintained by NCDS. Subsection (2) is not applicable since all participating manufacturers, as a matter of corporate policy, always comply with AWAP decisions.

(d) [Complaints beyond 40 days] This information is stored in their computer system at the NCDS Detroit (Sterling Heights) office. Any required report can be obtained from Debbie Lech, Manager, Case Administration, at the NCDS headquarters. The information is maintained as required.

(e) [Includes 12 categories of statistics] The information referenced in this section, as well as any data pertaining to this requirement, is available from NCDS. The 12 categories of statistics to be maintained are being kept as required.

DISCREPANCIES:

None

REQUIREMENT: § 703.7 (b)

Each audit provided for in paragraph (a) of this section shall include at minimum the following (1) evaluation of warrantor's efforts to make consumers aware of the Mechanism's existence as required in 703.2 (d);

(d) The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes.

FINDINGS:

The essential feature of both regulatory requirements cited above is timing. In our review, therefore, we give emphasis to efforts that would inform customers and ensure that they know about the existence of the AWAP at all times, as well as examining the manufacturers' strategies to alert customers to the availability of the AWAP when the customer's disagreement rises to the level that the regulations consider a "dispute."

Regardless of the excellence of a program, it is only effective if the customer knows of its existence and can access it. The "notice" requirement seeks to ensure that the program is actually usable by customers by informing them of its existence and making it readily accessible when they need it.

Individual Participating Manufacturer's Efforts and Assessment

[Note: In this section of the audit report, we review each of the participating manufacturers' programs for meeting this requirement. Readers will note that regulatory language is repeated along with some pertinent comments in each division for the various manufacturers so as not to focus strictly on a given manufacturer as well as to make the reading easier. Again, we repeat the applicable regulatory language to avoid cross-referencing and searching for such language in another section of the report. The eight current manufacturers are: Acura, Chrysler, Honda, Lexus, Mitsubishi, Suzuki, Tesla, and Toyota.]

For the 2016 report, we interviewed NCDS staff and inquired as to any changes from the previous year in each manufacturers' efforts to ensure their customers were being made aware of the availability of the NCDS arbitration program for resolving any of their customers' warranty disputes. Where we have new information supplied, we review and assess that information.

ACURA:

Acura uses the following means by which to meet this important requirement:

- The Acura responsibility to make customers aware of the dispute resolution Mechanism is well met in one sense by providing information that is easily located in the Owner's Manual in the Introduction to the Table of Contents where it is prominently located as the very first entry of the Table of Contents. On the following page of the Owner's Manual appears three steps for customers with warranty repair concerns. Step 3 includes contact information for filing a claim with The National Center for Dispute Settlement including their toll free telephone number. On the next page of the Owner's Manual, customers will find a more detailed explanation of the regulated NCDS dispute resolution program. We rate this aspect as excellent in complying with the federal requirement.

In addition to this aspect of our review, we visited dealer service departments to ascertain whether service department employees provide helpful and reasonably accurate information about the NCDS dispute resolution program and how a customer can contact NCDS. The dealer reviews are random and may not be included each year, if other manufactures were selected in our selected sample.

CHRYSLER:

In the recent past we have said this in our reports:

“Chrysler uses several means by which to meet this important requirement. They are as follows:

Last year (2015 audit year report submitted in 2016) states:

“Note: The Chrysler program has expanded into all states and is now fully operational nationwide as part of the NCDS dispute resolution program.”

- The 2015 Supplement to FCA’s Owner’s & Warranty Manuals supplied with each new vehicle references the “Customer Arbitration Process” (CAP) now administered by the National Center for Dispute Settlement (NCDS). The *booklet* provides a toll-free phone number for contacting the National Center for Dispute Settlement to obtain an application for arbitration as administered by NCDS. It also includes a mailing address for contacting NCDS.
- The booklet *Customer Care, Arbitration and Lemon Law Rights* is provided with each new vehicle.”

Note: The actual Owner’s Manual makes no reference to NCDS or to the existence of a free program available to any customer with a warranty dispute. Since the federal act governing these programs requires that such a reference be included on the face of the warranty, it seems more appropriate that the Warranty manual include in its “Table of Contents” a cross-reference to a no-cost arbitration program for customers with a warranty dispute that is explained in a supplement to the Owner’s Manual. In addition, the auditor has discussed with NCDS staff some concerns about the wording of the Supplement Manual regarding remedies that are available to arbitrators, which are tediously legalistic and which will necessitate further discussions.

We have received no information from NCDS or from the manufacturer suggesting that this situation has changed.

DISCREPANCIES:

None, with the qualifier given immediately above as a caveat.

HONDA:

Honda uses the following means by which to meet this important requirement:

- The Honda responsibility to make customers aware of the dispute resolution Mechanism is well met in one sense by providing information that is easily located in the Owner's Manual in the Introduction to the Table of Contents where it is prominently located as the very first entry of the Table of Contents. On the following page of the Owner's Manual appears three steps for customers with warranty repair concerns. Step 3 includes contact information for filing a claim with The National Center for Dispute Settlement including their toll free telephone number. On the next page of the Owner's Manual, customers will find a more detailed explanation of the regulated NCDS dispute resolution program. We rate this aspect of the Honda information program as excellent in complying with the federal requirement.

In addition to this aspect of our review, we visited dealer service departments to ascertain whether service department employees provide helpful and reasonably accurate information about the NCDS dispute resolution program and how a customer can contact NCDS. The dealer reviews are random and may not be included each year, if other manufactures were selected in our selected sample. Dealer 'secret shopper' interview results are located at the conclusion of this section of the report.

DISCREPANCIES:

None

LEXUS:

- Lexus publishes a manual entitled *Lexus Warranty and Services Guide* which has been updated from the information reviewed in our most recent audit. In addition, Lexus distributes to its new car buyers a pamphlet [52 pages of text] entitled *Lemon Law Guide* with a page which cross references useful NCDS arbitration information including their toll-free telephone number.

The manual includes four pages of accurate and useful information about the NCDS arbitration program including a mailing address and toll-free telephone number for contacting NCDS. The NCDS arbitration information begins on page eleven. Unfortunately, the information is organized as part of a multi-step process and is relegated to the position of "Step 3". Such a multi-step process is one obviously preferred by the manufacturer. A customer with a warranty dispute, however, is not required to go through steps one and steps two in order to access

arbitration as regulated by the Magnuson-Moss Warranty Act and its accompanying Administrative Rule 703. By organizing the information in this manner, some readers may incorrectly interpret the information to mean they must follow these sequential steps. This seemingly minor matter could easily have consequences that are unintended and inconsistent with the regulations intent to provide "expeditious resolution of disputes. For example, if a customer's one week old "new" vehicle seems to be operating inconsistent with their auto engineering experience, and the dealer is perceived by the customer to be rude and unwilling to address their concern because they assert that the vehicle is operating normally, the customer may clearly want to proceed directly to arbitration. Such a decision by the customer is within their right to do so, notwithstanding any value judgements to the contrary. The manual's language suggests otherwise. Without a doubt, the three step process alluded to is usually the best way for customers to proceed but it is certainly not required. The problem herein alluded to is further exacerbated by initiating the entire section with the word "if" which may serve to reinforce the notion that a customer is obligated to go through steps one and two when such is not the case. It is important to point out this matter. It is equally important that we do not believe this matter, by itself, rises to the level of a regulatory non-conformity. It may, however, help to explain the seeming reluctance of some service department employees to provide arbitration information during our dealer visits.

- In 2006, we were provided a copy of the NCDS tri-fold, *Rules & Procedures for the Informal Resolution of Automobile Warranty Disputes* pamphlet, but this document is distributed to Lexus customers after the customer has filed an application. We have again been told by NCDS that there have been no material changes to this item.

We note here that manufacturer's difficulties in complying with this requirement are related in some respects to uncertainty as to the regulation's intent about when the customer is to be informed. A better information dissemination strategy could be developed if regulators provided manufacturers with an operational definition of the phrase, " ... **at the time consumers experience warranty disputes.**"

This limited information may have been provisionally acceptable in that period of adjustment that existed in the early days of Lexus' association with the NCDS program but, in our view, even then it fell short of what Rule 703 intends as regards informing customers of the availability of the arbitration program at the time a warranty dispute arises. There are, of course, many different strategies for accomplishing this mandated information dissemination program, but only having information about NCDS in a owner's manual or Lemon Law Guide in a glove box packet, is likely to find many customers with a warranty dispute unaware of the availability of arbitration. A fact demonstrated again and again over many years experience. That was clearly not the intent of the Federal Trade Commission when Rule 703 was promulgated as evidenced by the rule's lengthy discussion in the *Statement of Basis and Purpose*, published and promulgated as part of the rule (see Federal Register, 60215, Dec. 31, 1973). The FTC afforded great flexibility to manufacturers, at their request, as an alternative to far more draconian measures being proposed at the time, including the requirement that manufacturers engage in a national media campaign each year to announce the

program's availability. The FTC opted instead to afford manufacturers the opportunity to use their own creative methods to achieve the objective and provided for an annual audit to ensure that manufacturers were carrying out effective strategies for ensuring that their customers were likely to be informed about the programs *at the time a warranty dispute arises* [FTC's emphasis.]

In 2017 we visited the following Lexus dealership:

Germain Lexus
6500 Shamrock Blvd.
Dublin, Ohio 43017

The Ohio mandated poster was not posted in this dealership.

In addition, the service consultant revealed to the auditor that he had no general information about dispute settlement options for customers with a warranty dispute. He further added that "corporate advises us that all inquiries regarding arbitration should be forwarded to Lexus." If this consultant's statement is true, then this policy conflicts with the informal understanding established between federal regulators at the Federal Trade Commission and participating manufacturers that was an approach suggested by the manufacturers in response to the initial draft of Rule 703 implementing the Magnuson Moss Warranty Act. The initial proposed rule called for a mandated national advertising program informing the public about the availability of Informal Warranty Dispute Mechanisms. This aspect of the initial proposal was withdrawn at the request of manufacturers who asserted that in exchange for the withdrawal, the manufacturers would implement voluntary information programs at dealerships in the service departments where customers typically voiced their warranty concerns. These programs were supposed to make clear how customers with warranty disputes could initiate a no-cost claim for dispute settlement review by an independent third-party who were empowered to award refunds, replacements, reimbursements or repairs. The final rule, as promulgated, requires that customers with a dispute may file their claims for a hearing and a decision without having to go through a dealer or manufacturer.

If Lexus, or any other manufacturer, implements a policy that requires a customer to contact the manufacturer in order to obtain information about the federally mandated Warranty Dispute Mechanisms, this policy is contrary to the informal agreement that was reached as a means by which manufacturers could avoid having to implement a national mass-media advertising program on this subject. Again, if this service advisor's response to our inquiry is accurate, then the FTC staff should be advised that Lexus may have decided to withdraw its earlier agreement. It is doubtful, however, that this is the true case, and it may be little more than a communication breakdown between Lexus and one of its dealerships.

In 2017, we only visited one Lexus dealer in regard to this regulatory provision.

In 2016, however, we visited the following Lexus dealerships:

Lexus of Orland
8300 W. 159th
Orland Park, Illinois 60462

Similar to most of our findings at Lexus dealerships, the service department advisor provided no useful information concerning the National Center for Dispute Settlement or the Lexus sponsored Mechanism regulated by the Federal Trade Commission. The advisor at this location went so far as to advise that, "arbitration should be avoided at all costs."

The year before (2015), we visited, assessed, and reported about (for last year's report) the following Lexus dealership.

Lexus of Mishawaka
4325 Grape Rd.
Mishawaka, Indiana 46545

Below are the comments we made last year: (To distinguish them, the auditor has highlighted the prior years' comments and printed them in bold italics and a smaller font.)

"The result of this Lexus dealer visit was nearly as poor as what we found the year before. For last year's report, we interviewed a service advisor who informed us that a customer had to have seven repairs for the same warranty problem to go to arbitration. The advisor did not appear to be aware that the company sponsors a third-party dispute resolution program [arbitration]."

"In 2013 for the 2012 audit, we interviewed two advisors at once and both gave incorrect information about the customer's option to have warranty disputes handled by arbitration through the National Center for Dispute Settlement (NCDS)."

"In 2012, we visited the following Lexus dealerships

*Lexus of Charleston
2424 Savannah Hwy.
Charleston, South Carolina 29414*

*Lexus of Jacksonville
10259 Atlantic Blvd.
Jacksonville, Florida 32225*

*Metro Lexus
13600 Brookpark Road
Brookpark, Ohio 44135*

"The dealership visit results were also poor at that time. In that year's review of Lexus dealers, service advisors typically failed to be forthcoming with any useful information about how arbitration is handled and how to contact NCDS. Responses such as this, are at odds with federal regulations."

"At one Lexus dealership, the service advisor told us that arbitration is available but the customer has to file through Lexus. In every review, Lexus' service agents provided inaccurate information. In all, Lexus dealers were unable or unwilling to provide us useful information about warranty dispute options that involved arbitration generally or the NCDS program specifically."

“Our findings on this regulatory requirement replicate last years finding, which bears repeating:

“Overall, the Lexus findings were negative and suggest that Lexus review their training of service advisors as concerns warranty dispute mechanisms. Together with previous report findings, including the misrepresentation of one dealer, demonstrates the need for continuing oversight by regulators. While this finding is problematical, it does not, by itself, rise to the level of a risk to Lexus’ compliance status but it does constitute a significant regulatory problem.”

DISCREPANCIES (2016 audit):

The findings related to Lexus this year are similar to those of the recent past years. Lexus’ compliance status is open to question due to its consistently poor results in regards to making customers aware of the existence of their dispute settlement program and how to access it via a toll-free telephone number as mandated by Rule 703.

MITSUBISHI:

Mitsubishi uses the following means by which to meet this important requirement:⁸

- Mitsubishi, has addressed many of the concerns we raised in some of our past audits. Below, in italics, are some of the comments from our prior audits.

Our 2003 [conducted] random audits of dealerships in the areas surrounding the field audit sites again found no consistent and significant commitment by most dealers to educate their employees to provide DRP information to customers making general inquiries about warranty-related dissatisfactions or disputes.

In addressing the concern outlined above, Mitsubishi initiated a program described in the communication below which was sent to various Mitsubishi executive employees:

Good Morning Gentlemen, We are pleased to announce the rollout of our Dispute Resolution Process posters. Three 11x17 posters and a cover letter will be shipped to the attention of each Dealer Service Manager in today’s weekly drop. I’ve attached a copy of the cover letter for your review. In addition, we will be shipping 75 posters to each of the Regions so that your AWAPMs have some on hand for dealer visits. There is also a small supply of posters at Standard Register that can be ordered (Form # DR00204).

It’s extremely important that each Service Manager displays the posters in areas that are clearly visible to

8 . NCDS headquarters informs us that the manufacturer-specific review of this individual program for ensuring that consumers are made aware of the arbitration program’s existence “at the time consumers experience warranty disputes” has not changed from last year’s report.

customers who bring in their vehicles for warranty repairs. Please make sure that your DPSMs are checking for the posters when they conduct their dealer visits!

You may be aware that the FTC conducts a yearly audit of our Dispute Resolution Process through NCDS. The audit will be commencing in the next few weeks - and part of the audit includes "mystery shop" visits to retailers. Unfortunately, last year, the majority of dealerships visited by the auditor could not accurately describe the Dispute Resolution Process. Per Joan Smith's email to you dated 1/14/04 please ensure DPSMs are training their dealer personnel on our Dispute Resolution Process.

It is a requirement of the FTC, that if a manufacturer participates in an informal dispute resolution process, the customer must be made aware of how they can go about pursuing arbitration. In addition, to the Dispute Resolution Process booklets in each new owner's glove box - the posters should increase the awareness of the Dispute Resolution Process that is available at the time a customer is not satisfied with repairs completed under warranty.

In addition, Mitsubishi has replaced and updated the manual to address several prior concerns. The new Warranty and Maintenance Manual [2006] now specifically references the National Center for Dispute Settlement along with a toll-free telephone number to contact for assistance in obtaining resolution of their dispute.

We also said at the time,

Claverhouse Associates has not reviewed the actual cover letter sent to each Dealer Service Manager. This e-mail copy, supplied to us by NCDS, strongly suggests that important steps are being taken to bring Mitsubishi into compliance with this aspect of Rule 703.

We continue to view these innovations as clear evidence of intent to comply with the applicable rule, for which Mitsubishi should be given credit.

We include here, for reference purposes, our findings from two prior years:

In multi-manufacturer Rule 703 Dispute Resolution Mechanisms, the fiscal restraints of audits do not necessarily allow for visiting all manufacturers' dealer's service departments each year. We visited a Mitsubishi dealer in 2015 for this report, during our on-site visit to Saint Paul, Minnesota, the results of which are reported below.

I interviewed a service advisor who failed to provide me with any useful information about the availability of a dispute resolution program (i.e., "Mechanism") for resolving warranty disputes. No reference was made to the Owner's Manual, nor to the National Center for Dispute Settlement (NCDS).

In 2013, we visited the following Mitsubishi dealership for the 2012 audit:

Albany Mitsubishi
1000 East Oglethorpe Ave.
Albany, Georgia 31701

"I spoke to a service advisor who appeared to be the service manager. He focused his remarks to the "Lemon Law" and gave inaccurate information even on that. He appeared to have no knowledge of NCDS or the warranty dispute resolution process operated by them and sponsored by Mitsubishi. He provided no useful information on what the NCDS program entails or how to access the process."

In 2012, we visited the following Mitsubishi dealership for the 2011 audit:

Hoover Mitsubishi
2250 Savannah Hwy.
Charleston, South Carolina 29414

"Our Mitsubishi dealership experience in 2012 (for 2011 audit) was again this year a disappointment consistent with our experiences in 2010 for the 2009 report. The dealership personnel we interviewed for this report were very pleasant but did not provide us with any useful information about the NCDS program or warranty dispute options for customers beyond working with the dealership. This result falls short of the federal regulation's intent."

"We said in our last several reports that:

Clearly, one of the principal reasons that the annual independent audit requirement was included in Rule 703 was to ensure that adequate consumer awareness was provided for by sponsoring manufacturers. That the original draft of Rule 703 was modified so as to require this audit was an outcome fostered by manufacturers who complained that the proposed alternatives were too onerous and in fact, "draconian." The Federal Trade Commission declined to mandate the national media campaigns and dealer incentives requirements, opting instead for voluntary efforts by the manufacturers, or their agent dealers, which would then be audited annually to ensure compliance with the stated objective of ensuring consumer awareness of the availability of the program. In any event, it is abundantly clear that no audit findings are complete without an evaluation of this aspect of the arbitration program since it is specifically set forth in the administrative Rule requirements in that section identified as the "Proceedings." This extensive Federal Trade Commission commentary was promulgated as a fundamental part of the Rule, as is the case with all promulgated FTC Rules."

"Because of the varied and heavy responsibilities of service managers, they were not always available during our "secret shopper" visits to dealerships. It is predictable that the customers of dealerships whose employees are completely unaware of the AWAP will be less likely to be informed of the availability of AWAP, a situation "at variance" with the regulation's intent."

Overall, efforts of the Mitsubishi's information program had no effect on this dealership.

Claverhouse Associates did not visit a Mitsubishi dealership in 2016 for this 2015 audit.

What we said in regards to last year's report, holds true with respect to this year's findings. In this the Mitsubishi program is failing despite the manufacturer's efforts."

DISCREPANCIES:

None, with the qualifier given immediately above as a caveat.

SUZUKI:

- Suzuki provided customers with a Vehicle Warranty Information booklet. This booklet contains information pertaining to customers ability to use the dispute settlement program administered by NCDS. On page 4, they provide a very brief description of NCDS along with a toll-free telephone number. As such, they have provided useful, complete and accurate information as envisioned by the federal regulations. It should be pointed out however that this is a passive strategy and is helpful only if the customer discovers the information. Importantly, the manufacturer should instruct dealerships that inquiring customers should, at a minimum, be referred to this section of the booklet when expressing that they are experiencing a warrant dispute, or words to that effect.

We did not visit a Suzuki Dealership for this year's 2016 audit report.

DISCREPANCIES:

None, with the qualifier given immediately above as a caveat.

TESLA:

We said in our last year's audit the following regarding Tesla:

"Tesla uses the following means by which to meet this important requirement:

- *Tesla, a recent addition to the NCDS program, uses their Owner's Warranty Manual to provide information to their customers with a warranty dispute. The "Table of Contents" of the manual references, "Warranty Enforcement Laws and Dispute Resolution" as being on page six. In sum, the information provided by Tesla on pages six and seven is comprehensive, but confusing, and may be misleading to customers. To say for example, "NCDS will schedule a technical evaluation, if applicable", fails to reveal that such an evaluation is only "applicable" if the customer agrees to*

such an inspection. It may be confusing because it fails to reveal a material fact in light of a positive representation.

"This issue has been brought to Tesla's attention and we anticipate appropriate modifications in Tesla's information awareness program."

In 2016 we received information from NCDS that Tesla has informed them that Tesla has decided to modify their procedures concerning the Magnuson-Moss Warranty Act compliance requirements contained in this sub-section and will adopt language into their Owner's Manual that will mirror that used by manufacturers that have been determined by the auditors to be in substantial compliance in this regard. Presumably, there has been no change in the status reported to us last year.

DISCREPANCIES:

None

TOYOTA:

Toyota uses the following means by which to meet this important requirement:

- Toyota publishes a 32-page booklet, entitled *Owner's Warranty Information*, that briefly explains, among many other things, the NCDS process and how and where to file an application. The pamphlet is distributed in a variety of ways, but the principal method is by way of the dealer. Dealers are to provide the brochure as part of the initial information packet given to new customers as well as making them available in the dealership. Note: Our random audits of dealerships conducted for the national audit found no consistent and significant commitment by dealers to educate their employees about providing NCDS information to customers who make warranty-related inquiries or, assert warranty related disputes. [This section's findings are based on the status quo in our 2010 report insofar as nothing we reviewed this year suggests any material change as pertains to this requirement.]
- Toyota publishes a 56-page booklet, entitled *Owner's Warranty Rights Notification* booklet, that contains state-specific, warranty-related regulatory information (lemon law provisions) and an application form for accessing the NCDS. The booklet provides useful and accurate information. (DATED 1/09). Like the *Owner's Warranty Information* booklet, it is distributed, in the main, by dealership sales personnel at the point of sale/delivery as part of the glove box kit.
- There is a NCDS pamphlet (one-page tri-fold) published by Toyota that is reasonably informative about the NCDS and how to access it. The pamphlet cross-references the *Owner's Warranty Rights Notification* booklet as one of two sources for obtaining a *Customer Claim Form*.⁹

9. The *Toyota Dispute Settlement Program* pamphlet references the *Toyota Owner's Manual Supplement*, but it appears they mean the *Owner's Warranty Rights Notification* booklet. It's a mere administrative oversight, but customers could easily be confused. Fortunately the theoretical problem is mitigated by virtue of the second reference to a toll-free telephone number to Toyota's Customer Assistance Center where customers may obtain a *Customer*

Those interested in knowing about the program are referred to a toll-free telephone number where they can request a NCDS pamphlet. This one-page document is distributed primarily by the Toyota Customer Assistance Center.

[This information is based on the findings of last year's audit as we are not in receipt of information from Toyota indicating any material change from last year's audit findings excepting the re-printing with additions of the *Warranty Rights Notification* booklet in 2009.]

Despite the manufacturer's efforts, there remains a concern about NCDS information dissemination at the dealership level where most warranty disputes arise. For that reason, we have included for reference purposes our experiences last year.

Last year (2016) [for 2015 report], we visited two Toyota dealerships.

*Village Toyota
2431 S. Suncoast Blvd.
Homosassa, Florida 34448*

*Steve Landers
10005 Colonel Glenn Rd.
Little Rock, Arkansas 72204*

The results of our visit to these dealership service departments seeking information about arbitration or dispute settlement programs were uniformly disappointing. Neither of these two dealerships provided any useful information about the NCDS dispute settlement Mechanism.

We have said in prior reports that:

Clearly, one of the principal reasons that the annual independent audit requirement was included in Rule 703 was to ensure that adequate consumer awareness was provided for by sponsoring manufacturers. That the original draft of Rule 703 was modified so as to require this audit was an outcome fostered by manufacturers who complained that the proposed alternatives were too onerous and in fact, "draconian." The Federal Trade Commission declined to mandate the national media campaigns and dealer incentives requirements, opting instead for voluntary efforts by the manufacturers, or their agent dealers, which would then be audited annually to ensure compliance with the stated objective of ensuring consumer awareness of the availability of the program. In any event, it is abundantly clear that no audit findings are complete without an evaluation of this aspect of the arbitration program since it is specifically set forth in the administrative Rule requirements in that section identified as the "Proceedings." This extensive Federal Trade Commission commentary was promulgated as a fundamental part of the Rule, as is the case with all promulgated FTC Rules.

This year (2017 for the 2016 report) we visited the following Toyota dealerships:

In Ohio:

Classic Toyota
8510 Tyler Blvd.
Mentor, Ohio 44060

Ferris Toyota
634 Wabash Ave. N. W.
New Philadelphia, Ohio 44663

C & C Toyota
1305 Pike St.
Marietta, Ohio 45750

The results of our review of Ohio dealership personnel interviewed during the dealership visits this year were somewhat mixed as regards providing useful information about the Toyota warranty dispute mechanism in response to our inquiries concerning customer options when the customer is experiencing warranty disputes. One of the reviewed Toyota dealers in Ohio did not provide any useful and accurate information about arbitration and NCDS. We were not able to locate an Ohio mandated poster at two of the three dealers visited. As stated in earlier audits, the mandated poster is supposed to be prominently displayed. These posters are designed to inform customers with a warranty dispute important information about how to initiate a claim for arbitration.

In Iowa:

Cedar Rapids Toyota
1200 Boyson Rd.
Hiawatha, Iowa 52233

The result of our visit to this dealership was very disappointing. The service advisor gave us no useful information out the NCDS Dispute Resolution process and what information he did provide was embarrassingly incorrect. The advisor said, "in 27 years in the business, I have never seen a vehicle that qualified under the lemon law." He then added: "In order to go to arbitration, you must have had three unsuccessful repairs for the exact same problem." Indeed, nothing this advisor offered about arbitration was correct, and if in 27 years in the business, he had never seen a vehicle that qualified as a lemon, then he obviously fails to understand the federal Magnuson-Moss Warranty Act.

In Virginia:

Malloy Toyota
400 Weems Lane
Winchester, Virginia 22601

The result of our visit to this dealership was also disappointing. The Service advisor provided no useful information about NCDS or how to contact them for dispute resolution assistance (arbitration and or mediation.)

Because of the varied and heavy responsibilities of service managers, they were not always available during our "secret shopper" visits to dealerships. It is predictable that the customers of dealerships whose employees are completely unaware of the NCDS will be less likely to be informed of the availability of NCDS, a situation "at variance" with the regulation's intent.

There is a toll-free phone number to the Toyota Customer Assistance Center that may offer assistance to customers in terms of the "making customers aware" requirement. This office is designed to facilitate an open line of communication between the servicing dealer, Toyota, and the customer. The toll-free line facilitates the NCDS by providing NCDS information to those who specifically request information about arbitration. We contacted the number and were referred to the glove box packet and the specific manual which contains a NCDS application form. The primary objective of the Toyota Customer Assistance Center is to keep the customer and Toyota working together to resolve warranty-related problems. This facet of the program operates consistent with § 703.2(d) which allows:

703.2 (d)... Nothing contained in paragraphs (b), (c), or (d) of this section [notice requirements] shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor as long as the warrantor does not expressly require consumers to seek redress directly from the warrantor. The warrantor shall proceed fairly and expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

The information dissemination methods employed by Toyota together with the number of applications filed nationally with NCDS in the last three audited years: 1,719 claims filed in 2013, 1,854 claims filed in 2014, and 2,820 in 2015 and 3,615 amounting to approximately 10,000 claims filed in the course of the last four years, many of which were filed by Toyota customers. This demonstrates that many Toyota customers were somehow made aware of the program, and for these customers access is obvious.

On the other hand, our dealer inspections in several parts of the country showed a general lack of knowledge on the part of many dealer service department employees about the NCDS, and in some cases, complete unawareness of its very existence.

Our visits to dealerships suggests that customers who seek assistance from their salespersons are unlikely to receive any useful information about the NCDS. Few of the salespeople we interviewed appeared to have any knowledge of the NCDS or arbitration options in general.

We feel obligated to point out that the Federal Trade Commission staff in the section of Federal Register that contains "the Proceedings" reported that the party who is in the best position to communicate with customers, at most junctures in the warranty repair context, is the servicing dealer.¹⁰ Unfortunately, dealers who wish to ignore their role in facilitating "fair and expeditious" warranty dispute resolution may do so with regulatory impunity, notwithstanding the efforts of Toyota.

We note here that manufacturers' difficulties in complying with this requirement are related in some respects to uncertainty as to the regulation's intent about when the customer is to be informed. A better information dissemination strategy could be developed if regulators provided manufacturers with an operational definition of the phrase, " ... **at the time consumers experience warranty disputes.**"

DISCREPANCIES:

None, with the same qualifier given immediately above.

REQUIREMENT: § 703.7 (b) (3)(I)

Analysis of a random sample of disputes handled by the Mechanism to determine the following: (i) Adequacy of the Mechanism's complaint and other forms, investigation, mediation and follow-up efforts, and other aspects of complaint handling; and (ii) Accuracy of the Mechanism's statistical compilations under 703.6 (e). (For purposes of this subparagraph "analysis" shall include oral or written contact with the consumers involved in each of the disputes in the random sample.)

FINDINGS:

The FINDINGS for this section are arranged as follows:

- (1) **Forms**
- (2) **Investigations**
- (3) **Mediation**
- (4) **Follow-up**
- (5) **Dispute Resolution**

10. The Proceedings is the first part of the section wherein the promulgated Rule 703 appears and at the proceedings' conclusion it is pointed out that the Proceedings is promulgated as part of Rule 703. See pg. 60215 of Federal Register, Vol. 40, No. 251, December 31, 1975.

FINDINGS:

1) Forms

The auditors reviewed most of the forms used by each regulated component of the dispute settlement program administered by the National Center for Dispute Settlement (AWAP).

The many forms used by AWAP comprise an important aspect of the arbitration program. The forms we reviewed are "user friendly," well balanced, and provide sufficient information to properly inform the parties without overwhelming them with non-essential paperwork. Overall, the AWAP forms promote efficiency and assist the program in meeting the stated objective of facilitating fair and expeditious resolution of disputes. We found the forms used by NCDS' AWAP program that we reviewed well within the regulatory expectations.¹¹

We said in our last few reports the following:

"We note that the *Customer Claim Form* solicits some information that raises questions about the purpose and appropriateness of some questions in this regulated arbitration process. For example, "Are your loan payments current? Yes - No." We are hard-pressed to see what this question might have to do with the arbitrator's ability to render a decision, or on NCDS' ability to process the matter. Moreover, Rule § 703.5 (c) says: "The Mechanism shall not require any information not reasonably necessary to decide the dispute." Although each manufacturer uses their own *Customer Claim Form* seeking different information from their customers, NCDS requires only that information required by the Magnuson-Moss federal statute and the related Rule 703. Superfluous inquiries then should not be included on the Customer Claim forms."

NCDS has informed us that the claim forms that included these superfluous questions have been revised and the inappropriate inquiries are no longer a part of the form.

DISCREPANCIES:

NONE

NCDS general policies for the AWAP are set forth in the pamphlet provided to each applicant for arbitration. Some additional policies are printed in the arbitrator training manual and appropriately arranged in sections which are indexed by subject matter.

In summary, the numerous forms used by the AWAP are in substantial compliance with the federal regulatory requirements.

11. We note that the *Customer Claim Form* solicits some information that raises questions about the purpose and appropriateness of some questions in this regulated arbitration process. For example, "Are your loan payments current? Yes - No." We are hard-pressed to see what this question might have to do with the arbitrator's ability to render a decision, or on NCDS' ability to process the matter. Moreover, Rule § 703.5 (c) says: "The Mechanism shall not require any information not reasonably necessary to decide the dispute." Although each manufacturer uses their own *Customer Claim Form* seeking different information from their customers, NCDS requires only that information required by the Magnuson-Moss federal statute and the related Rule 703. Superfluous inquiries then should not be included on the Customer Claim forms.

2) Investigations

This facet of the arbitration program is governed by section 703.5 [c] (Mechanism's Duty to Aid in Investigation).

Field audits, monitoring of arbitration hearings, and interviews with arbitrators and AWAP staff found only a limited number of requests by arbitrators for technical information, but such information is provided by the applicable manufacturer on request.

We included arbitrator requests for Technical Assessment under this investigative category. In the past, arbitrators in many arbitration programs have sometimes relied inappropriately on the manufacturer's technical experts' intervention or on manufacturer reports, losing sight of the fact that this information is provided by manufacturer employees who, despite any expertise they may possess, are nonetheless a party to the dispute. Thus, their representations cannot generally be given the same value as that provided by an independent neutral source. Because this problem has surfaced in many of our reviews of various automobile warranty arbitration programs, we believe it is important that the training of arbitrators continue to stress this as a potential problem that should generally be avoided. This will help avoid a problem that many such programs have experienced. Conflicts between the parties on questions of fact may, in some limited circumstances, be best resolved by an independent inspection conducted by a neutral ASE-certified mechanic.

The manufacturer provides cooperation in responding to arbitrator requests for independent inspections. It appears to be rare for arbitrators to request that the manufacturer provide a copy of a Technical Service Bulletin (TSB) and then delay action on the case pending receipt of the bulletin. Whether a TSB *exists* is apparently more likely to be central to an arbitrator(s) determinations than any information contained therein. The existence of a TSB may increase, in the minds of some arbitrators, the likelihood that a customer's otherwise unverified concern is real. The program would be well served by having TSBs included in the case file whenever the company knows that there is a TSB that could very likely address the central concerns set forth in the customer's application and related documentation submitted to the AWAP.

Occasionally, independent inspections are conducted to confirm or deny one party's representations or to resolve conflicts between the representations of the parties. Our monitoring of arbitration hearings in the past suggests that many arbitrators do not understand the real purpose of these inspections, inappropriately viewing them as a means by which to diagnose the vehicle's alleged mechanical problem rather than as a means to resolve conflicts of fact between the parties. This orientation suggests that arbitrators may inappropriately become involved in efforts to achieve customer satisfaction rather than seeing themselves as arbiters of disputes.

Arbitrators would be greatly aided by continued emphasis at arbitrator training on the appropriate use of independent inspections and technical assistance. The AWAP has developed and implemented a national training program that, of necessity, addresses so many issues in a short period of time that it is understandable why arbitrators often lose sight of some of the trainers'

admonitions. This underscores the importance of an efficient, on-going feedback loop that provides regular reminders from program staff to arbitrators.

NCDS has addressed the needs related to the concerns referred to above and developed a regular newsletter entitled "NCDS Arbitrator Bulletin." This newsletter is supplemented, on an as needed basis, by such special editions as the one directed to the NCDS California arbitrators which addresses California's unique regulatory requirements.

The general newsletter addresses specific issues that arise from staff's regular observations of arbitrators' needs or program innovations like their coaching and mentoring opportunities for newly added arbitrators. We reviewed several of these newsletters and found them both accurate and of great potential utility.

Other areas to be investigated include:

number of repair attempts;

length of repair periods; and

possibility of unreasonable use of the product.

Customers provide some information on these subjects on the AWAP application and the applicable manufacturer provides it on their own forms entitled *Manufacturer's Response Form*.

The customer application form, unfortunately, does not ask for information about the issue of possible misuse or abuse of the vehicle. Customers should know that the possibility of abuse or misuse of the vehicle may become a significant issue in the arbitrator's decision process so that they can present information accordingly. The company reports may include information on this topic whenever they think it is appropriate, but the customer has no way of knowing that this is a subject they would be well advised to address in the information they present to the board or an individual arbitrator.

In the event that misuse is asserted or suggested as a possibility in the *Manufacturer's Response Form*, the customer is able to submit supplemental information challenging or explaining his/her perspective on the issue. Rather than delay the process or put the customer in the position of having to present a response on short notice, customers could be advised at the onset of the process that the issue might come up in the arbitrator(s)/board's deliberations. The fact that customers receive copies of the statements from the company in advance of the hearings, allowing them the opportunity to challenge any such suggestion, is not, in itself, sufficient to address our concern. Unfortunately, not all questions of possible misuse arise in response to the *Manufacturer's Response Form*. The subject of abuse or misuse of the product may only emerge during the arbitrator(s)/board's deliberations. Based on our interviews with arbitrators, an arbitrator may suspect the possibility of abuse or misuse without having been asserted in the paperwork. In such cases, "misuse" may not be the primary or deciding factor, but can still be a significant factor. Because of its secondary importance, however, it may not be detailed in the decision nor reflected in the fairly brief communications announcing the arbitrator(s) decision. Thus, a

customer who may have important rebuttal information on the subject of suspected abuse, might not be aware that abuse of the vehicle had become an issue.

FINDINGS:

The investigation methods used by the AWAP are well known to regulators and appear to be acceptable to them. Moreover, the processes envisioned when Magnuson-Moss was enacted were understood to be substantially abbreviated in comparison to litigation. Ultimately, the question comes down to, "How much investigation is enough?" In our view, more inquiries in the initial phase of the arbitration process would enhance the process, but we are unwilling to assert that this concern threatens compliance.

The methods currently employed by the AWAP clearly result in a useful collection of pertinent information, but it is also clear that there is opportunity to gather significantly more valuable information at virtually no additional cost.

3) **Mediation**¹²

This facet of the arbitration program was historically carried out exclusively by the manufacturer or its dealers. The NCDS process attempts to mediate the case prior to arbitration by having a trained staff person contact the customer and the applicable manufacturer where the facts as they receive them appear to warrant. When mediation fails to result in a settlement, the matter is arbitrated and a decision rendered.

The mediation function envisioned by rule 703 is governed, at least in part, by section 703.2(d) which allows:

... Nothing contained in this subchapter shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor as long as the warrantor does not expressly require consumers to seek redress directly from the warrantor. The warrantor shall proceed fairly and expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

FINDINGS:

After a case is opened, the manufacturer generally intercedes in an attempt to resolve the dispute to the customer's satisfaction prior to arbitration. Detailed records are kept as required by § 703.6. This information is contained in the case files maintained by NCDS.

This audit assesses the mediation function only in terms of its impact on the requirement to facilitate fair and expeditious resolution of disputes. All indications are that the mediation function meets the minimum requirements for fair and expeditious resolution of disputes. Mediation is voluntary and in no way is intended to impede or delay a customer's access to arbitration. The degree to

12. Mediation in this regulatory context does not necessarily imply the use of a neutral third-party mediator, but rather means, the case has been settled prior to the arbitrator rendering a decision.

which performance of mediated resolutions conforms with time limit requirements is reviewed in the survey section of this report.

4) **Follow-up**

NCDS is responsible for verifying performance of decisions or mediated settlements.

When the customer accepts a settlement offer or an arbitration decision, NCDS monitors the promised performance. NCDS logs the performance information into the file. Once a decision mandating some action on the part of the applicable manufacturer has been rendered and NCDS has received notice that the customer has accepted the decision, a performance survey is mailed to the customer to determine that:

- a) the promised performance has taken place, and
- b) the performance that has taken place is satisfactory.

If the survey is returned, it is placed in the case file folder.

The recording of performance and maintenance of the AWAP records were reviewed by our inspection of case files provided by NCDS. We reviewed a random sample of case files for each region selected for the audit. The sample is drawn from the computer system maintained by NCDS.

NCDS has developed a policy to ensure that performance verification information is maintained in an electronic case file which may be reviewed by anyone reviewing the case file and, importantly, a note to that effect will appear in the hard copy case file folder.

DISCREPANCIES:

None

5) **Dispute Resolution**

The AWAP uses three arbitration formats. The three formats are: a) a board consisting of three arbitrators; b) individual arbitrators or, c) a panel of three arbitrators for Lexus cases. Customers, other than Lexus may opt to use either a) or b) formats. Importantly, the board process is one wherein the decisions are made after considering only documentary evidence and excludes oral presentation. Of course, customers may opt for a one-member (arbitrator) hearing, wherein oral presentations may be made by the parties. When using a board, the "Members" (i.e., arbitrators) are each provided with a case file that contains pertinent facts gathered by the program. The three arbitrators include: a consumer advocate, a technical member, and a member of the general public. Two members constitute a quorum and the board relies on documents provided by the parties. The arbitrators meet to discuss the facts presented to them and then render a decision. Most board decisions are arrived at by consensus, but sometimes the members resort to a vote to close the matter. The board may request additional information, usually in the form of an independent inspection conducted by a specialist in auto

mechanics. Occasionally, the board asks for Technical Service Bulletin information, although technical questions can often be answered by the board's technical member.¹³

In the AWAP formats using a documents only board and single arbitrators, hearings are open, as required by Rule 703, to observers, including the disputing parties. The Lexus panel process is not open to observers. We have said in all our recent reports:

It should be noted however, that we HAVE audited a Lexus hearing in Houston, Texas as part of the national Rule 703 audit report and discovered that Lexus has elected to have their cases heard by a three-member panel which takes testimony/evidence from each of the parties and then dismisses the parties while they deliberate and decide the case. We believe this approach is inconsistent with the requirements of Federal Trade Commission Rule 703.8 (d) which provides that meetings of the members to hear and decide disputes shall be open to observers on reasonable and nondiscriminatory terms. Further, the Rule's, *Statement of Basis and Purpose* (pp. 60215, Federal Register Vol. 40, no. 251) explains that the one case where they allow for the exclusion of persons to the meeting is limited to non-party observers. The FTC further emphasizes the importance of the parties being present to provide the scrutiny function intended. Lexus and NCDS will need to re-visit this aspect of their program to ensure compliance. [NOTE: NCDS has interpreted the regulatory language differently and administers the program so that actual deliberation is conducted by the arbitrators without the presence of the parties.]

Nothing has changed since we issued last year's report referencing the Lexus process as regards the open meetings provision [§ 703.8 (d)].

The parties are sent copies of the case files before the board meets and are informed that they may submit additional information if they choose to clarify or contradict information in the file. Any additional information is then provided to the board prior to its deliberations.

In most cases, the NCDS process involves a single arbitrator. In such instances, the hearing is conducted solely by the arbitrator with no administrative assistance. Moreover, it is typically held outside of an NCDS office so the only support services (e.g., copy or fax machines) are those that may exist at the place selected for the hearing. Most often the site selected is a participating manufacturer's dealership.

13. Each facet of the AWAP has Automotive Service Excellence (ASE) certified mechanics available to provide independent inspections to resolve conflicts of facts as presented by the parties. ASE is a private association that tests applicants to ascertain whether they possess a specified degree of expertise in automotive mechanics.

Decisions of the arbitrator(s) are binding on participating manufacturers but not on the consumer.

FINDINGS:

The AWAP's meeting process is in substantial compliance with the federal regulation and provides for fair and expeditious resolution of warranty disputes. Overall, the program meets the requirements of Rule 703. The exception pertains to the Lexus panel process as regards open meetings as discussed elsewhere in this report.

We have noted continued improvement in awareness of important legal principles and various warranty doctrines among established arbitrators who have been provided arbitrator training. Arbitrators' increased awareness of their scope of authority, the essential components of a decision, and factors that may be important when considering whether to apply a mileage deduction in repurchase or replacement decisions are clearly attributable to the professional training program NCDS provides for its arbitrators.

Arbitrators are volunteers whose only compensation is a nominal per diem and mileage expense allowance.¹⁴ Arbitrators are not required by the program to have any established expertise in the complexities of automobile warranty law at the time of their appointment. Fairness, as envisioned by state policy makers, however, requires that arbitrators have some level of knowledge of the state and federal regulations that set forth the basic rights and responsibilities of the parties to a warranty dispute.

Our monitoring of arbitration hearings and interviewing of arbitrators in virtually all such programs has continually underscored the importance of on-going arbitrator training. Without regular input and feedback mechanisms, arbitrators are occasionally uncertain about their rights and responsibilities. Since the AWAP hearings/meetings are rarely attended by people other than the parties and a manufacturer representative, the arbitrators operate in a kind of self-imposed vacuum, without direct access to a feedback mechanism other than an occasional independent vehicle inspection report. In addition, because arbitrators are volunteers who usually participate in the AWAP process infrequently, a mistake made at one hearing can easily become an institutionalized error that could subject the program to a possible compliance review. On-going training would greatly alleviate these concerns for arbitrators.

The NCDS program has also informed us that they continue their efforts to address the "boilerplate" problem, alluded to in previous reports, including explanations provided at arbitrator training to ensure that arbitrators understand that the "Lemon Law" thresholds for establishing presumptions do not serve as a threshold for their awarding "buy back" relief. At our review of training some time ago, we confirmed that these efforts had some noteworthy effects. Our findings set forth in our last few years' reports are, in many respects, consistent with our experience with this year's Texas arbitration training. We have had discussions, however, with NCDS staff concerning the balance in focus between the federal Magnuson-Moss Warranty Act and its related Administrative Rules

¹⁴ Currently, NCDS arbitrators are provided a per diem allowance of \$100.00 a hearing plus reimbursement for any mileage expenses incurred.

versus the state Automobile "Lemon-Laws." [For details see the training section of this report.]

Overall, the AWAP members demonstrate a clear commitment to providing fair and expeditious resolution of warranty disputes.

DISCREPANCIES:

None, with the caveats noted in the above section.

SECTION III

Field Audit of Three Geographical Areas

Three Geographical Areas that were reviewed for this year's annual Federal Trade Commission audit are, Iowa, Ohio, and Virginia.

I. Iowa

A. Case Load and Basic Statistics

In Iowa, NCDS handled 31 AWAP cases in 2016.

Of the total number of 2016 Iowa cases, 5 (16%) were "no-jurisdiction" cases. There were 24 cases arbitrated (92.3%) of the 26 in-jurisdiction cases, and no cases were mediated. Of the 24 cases arbitrated, 22 of them (91.6%) were decided "adverse to the consumer." The average number of days for handling a 2016 case in Iowa was 32 days. This compares with an average of 34 days handling nationwide.

B. Record-keeping, Accuracy and Completeness

We requested a random sample of case files drawn from all cases closed during the audit period and examined them to determine whether they were complete and available for audit. Generally, the records were complete and available for audit.

We analyzed several NCDS-generated statistical reports covering the 2016 NCDS' Operations. Those reports are available from Ms Debbie Lech, Operations Manager, National Center for Dispute Settlement, 12900 Hall Road, Suite 401, Sterling Heights, MI 48313.

The results of the random sample inspection of case file folders are detailed below:

§ 703.6 (a) (1-12)

(a) The Mechanism shall maintain records on each dispute referred to it which shall include:

- 1) Name, address and telephone number of the consumer.**
- 2) Name, address and telephone number of the contact person of the Warrantor.**
- 3) Brand name and model number of the product involved.**
- 4) The date of receipt of the dispute and date of disclosure to the consumer of the decision.**
- 5) All letters and other written documents submitted by either party.**

FINDINGS:

The auditor examined the case file folders extracted from all 2016 "in-jurisdiction" case files. We examined each sample file with respect to the items enumerated in subsections 1 through 5 with the following results:

- 1) All case files contained the customer's name, address, and telephone number.
- 2) The requirement is met. The name and address of the warrantor's contact person is included with the initial correspondence that the customer receives from the program. In addition, the various regional office contact addresses and phone number is included in each Owner's Manual that accompanies all new vehicles when they are delivered. The contact person is so generally known as to not require it to be placed in each individual case file.
- 3) All case files inspected contain the make and vehicle identification number (VIN) of the vehicle. It is usually found in the customer application form, the richest source of information within most files, but the vehicle make and VIN is often located in documents throughout the file. As a result, cases are seldom, if ever, delayed because the customer has failed to provide the VIN when filing their application.
- 4) All case files inspected contain this information.
- 5) Many files contained letters and additional documents, but since there is no standard by which to measure this item, we determined this subsection to be "not applicable."

§ 703.6 (a) (1-12) [Continued]

- 6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in section 703.4(b) of this part);**
- 7) A summary of any relevant and material information presented by either party at an oral presentation.**
- 8) The decision of the members including information as to date, time and place of meeting, the identity of the members voting; or information on any other resolution;**

FINDINGS:

All files for cases that were arbitrated contained the information required by sections six and eight. Oral presentations are a basic component of the NCDS program in this jurisdiction, and section seven requires summaries of the oral

presentations to be placed in the case file. In the case files we reviewed for this region, the record-keeping requirements were met.

9) A copy of the disclosure to the parties of the decision.

Each applicable case file contained a copy of the decision letter sent to the customer. This letter serves as both the decision and the disclosure of the decision.

10) A statement of the warrantor's intended action(s);

FINDINGS:

The warrantor's intended action(s) and performance are inextricably linked. Thus, we validate this item in terms of performance verification. Performance verification is a function carried out by NCDS. This office sends a survey to the customer following receipt of the customer's acceptance of those decisions mandating some action on the part of the manufacturer to ask, among other things, whether any required performance has taken place. Customers are asked to return the survey to the office of NCDS. As noted elsewhere, we found few returned survey forms in the case files. In the past, we have stated that the absence of performance verification forms in the case file does not constitute a regulatory inconsistency since performance verification information may not be available from the customer. By mailing a performance verification survey NCDS goes as far as can be expected in determining whether arbitration decisions are, in fact, being performed. It seems entirely appropriate for the program to assume performance of the decision has taken place when the customer performance survey is not returned. For those who may be skeptical about such important assumptions, it should be remembered that even if a manufacturer engaged in a programmatic attempt to avoid performing arbitration decisions, that fact would, of course, emerge in the context of our national random survey of customers who have used the program. Performance verification status should and does appear in the case file as is indicated by sections 11 and 12 below.

11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer and responses thereto; and

12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

FINDINGS:

Section 11 above is not applicable for purposes of the audit because there is no practical means by which to verify the completeness and accuracy of such possible additions to the files. Section 12, however, appears to mandate that a summary form be created whenever the arbitrator receives an oral communication that may have any bearing on the matter in dispute from either party. Of course, most such communications come in the form of oral presentations by the parties at the hearing, in which case the communications are summarized in the arbitrator's decision. All summaries are now included in the case file.

CONCLUSIONS:

The NCDS program's record keeping policies and procedures, with the alluded to necessary modifications made in the recent past, are in substantial compliance with the federal Rule 703 requirements.

C. Case File Records (4 yrs. 2013-2016)

§ 703.6 (f)

(f) The Mechanism shall retain all records specified in paragraphs (a) through (e) of this section for at least 4 years after final disposition of the dispute.

A random sample of case numbers from the years 2013 through 2016 was drawn from the NCDS data base program. Our inspection of this sample verified that they were being maintained per requirement § 703.6(f).

These particular closed files are stored at an off-site record storage facility of the NCDS suburban Detroit, Michigan, office. We did not inspect the off-site facility for this year's audit. The files we viewed, however, were intact and readily available for inspection. The random sample inspection of case files drawn from all cases in the four-year universe of cases validated the program's maintenance of these records as required.

D. Arbitration/Hearing Records

i. Case file folders

Most information that is required to be maintained is found on a series of forms found in the case files maintained at the NCDS headquarters in Detroit, Michigan.

ii. Arbitrator Biographies

The arbitrator biographies for the national program are available for review from Debbie Lech, Operations Manager, National Center For Dispute Settlement, 12900 Hall Road, Suite 401, Sterling Heights, MI 48313. The biographies are thorough and current. The list of arbitrators for each district includes the dates of their appointments.

E. Hearing process

The AWAP Iowa hearing was held as scheduled at the Pat McGrath Chrysler Dodge Jeep dealership, in Cedar Rapids. The hearing was conducted at 11:00 a. m.

i. Physical Description of Hearing (i.e., Meeting)

Although the hearing room was adequate to accommodate all those in attendance: the arbitrator, the Service Manager, and the auditor. The dealership's Service Manager informed the arbitrator at the outset that the customer had called the dealership to inform him that his truck broke down and he would therefore not be able to attend. The manufacturer's representative said, that it was her understanding that the customer had withdrawn his case.

The arbitrator, not having received anything directly from the customer concluded that he was obligated to continue the hearing based on the paperwork contained in the file and any presentations the parties may provide. He therefore continued the hearing process.

ii. Openness of Hearing

The arbitrator communicated to the auditor his understanding that the hearings are open and can be attended by observers who agree to abide by the program's rules. The hearing room would accommodate any likely visitors.

iii. Efficiency of Meeting

The arbitrator's case file appeared complete. He informed the party in attendance (the manufacturer's representative) about the basic rules of the program and also explained that following the opposing parties presentation, the hearing would be closed.

The arbitrator then proceeded to allow the manufacturer's representative to present the manufacturer's case. The manufacturer's representative made a brief oral presentation. Due to the unique circumstances of the case, the customary test drive could not be conducted.

The arbitrator demonstrated that he knew how to properly conduct a hearing. After determining that no one had anything further to add, the arbitrator declared the hearing closed.

iv. Hearing

The brief and atypical hearing was properly conducted.

v. Board/Arbitrator Decisions

We reviewed this case's file and a sample of NCDS decisions from this region rendered in 2016 while conducting our on-site visit to the suburban Detroit headquarters of NCDS. Overall, the decisions we reviewed were reasonable and consistent with the facts of the case, at least insofar as the case file is concerned. There was no decision rendered in this particular case because, after the hearing was closed, it was discovered that the customer had contacted NCDS staff and informed the staff that he was withdrawing his case.

CONCLUSION:

The AWAP, as it operates in the state of Iowa is in substantial compliance with the Magnuson-Moss Warranty Act, and its related Administrative Rule 703. The NCDS administrative staff and the NCDS program demonstrated a clear commitment to ensure fair and expeditious resolution of warranty disputes. The administrative staff is clearly dedicated to the program's mission and demonstrates a high degree of professionalism.

II. Ohio

A. Case Load and Basic Statistics

The 2016 Ohio Statistical compilations identifies 10 total disputes closed for 2016. Of these, three were beyond jurisdiction for NCDS' arbitration program review. Of the remaining cases, none were mediated, seven were arbitrated,¹⁵ and three were determined by NCDS to be "no jurisdiction" cases. One decided case's decision was still pending. The average day for handling a 2016 case in Ohio was 32. This compares with an average of 34 days handling nationwide.

The Ohio regional field audit includes a review of a hearing held at the Toyota of Bedford dealership in Bedford, Ohio, on March 31, 2017. This assessment included interviews with the principal parties involved in the hearing. In addition, we reviewed a sample of NCDS case files for Ohio, which are stored at national headquarters of the National Center for Dispute Settlement (NCDS), in suburban Detroit, Michigan.

We requested a random sample of cases drawn from all Ohio cases closed during the audit period and examined the cases provided to determine whether they were complete and available for audit. Files were reviewed for accuracy and completeness. The findings of that review are set forth below.

B. Record-keeping Accuracy and Completeness

We typically have had a random sample of Ohio case files drawn from all cases closed during the audit period and examined to determine whether they were complete and available for audit. Due to diminution of cases filed in 2016, we examined them all. The records were complete and available for audit.

We analyzed several NCDS statistical reports covering 2016 NCDS' arbitration program operations, including those that are Ohio-specific. They are maintained as required. Our survey sample analysis confirms their reasonable accuracy.

The above referenced reports are available upon request from Ms Debbie Lech, Manager of Dispute Resolution Operations, National Center For Dispute Settlement, 12900 Hall Road, Suite 401, Sterling Heights, MI 48313.

15. Only six arbitrated cases were fully "decided" at the time the statistics report was created with one additional case categorized as a "pending decision." Three cases filed were determined to be not in-jurisdiction.

The review in Ohio includes a review of an individual arbitration hearing wherein personal presentations are made and the applicable evidence submitted by the parties in light of the applicable Federal, and in some cases State Law. The hearing was held at the Toyota of Bedford dealership in Bedford, Ohio, March 31, 2017 at 11:00 a.m.

In addition, we reviewed a sample of case files for Ohio which are stored at national headquarters of the National Center for Dispute Settlement (NCDS), in Sterling Heights, [Detroit area] Michigan.

§ 703.6 (a)(1-12)

(a) The Mechanism shall maintain records on each dispute referred to it which shall include:

- 1) Name, address and telephone number of the consumer;**
- 2) Name, address and telephone number the contact person of the Warrantor;**
- 3) Brand name and model number of the product involved;**
- 4) The date of receipt of the dispute and date of disclosure to the consumer of the decision;**
- 5) All letters or other written documents submitted by either party.**

FINDINGS:

We examined the case files extracted from all "in-jurisdiction" regional case files closed during the audit period. We reviewed these files for the items enumerated in subsections 1 through 5 with the following results:

- 1) All case files contained the customer's name, address, and telephone number.
- 2) The requirement is met. The name and address of the warrantor's contact person is included with the initial correspondence that the customer receives from the program. In addition, the various manufacturer's contact address and phone number is included in each Owner's Manual that accompanies all new vehicles when they are delivered. The contact person is so generally known as to not require it to be placed in each individual case file.
- 3) All case files inspected contain the make and vehicle identification number (VIN) of the vehicle. This information is generally found in the customer application and in a number of other documents in the file. As a result, cases are rarely delayed simply because the customer fails to include the VIN in the application.
- 4) All case files inspected contain this information. Not all cases necessitate a decision letter, but where a decision was rendered, the appropriate notification letter was present.

5) Many files contained letters and additional documents, but since there is no standard by which to measure this item, we determined this subsection to be "not applicable."

§ 703.6(a)

6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in section 703.4(b) of this part;

7) A summary of any relevant and material information presented by either party at an oral presentation;

8) The decision of the members including information as to date, time and place of meeting and the identity of members voting; or information on any other resolution.

FINDINGS:

All files for cases that were arbitrated contained the information required by sections six and eight. Oral presentations are a basic component of the NCDS program in this jurisdiction, and section seven requires summaries of the oral presentations to be placed in the case file. It is NCDS policy that the arbitrator conducting the hearing must summarize all significant information presented orally by either party during any facet of the hearing. We noted such language in the case files we reviewed but we did not conduct a qualitative review of that portion of each case's decision. We offer no judgement then on whether these summaries are consistently detailed and/or accurate depictions. At the same time, we saw no particular reason to question the sufficiency of this method.

9) A copy of the disclosure to the parties of the decision.

FINDINGS:

All files for cases that were arbitrated contained the required information.

10) A statement of the warrantor's intended action(s);

FINDINGS:

The warrantor's intended action(s) and performance are inextricably linked. Thus, we validate this item in terms of performance verification. Performance verification is a function carried out by NCDS. This office sends a survey to the customer following receipt of the customer's acceptance of those decisions mandating some action on the part of the manufacturer to ask, among other things, whether any required performance has taken place. Customers are asked to return the survey to the office of NCDS. As noted elsewhere, we found few returned survey forms in the case files. In the past, we have stated that the absence of

performance verification forms in the case file does not constitute a regulatory inconsistency since performance verification information may not be available from the customer. By mailing a performance verification survey, NCDS goes as far as can be expected in determining whether arbitration decisions are, in fact, being performed. It seems entirely appropriate for the program to assume performance of the decision has taken place when the customer performance survey is not returned. For those who may be skeptical about such important assumptions, it should be remembered that even if a manufacturer engaged in a programmatic attempt to avoid performing arbitration decisions, that fact would, of course, emerge in the context of our national random survey of customers who have used the program. Performance verification status should and does appear in the case file as is indicated by sections 11 and 12 below.

- 11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer, and responses thereto; and**
- 12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.**

Section 11 above is not applicable for purposes of the audit because there is no practical means by which to verify the completeness and accuracy of such possible additions to the files. Section 12, however, appears to mandate that a summary form be created whenever the arbitrator receives an oral communication that may have any bearing on the matter in dispute from either party. Of course, most such communications come in the form of oral presentations by the parties at the hearing, in which case the communications are summarized in the arbitrator's decision. All summaries are now included in the case file.

CONCLUSIONS:

The NCDS program's record keeping policies and procedures are in substantial compliance with the federal Rule 703 requirements.

Note: Over the course of several years, the review of case files reveal anomalies that, when discussed with staff of the program, demonstrate significant problems that then have resulted in modifications to the program. These modifications in the program assist in maintaining the program's compliance status relative to the various federal and state regulations.

C. Case File Records (4 yrs. 2013-2016)

§ 703.6 (f)

(f) The Mechanism shall retain all records specified in paragraphs (a) through (e) of this section for at least 4 years after final disposition of the dispute.

The closed files are stored at an off-site record storage facility of the NCDS Sterling Heights [Suburban Detroit], Michigan, office. We did not inspect the off-site facility for this year's audit. The files we

viewed were intact and readily available for inspection. We inspected a random sample of closed case files drawn from all cases in the four-year universe of cases from Ohio. Our review validated the program's maintenance of these records as required.

D. Arbitration/Hearing Records

i. Case file folders

Most information that is required to be maintained is found on a series of forms found in the case files maintained at the NCDS headquarters in Detroit, Michigan.

ii. Arbitrator Biographies

The arbitrator biographies for the national program are available for review from Debbie Lech, Operations Manager, NCDS at their headquarters in Sterling Heights [Detroit], Michigan. The biographies are thorough and current, and the list of arbitrators for each district includes the dates of their appointments.

E. Hearing Process

The AWAP hearing was scheduled to be held at the Toyota of Bedford dealership in Bedford, Ohio, March 31, 2017 at 11:00 a.m.

i. Physical Description of Hearing (i.e., Meeting)

The AWAP hearing was held at the Toyota of Bedford dealership in Bedford, Ohio, March 31, 2017 at 11:00 a.m. The hearing room was of adequate size for accommodating the hearing. The parties included the customer, a Toyota representative, the dealership's Service Manager, the arbitrator, and the auditor from Claverhouse Associates.

ii. Openness of Hearing

The hearing began at 11 a. m. as scheduled. The arbitrator communicated to the auditor his understanding that the hearings are open and can be attended by observers who agree to abide by the program's rules.

iii. Efficiency of Meeting

The arbitrator's case file was complete. He solicited all the necessary information from the customer and the manufacturer. He gave a brief summary of the case as filed, including a brief description of the alleged non-conformity together with what relief the customer was requesting. He also verified the outline of the dispute as briefly described

by the customer on the complaint form. He proceeded to allow each party to present their case. The customer, as is usual, made the initial oral presentation. Following the customer's presentation, the manufacturer's representative made a detailed presentation, after which a recess was taken to allow for an inspection of the vehicle.

The arbitrator demonstrated that he generally knew how to properly conduct a hearing but at one point the parties began to communicate directly with each other in a contentious manner. The aforementioned recess brought the process back under control. Each party thereafter made their final presentation after which the arbitrator closed the hearing.

iv. Hearing

The hearing was properly conducted. All parties were afforded an opportunity to present their versions of the case. Following each party's presentation, the other party was given an opportunity to clarify or challenge, as was appropriate.

v. Board/Arbitrator Decisions

We reviewed the arbitrator's decision along with the several other 2016 decisions rendered by the NCDS arbitrators in Ohio. They were all written consistent with applicable regulations as well as the NCDS program rules.

Overall, the decision in this case was reasonable and consistent with the facts of the case, notwithstanding the manufacturer's assertion during the hearing that he believed the case should have been litigated in a civil proceeding. The manufacturer claimed that the customer's concern was related to damage to the vehicle's door likely caused by it having been struck against the frame of the customer's garage door opening. His speculation, in this regard was not, however, accompanied by any objective evidence to support his contention.

Conclusion:

The AWAP, as it operates in the state of Ohio in 2016, is in substantial compliance with Rule 703. The NCDS administrative staff and the NCDS program demonstrates a clear commitment to ensure fair and expeditious resolution of warranty disputes. The administrative staff is clearly dedicated to the program's mission and demonstrates a high degree of professionalism.

III. Virginia

A. Case Load and Basic Statistics

The Virginia compilations identifies 95 total disputes closed for 2016. Of these 14 cases (14.7% of all disputes) were beyond jurisdiction for NCDS arbitration program review. Of the remaining 81 cases, two were mediated, and (85.2% of all in-jurisdiction disputes) were arbitrated. No case was reported as "pending" as of the date the report was originally generated. The regulations do not require reporting the number of cases that are voluntarily withdrawn by the customer. These cases typically account for why the numbers reported pursuant to the regulatory requirement may not sum to the total number of cases filed. The average number of days for handling a 2017 case in Virginia was 34 which mirrors the national average.

We analyzed a random sample of cases drawn from all 2016 Virginia cases closed during the audit period and examined the cases provided to determine whether they were complete and available for audit. Files were reviewed for accuracy and completeness. The findings of that review are set forth below.

The above referenced reports are available upon request from Ms Debbie Lech, Manager of Dispute Resolution Operations, National Center For Dispute Settlement, 12900 Hall Road, Suite 401, Sterling Heights, MI 48313.

B. Record-keeping Accuracy and Completeness

We had a random sample of Virginia case files drawn from all cases closed during the audit period [2016] and examined them to determine whether they were complete and available for audit. Generally, the records were complete and available for audit.

§ 703.6 (a)(1-12)

(a) The Mechanism shall maintain records on each dispute referred to it shall include:

- 1) Name, address and telephone number of the consumer;**
- 2) Name, address and telephone number the contact of the warrantor;**
- 3) Brand name and model number of the product involved.**
- 4) The date of receipt of the dispute and date of disclosure to the consumer of the decision;**
- 5) All letters and other written documents submitted by either party.**

FINDINGS:

The auditor examined a sample of case file folders randomly extracted from all 2016 "in-jurisdiction" case files. We examined each sample file with respect to the items enumerated in subsections 1 through 5, with the following results:

- 1) All case files contained the customer's name, address, and telephone number.
- 2) The requirement is met. The name and address of the warrantor's contact person is included with the initial correspondence that the customer receives from the program. In addition, the manufacturer's contact address and phone number is included in each Owner's Manual that accompanies all new vehicles when they are delivered. The contact person is so generally known as to not require it to be placed in each individual case file.
- 3) All case files inspected contain the make and vehicle identification number (VIN) of the vehicle. This information is generally found in the customer application and in a number of other documents in the file. As a result, cases are rarely delayed simply because the customer fails to include the VIN in the application.
- 4) All case files inspected contain this information. Not all cases necessitate a decision letter, but where a decision was rendered, the appropriate notification letter was present.
- 5) Many files contained letters and additional documents, but since there is no standard by which to measure this item, we determined this subsection to be "not applicable."

§ 703.6 (a) [continued]

- 6) All other evidence collected by the Mechanism relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the Mechanism and any other person (including consultants described in section 703.4(b) of this part;**
- 7) A summary of any relevant and material information presented by either party at an oral presentation;**
- 8) The decision of the members with information as to date, time and place of meeting, the identity of members voting; or information on any other resolution;**

FINDINGS:

All files for cases that were arbitrated contained the information required by sections (6) through (8). Oral presentations are a basic component of the NCDS program in this jurisdiction, and section (7) requires summaries of the oral presentations to be placed in the case file as part of the arbitrator's decision. In the

case files we reviewed for this region, the record-keeping requirements embodied in subsections 6-8 were met.

9) A copy of the disclosure to the parties of the decision.

FINDINGS:

All applicable case files contain a letter from the arbitrator announcing his/her decision.¹⁶

10) A statement of the warrantor's intended action(s);

FINDINGS:

The warrantor's intended action(s) and performance are inextricably linked. Thus, we validate this item in terms of performance verification. Performance verification is a function carried out by NCDS. This office sends a survey to the customer following receipt of the customer's acceptance of those decisions mandating some action on the part of the respective manufacturer to ask, among other things, whether any required performance has taken place. Customers are asked to return the survey to the office of NCDS. As noted elsewhere, we found few returned survey forms in the case files. In the past, we have stated that the absence of performance verification forms in the case file does not constitute a regulatory inconsistency since performance verification information may not be available from the customer. By mailing a performance verification survey, NCDS goes as far as can be expected in determining whether arbitration decisions are, in fact, being performed. It seems entirely appropriate for the program to assume performance of the decision has taken place when the customer performance survey is not returned. For those who may be skeptical about such important assumptions, it should be remembered that even if a manufacturer engaged in a programmatic attempt to avoid performing arbitration decisions, that fact would, of course, emerge in the context of our national random survey of customers who have used the program. Performance verification status should and does appear in the case file as is indicated by sections 11 and 12 below.

11) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer and responses thereto; and

12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

Section 11 above is not applicable for purposes of the audit because there is no practical means by which to verify the completeness and accuracy of such possible additions to the files. Section 12, however, appears to mandate that a summary form be created whenever the arbitrator receives an oral communication that may have any bearing on the matter in dispute from either party. Of course, most such communications come in the form of oral presentations by the parties at the

16. Some cases do not result in a decision. The case may end in a mediated settlement that came about after the case had been received by the AWAP but prior to the hearing to decide the matter.

hearing, in which case the communications are summarized in the arbitrator's decision. All summaries are now included in the case file.

CONCLUSIONS:

The NCDS AWAP record keeping policies and procedures are in substantial compliance with the governing federal statute and its administrative Rule 703.

C. Case File Records (4 yrs. 2013-2016)

§ 703.6 (f)

(f) The Mechanism shall retain all records specified in paragraphs (a) through (e) of this section for at least 4 years after final disposition of the dispute.

We reviewed a random sample of 25 case numbers from the years 2013 through 2016 drawn from NCDS' complete data base program. We checked the sample case files to verify that they were being maintained per requirement § 703.6(f).

The closed files are stored at an off-site record storage facility of the NCDS Sterling Heights, Michigan, office. We did not inspect the off-site facility for this year's audit. The files we reviewed appeared intact and were readily available for inspection. The random sample inspection of case files drawn from all cases in the four-year universe of cases validated the program's maintenance of these records as required.

D. Arbitration/Hearing Records

i. Case file folders

Most information that is required to be maintained is found on a series of forms found in the case files maintained at the NCDS headquarters in Sterling Heights, Michigan.

ii. Arbitrator Biographies

The arbitrator biographies for the national program are available for review from Debbie Lech, Operations Manager, National Center For Dispute Settlement at their headquarters in Sterling Heights (Detroit), Michigan. The biographies are thorough and current. The list of arbitrators for each district includes the dates of their appointments.

E. Hearing Process

The hearing was held at the Dick Myers Chrysler Dealership on April 06, 2017 at 2:00 p.m. in Harrisonburg, Virginia.

i. Physical Description of Hearing (i.e., Meeting)

The hearing room selected was small and barely adequate to accommodate the two customers, the arbitrator, and the auditor. The manufacturer's representative participated by way of the speaker-telephone.

ii. Openness of Meeting

The arbitrator explained to the auditor his understanding that the hearings are open and can be attended by any observers who agree to abide by the program's rules.

iii. Efficiency of Meeting

The arbitrator's case file appeared complete. He informed the customers about the rules of the program that govern hearings and explained the procedures that he would follow.

In addition, he explained that when both parties appear at the hearing, both are able to ask appropriate clarifying questions of the opposing party prior to concluding the hearing.

Unfortunately, the arbitrator misinformed the customers that requests for relief must relate to a current non-conformity. It was not clear if this was a mere slip-of-the-tongue, or if he was misinformed on this important subject.

Note: NCDS training and the associated training materials make it abundantly clear that what this arbitrator said was not accurate and not consistent with NCDS policies. Arbitrators are trained to understand that customers may seek and may be awarded their requested relief whenever a customer has experienced a warranty dispute that involved a non-conformity that substantially impaired the vehicle's safety, value, or use, provided the warrantor has had a reasonable opportunity to repair the non-conformity. Usually this is considered to be four or more attempts to repair the same non-conformity. They may also receive their requested relief where the vehicle in question has been out of service for an unreasonable period of time due to the warrantor's inability to remedy the non-conformity. Usually, thirty days out of service is considered to be unreasonable. In the final analysis, it is the arbitrator's judgment of the particular facts of the case that determines what relief, if any, is awarded.

In this case, the arbitrator's comment suggested that if the customer's vehicle was presently operating as intended, but they had experienced numerous repair attempts for the same issue and the vehicle had been out-of-service for several months, that they would still not be entitled to relief, if the vehicle seemed to be currently operating as intended. That representation is simply not accurate.

The arbitrator, appropriately described what he believed was the customer's requested relief.

The customers were allowed to present their case without interruption. The customer requested a repurchase of the vehicle.

Following the customer's oral presentation, the parties and the arbitrator took a test drive of the vehicle.

The arbitrator demonstrated throughout the hearing that he knew how to properly conduct a hearing. After determining that the parties had nothing further to add, he declared the hearing closed.

iv. Hearing Process

The hearing was, in the main, properly conducted throughout.

v. Board/Arbitrator Decisions

We reviewed this case's decision and a sample of Virginia hearing decisions for the calendar year 2016. The sample of case decisions we reviewed were generally reasonable and consistent with the facts of the cases involved.

The actual outcome of the decision in regards to this hearing was justifiable and consistent with the evidence presented. However, given the fact that the customer had asserted that they had received four repair attempts by two different dealers to repair the alleged squeaks, that should have triggered the question, "is the customer therefore entitled to the statutory presumption embedded in the state's Lemon Law? The answer to that question is, of course, within the arbitrator's discretionary authority, but here, it does not appear that the question was even considered. Still, the auditor is unwilling to go so far as to say, that the arbitrator's decision was improper because he may have concluded that because the squeaks he experienced during the test drive seemed "not that severe. It also does not appear, however, that " that this would have necessarily also been the case at the time that two different dealers decided that they were severe enough that they decided to attempt to make two repairs attempts a piece, to address what the arbitrator deemed to be "not so severe." If he had concluded this to have been the case, he should probably have said so in his decision.

CONCLUSION:

We conclude that the AWAP, as it operates in the state of Virginia, is in substantial compliance with Magnuson-Moss Warranty Act and administrative Rule 703.

The NCDS administrative staff and the NCDS program demonstrated a clear commitment to ensure fair and expeditious resolution of warranty disputes. The administrative staff is clearly dedicated to the program's mission and demonstrates a high degree of professionalism.

SECTION IV

Arbitration Training

There is no specific language in Rule 703 requiring the training of arbitrators, but there is in the Ohio governing statute and its related administrative rule. In addition, there are several general requirements for ensuring that the program do whatever is necessary to provide customers with an opportunity for fair and expeditious resolution of warranty disputes.

Arbitration training is currently seen by most regulators as fundamental to ensuring that a program is fair to all sides. Consequently, all current arbitration programs have initiated the training process even in states that do not specifically require it. Because such training has become a basic part of the NCDS program, it is incorporated into this report as part of the program's efforts to provide for fair and expeditious resolution of disputes.

FINDINGS:

The NCDS national arbitrator training program, held June 9 - 11, 2017¹⁷ was conducted at the Westin Dallas/Ft. Worth Airport.

The training was conducted by NCDS staff with legal augmentation provided by Mary Bedikian on regulatory matters. The training program attendees included the NCDS management staff, NCDS trainers, current arbitrators, and a Claverhouse Associates senior auditor. Ms. Bedikian is on the faculty at Michigan State University's Law School and has a long association with various arbitration associations. The staff's day-to-day familiarity with the applicable federal and state statutes and related administrative Rules allowed them to provide useful training that was accurate and complete. As is typical, the regulatory aspects of training is conducted by an attorney having familiarity with the historical development of and the intricate interrelationships of the applicable federal and the Ohio Lemon Law statute.

The weekend training program opened with an introduction of trainers, followed by an overview of the training agenda. The focus of this year's "refresher" training on the opening day was principally on the technical aspect of the arbitrated cases. Subsequently, the training reinforced issues related to the arbitrator's scope of authority, as well as essential due process considerations of the applicable regulatory mandates. This was followed by a general discussion of ethical considerations related to the NCDS program. Additional subjects addressed were audience generated topics of paramount concern to the attendees. The final day's activities were related to the drafting of arbitration decisions.

Overall, the training once again appears to have left trainees with an opportunity to develop a good grasp of their responsibilities as arbitrators. As has been generally the case in prior sessions, trainees were presented

17. It is commonplace for us to use the training conducted during the year that the audit report is written (2017) to apply retroactively to the calendar year of the operation of the program being assessed.

with information that made it clear that for those customers who purchase a vehicle with a substantial non-conformity that the manufacturer fails to cure in a reasonable number of attempts should probably receive the relief they are entitled to under the terms of the Magnuson-Moss Warranty Act.

Also discussed was the appropriate use of independent technical inspections and their limitations. Emphasis was given to the arbitrator's duty to not exceed his or her authority in relation to the independent inspection but to simply accept the independent inspection report as yet another piece of evidence.

There was a useful discussion of the participating manufacturers' warranty parameters and how they fit into the process. This discussion was sufficiently detailed to give arbitrators enough information without overwhelming them with minutiae.

The second day of training was very comprehensive starting with the basics of arbitration including, but not limited to, regulatory references and related laws. NCDS's arbitration administrative process was carefully detailed followed by procedural steps in preparing for a hearing. The actual steps of conducting a hearing were covered and then practiced in mock arbitration hearings in group format.

NCDS staff presented a session devoted, in the main, to the arbitrator's duty to disclose possible conflicts of interest where applicable. In addition, arbitrators learned about the process for addressing potential disqualification of an arbitrator, as well as ethical issues pertaining to arbitrators.

An appropriate degree of emphasis was given to writing decisions and providing adequate underlying rationales for those decisions. This included a careful presentation on leased vehicles and the sometimes complicated differences between providing relief to these cases as opposed to providing relief in cases in which vehicles are purchased outright.

This training session also provided a clear discussion of issues surrounding jurisdiction of the program to hear and decide cases. In the NCDS program, staff makes a preliminary determination, but where customers disagree with the initial determination, the matter is presented to the program's three-member panel for their review.

We have pointed out in previous audits the following:

“On several occasions, trainees interrupt the trainers and pose very broad and theoretical questions that result in substantial time being taken to address numerous fact situations that are rarely, if ever, experienced. It is natural for such questions to arise, but relegating them to another time seems more appropriate. Allowing these kind of diversions, can take trainees attention away from the main subjects under consideration and reduce the likelihood of important retention of the subjects set forth in the training agenda.”

Trainers, once again brought the concern to the attention of the trainees, which had a noticeably helpful effect. This year's experience was better than what had transpired in the recent past, but clearly participants will predictably raise distracting hypothetical scenarios if not admonished by the trainers in the introductory comments. Any failure to monitor this rather predictable inclination of trainees, can negatively affect the over-all quality of the training by encroaching on other subjects of paramount importance. Our comments in this regard, are merely advisory.

On the last day of training, the trainers allowed for drafting decisions and all its associated elements. Trainees applied their training principles and acquired tools for writing better decisions.

Lastly, the program ended with an exam, an evaluation of the training program and trainees were given a take home exam which they return to the staff. The exams are then reviewed to determine if the arbitrator appeared to grasp the essentials covered at training. This is supplemented with periodic refresher training that takes place every other year. Trainees had earlier been advised that NCDS offers on-line course supplemental instruction to all its arbitrators.

The 2017 training session was a national refresher program. It was designed to address issues that had arisen during the recent past that demonstrated a need for greater clarification for arbitrators. Issues addressed include: affirmative defenses, jurisdictional determination, due-process requirements, collateral charges, mileage off-set determination issues (where applicable) and defining the limits of arbitration in the hearing process.

Below we have included an important point made in recent past audit reports that NCDS trainers need to keep in mind:

“On one particular issue, we disagree with a trainer’s representations that seemed to suggest that improper repairs, or incompetent repairs by a dealer’s service department, is a valid defense for manufacturers in this venue. We disagree, in general, with this representation. Dealers, generally, serve as the manufacturers agents, for purposes of carrying out warranty repairs. If this were a generally valid defense to claims brought under the Magnuson-Moss Warranty Act, then, for all intents and purposes, the entire intent of the act would be obviated. Manufacturer’s opportunity to cure a defect, or non-conformity, would only be triggered when the manufacturers’ assigned personnel had failed to keep the promise to cure defects under the warranty. In effect, customers could no longer claim that they had been subjected to an unreasonable number of repair attempts until after they had gone through numerous repairs by the dealer’s repair facility and then experienced the same or similar failed repairs by the manufacturer’s employees. This outcome would, of course, be ridiculous. In this venue, the statute and the administrative Rule 703, both assume the

dealer service department and the manufacturer are, operationally, one and the same. Of course, they are not technically, or legally, the same for other purposes, but they are considered the same, in this limited context [i.e., dispute resolution of Warranty repair disputes]."

CONCLUSION:

We again recommend that training personnel continue to advise participants at the onset of training sessions that all theoretical questions be written down and discussed with staff sometime after the essential regulatory and hearing mechanics have been addressed. The training material is highly technical in many respects and difficult enough for participants to fully absorb in one weekend without adding distractions that are not likely to be practically helpful to any of the trainees. In refresher training, of course, questions that arise from actual situations were sometimes addressed and these discussions appeared to be useful.

We reiterate what we said in prior audits:

"We also recommend recommend that arbitrator training include a discussion wherein trainers explain that dealer service departments are, in effect, agents of the manufacturers for purposes of the manufacturer carrying out their warranty obligations to cure non-conformities, and it is not a valid defense, in the NCDS proceedings for a manufacturer to claim that a dealer failed to properly repair, or cure, a non-conformity. Even if it is true that a dealer's service department performed an improper repair, or mis-diagnosed a problem, the responsibility under the Magnuson-Moss Warranty Act, is the manufacturers because the dealer's service department was selected by the manufacturer to carry out these responsibilities on their behalf. Moreover, the fact that a dealership's failure to properly diagnose a repairable non-conformity, is understandable, it is not a valid defense to a claim for a refund or for a replacement, made by a consumer against the manufacturer because a non-conformity exists which substantially impairs the vehicle's safety, value, or use. In cases where the consumer has made the vehicle available to the manufacture in order to allow them to "cure" the non-conformity, but the manufacturer, or its representative (i.e., dealer) has not cured the non-conformity in a reasonable number of attempts, the consumer has a right, under the applicable law (i.e., The Uniform Commercial Code, and the Magnuson-Moss Warranty Act (including Rule 703.

We said in our 2016 report of the 2015 program, something that remains applicable which we provide below:

We also recommend that arbitrator training include a discussion wherein trainers explain that dealer service departments are, in effect, agents of the manufacturers for purposes of the manufacturer carrying out their warranty obligations to cure non-conformities, and it is not a valid defense, in the NCDS proceedings for a manufacturer to claim that a dealer failed to properly repair, or cure, a non-conformity. Even if it is true that a dealer's service department performed an improper repair, or misdiagnosed a problem, the responsibility under the Magnuson-Moss Warranty Act, is the manufacturers because the dealer's service department was selected by the manufacturer to carry out these responsibilities on their behalf. Moreover, the fact that a dealership's failure to properly diagnose a repairable non-conformity, is understandable, it is not a valid defense to a claim for a refund or for a replacement, made by a consumer against the manufacturer because a non-conformity exists which substantially impairs the vehicle's safety, value, or use. In cases where the consumer has made the vehicle available to the manufacturer in order to allow them to "cure" the non-conformity, but the manufacturer, or its representative (i.e., dealer) has not cured the non-conformity in a reasonable number of attempts, the consumer has a right, under the applicable law (i.e., The Uniform Commercial Code, the Magnuson-Moss Warranty Act (including Rule 703), and by convention, consideration of the relevant state Lemon law "presumption" standards and their related mileage off-set provisions, to receive an award for a refund, or where requested by the customer, a suitable replacement vehicle provided such a replacement vehicle exists.

The NCDS arbitrator training program remains a good one that operates in substantial compliance with Magnuson-Moss and Rule 703. The entire program clearly demonstrates a commitment to quality arbitrator training.

ARBITRATION TRAINING RATING SYSTEM

- | | |
|---|-----------|
| 1) Adequacy of training materials | VERY GOOD |
| 2) Accuracy of informational materials | VERY GOOD |
| 3) Thoroughness of material | GOOD |
| 4) Quality of presentation | VERY GOOD |
| 5) Apparent understanding and likely comprehension of the information | VERY GOOD |
| 6) Utility of materials for later referencing | EXCELLENT |

SECTION V

National (FTC) Survey and Statistical Index Comparative Analyses

NATIONAL CENTER FOR DISPUTE SETTLEMENT AUTOMOTIVE WARRANTY PROGRAM INDICES

The Federal Trade Commission (FTC) regulates informal dispute resolution programs, such as those operated by the National Center for Dispute Settlement under FTC Rule 703.6(e). The rule mandates disclosure of statistics about the outcomes of warranty disputes and warrantor compliance with settlements and awards. The purpose of this section of the audit is to verify the statistics provided by the company for the calendar year.

A consumer who wants to have a dispute settled by the Automobile Warranty Arbitration Program (AWAP) conducted by the National Center for Dispute Settlement (NCDS) must: (1) be the owner of a vehicle that meets certain specific age and mileage requirements; and, (2) agree to forego any legal action while the case is open with the AWAP. If a customer applies to the program, but does not meet these requirements, the case is considered "out-of-jurisdiction." Cases that are "out-of-jurisdiction" are counted as "closed." A consumer who is not satisfied with the jurisdiction decision of the program can request that the case be reviewed by a three-member arbitrator board.

If a consumer, who files with the AWAP is able to reach an agreement with the automaker prior to an arbitration hearing, the dispute is said to have been "mediated" by the staff. If the consumer and the automaker cannot reach an agreement, the case is arbitrated by the AWAP. Arbitration cases can result in the granting of an award requiring the automaker to repair or replace the vehicle, to issue cash reimbursement, or to terminate the lease. On the other hand, the consumer may receive an adverse decision in which there is no award of any kind.

FTC regulations require arbitration decisions to be rendered within 40 days from the date the AWAP office receives the application. Manufacturers must comply with both mediated and arbitrated decisions within 30 days of the decision.

FTC Rule 703.6(e) requires warrantors to report statistics (also referred to as indices) in 13 areas. These include: the number of mediated and arbitrated warranty disputes in which the warrantor has complied with a settlement or award; the number of cases in which the warrantor did not comply; the number of decisions adverse to the consumer; the number of "out-of-jurisdiction" disputes; and the number of cases delayed beyond 40 days and the reasons for those delays.

To determine the accuracy of the AWAP's warranty dispute statistics and to gather evaluation information about the program, Claverhouse Associates contracts to conduct a survey with customers nationally who filed disputes with the AWAP during the calendar year.

The primary focus of the survey is to gather data to verify the statistics by comparing data collected from consumers to the statistics reported to the FTC by the AWAP. The question is not whether an individual's recollections match the data in the AWAP's records, but rather whether the aggregate proportions of consumers' recollections agree with the outcomes reported to the FTC.

In addition to containing questions to gather the information needed to verify the statistics, the questionnaire also contained items used to evaluate several aspects of the program and to measure customer satisfaction.

ABOUT THE STUDY

The Claverhouse study is based on data collected from 507 of the 2,269¹ users of the AWAP program nationally in 2016 whose cases were “in jurisdiction” and “closed.” This number of completed surveys surpassed the initial goal of 329² completed surveys from randomly selected users of the program nationwide³. Closed cases are defined as those where a decision has been made and the time for compliance has occurred.

Data for the Claverhouse survey is collected using a web-based data collection platform. With national internet use steadily increasing and with diminishing returns from self-administered and telephone surveys, the data collection process was transitioned to a web-based only format in 2014. Of the 2,269 users of the AWAP nationally in 2016, 2,172 provided an email address, which represents 95.7 percent of all users⁴. This coverage is higher than address-based samples in

¹ The database sent by the AWAP for conducting the survey contained 2,269 eligible cases after cases coded as “no jurisdiction” and “withdrawn” were removed. The AWAP provided a report with 3,229 cases. The cases in the AWAP indices break down as follows: 46 mediated cases (6 which the time for compliance had not occurred), 2,263 arbitrated cases (32 which the time for compliance had not occurred), 249 pending cases, and 633 “no jurisdiction” cases. **The data in this report is based only on the closed mediated and arbitrated cases – 46 mediated and 2,263 arbitrated cases for a total of 2,309.** There is a discrepancy between the number of eligible cases sent for conducting the survey (2,269 and the number of eligible cases in the statistics (2,309). The status of the 40 cases is unknown.

² A sample of 329 from this population will yield a margin of error of +/- 5.0 percent at the 95% confidence level.

³ Using a projected completion rate of 40 percent, an eligibility rate of 95 percent, and a sample viability rate of 90 percent, a proportional random sample of 965 users of the program among users with email addresses (2,172 of the 2,269 users, which are 95.7 percent of all users) was selected from the database of closed and in-jurisdiction cases supplied by the AWAP. A proportional random sample should yield completed surveys from a population similar to the universe. The following table shows the breakdown of the universe of cases provided by the AWAP in which to draw the sample and the breakdown of completed cases in the Claverhouse sample. The Claverhouse sample slightly under represents owners of Chrysler vehicles and slightly over represents owners of Honda vehicles. The fact that a larger number of respondents completed the survey is not problematic in that a larger number of completed surveys reduces non-response bias and decreases the statistical margin of error.

	Toyota	Lexus	Mitsubishi	Chrysler	Accura	Honda	Tesla	Suzuki	Total
Claverhouse Sample	49 (9.7%)	22 (4.3%)	0 (0.0%)	391 (77.1%)	8 (1.6%)	36 (7.1%)	0 (0.0%)	1 (0.2%)	507 (100.0%)
AWAP	221 (9.7%)	77 (3.4%)	24 (1.1%)	1,821 (80.3%)	26 (1.1%)	98 (4.3%)	1 (>1.0%)	1 (>0.1%)	2,269 (100.0%)

⁴ According to the most recent report (September 2016) issued by Pew Research Center on Internet use among the American public, 87.0 percent of all adults use the Internet. In 2015, the email address coverage within the sampling frame for the survey was 86.8 percent and in 2016, it was 94.0 percent.

which 85.0 percent are estimated to be valid postal addresses and landline telephone samples in which 75.0 percent are estimated to be valid.⁵

The web-based questionnaire was programmed using Qualtrics Professional Academic web-based data collection software and was compatible on all mobile devices (smartphones) and tablets to facilitate ease of responding to the survey. Qualtrics allows for all types of question formats (i.e. single and multiple response, matrix, and limited and unlimited text) to be programmed. It also has a powerful survey notification tool and several security features.

The web-based survey notification system allows individualized, confidential links to be sent to each respondent. It also allows information to be embedded in individual links that is unique to the respondent. Upon submitting the survey, this data is recorded along with the respondent's answers to the questions. It also tracks who responds and who does not respond so that email reminders are sent only to those who have not yet completed the questionnaire. The security system has custom settings that allow only one response per unique identification number, email address, or IP address which virtually reduces the risk of respondents answering the survey several times thus skewing the results. Qualtrics uses SSL certificates and a 128-bit data encryption system to ensure that downloaded data and all information remains confidential.

The invitation email was sent on February 6, 2017 to the users of the program nationally who had a valid email address. The email explained the purpose of the audit, an overview of the questions that were included in the survey, and how the results would be used. The email also informed respondents about confidentiality and that participation was voluntary. Reminder emails were sent on February 9, 2017; February 25, 2017; and March 10, 2017.

Data collection ended on March 17, 2017. In total, 507 surveys were completed. The overall completion rate for this study is 52.5 percent and the margin of error is ± 3.84 percent⁶.

A threat to the validity of any study is non-response bias. Sometimes individuals chosen to participate in a survey are unwilling or unable to participate in the survey. Nonresponse bias is the bias that results when non-respondents differ in meaningful ways from responders.

For example, if those who did not receive awards were more likely to refuse participation than those who did receive awards, the study would underestimate the percentage of decisions adverse to consumers.

The practices of sending multiple email requests are attempts to increase overall completion rates and to reduce non-response bias.

⁵ Estimates provided by Survey Sampling Inc., and AAPOR (American Association Public Opinion Researchers).

⁶ This is the sampling error when the responses divide roughly 50-50 on a given question and when there are 507 cases, given a 95 percent confidence interval (i.e., there is a 1-in-20 chance that the actual proportion in the population falls outside the range of ± 3.84 percent). The magnitude of the sampling error is determined primarily by sample size (a larger sample size yields a smaller sampling error) and to some extent, on how evenly responses are divided among alternative answers. For example, if the responses were divided 75-25 on a given question, the margin of error would be ± 2.95 percent.

METHOD OF RESOLUTION

Table 1 compares the method of resolution of disputes in the Claverhouse sample with the figures reported to the FTC. Since the Claverhouse survey contained only closed and in-jurisdiction cases, out-of jurisdiction cells in the Claverhouse section of the table are blank as are the cells representing pending cases and cases falling under the category “resolved by the staff and time for compliance has not yet occurred.” The subtotal (representing in-jurisdiction cases) is equal to total disputes.

The difference between the 2.2 percent of cases mediated in the Claverhouse sample and the 2.0 percent of cases mediated in the AWAP figures is not statistically significant. Likewise, the difference between the 97.8 percent of arbitrated cases in the Claverhouse sample and the 98.0 percent of arbitrated cases in the AWAP figures is also not statistically significant. Therefore, the statistics agree.

Table 1: Method of Resolution of Warranty Disputes Comparison between Claverhouse Survey and AWAP Indices 2016

	Claverhouse			AWAP	
	<i>Number</i>	<i>Percent</i>	<i>Number</i>	<i>Percent of in-jurisdiction closed cases</i>	<i>Percent of all cases</i>
Mediation	11	2.2%	46	2.0%	1.4%
Arbitration	496	97.8%	2,263	98.0%	70.1%
Subtotal (in-jurisdiction)	507	100.0%	2,309	100.0%	71.5%
Out-of jurisdiction	-	-	633		19.6%
Resolved, time for compliance has not occurred ⁷	-	-	38		1.2%
Pending	-	-	249		7.7%
Total Disputes	507	100.0%	3,229	100.0%	100.0%

⁷ Both mediated (6) and arbitrated (32) cases are in the total.

MEDIATED CASES

FTC Rule 703.6(e) requires the reporting of the proportion of mediated settlements with which warrantors have complied, the proportion with which warrantors have not complied, and the proportion in which the period for compliance has not yet passed. Since the universe of cases for the Claverhouse survey only includes closed cases, cases in which the compliance period has not yet passed are not included in the research.

Table 2 compares the outcomes of mediated disputes.

Table 2: Outcomes of Mediated Settlements Comparison between Claverhouse Survey and AWAP Indices 2016

	Claverhouse	AWAP
Mediated Settlements	<i>Percent of Closed cases</i>	<i>Percent of closed cases</i>
Resolved by staff of the mechanism and warrantor has complied within the timeframe specified in the agreement.	100.0% (11)	97.8% (45)
Resolved by staff of the mechanism and time for compliance has occurred and warrantor has not yet complied.	-	2.2% (1)
Total Mediated Cases	100.0% (11)	100.0% (46)

The survey data shows that the manufacturer complied with 100.0 percent of mediated cases within the timeframe specified in the agreement. AWAP indices show that the manufacturer complied with 97.8 percent of mediated cases within the timeframe in the agreement.

The statistics “resolved by the staff of the mechanism and warrantor has complied” and “resolved by the staff of the mechanism and time for compliance has occurred, and warrantor has not complied” are in agreement.

It is important to note, that AWAP indices include cases for which the time for compliance has not occurred. The indices show six (6) mediated cases in this category. Since only closed cases are used in the Claverhouse study, this statistic cannot be compared.

Respondents were also asked about the specific outcome of their cases. Table 3 shows the outcomes for all cases settled through mediation.

*Table 3: Specific Outcomes of Mediated Settlements
Claverhouse Survey 2016*

Outcome	Number	Percent
Ordered a partial refund	6	54.5%
Ordered a replacement vehicle	4	36.4%
Ordered additional repair attempts	1	9.1%
Total	11	100.0%

When asked if they pursued their cases any further, only one (1) user (which represents 9.1 percent of the respondents with mediated cases) indicated that he or she had done so. The user indicated he or she worked with the dealer or manufacturer to reach a different solution.

Respondents were then asked if they recalled talking to an AWAP staff member or returning a postcard to the AWAP about their case.

Slightly more than half, 54.5 percent, indicated that they had followed-up with the AWAP in some manner. Exactly half, (50.0 percent) returned the postcard, 33.3 percent talked with staff, and the remaining, 16.7 percent returned the postcard and spoke with a staff member.

ARBITRATED CASES

Before the questionnaire presented detailed questions about the outcomes of their arbitrated cases, respondents were asked several questions about the process leading to their hearings.

Respondents were first asked whether they remembered receiving the forms in which their claims were stated. Of the respondents who reported arbitration as the means for resolving their case, 90.3 percent said that they recalled receiving the forms.

Respondents were also asked a question about how accurately they felt the forms stated their **claim**. Only 30.7 percent said they felt their claim was stated very accurately. Of the remaining respondents, 41.7 felt their claim was stated somewhat accurately, and 27.6 said not too or not at all accurately.

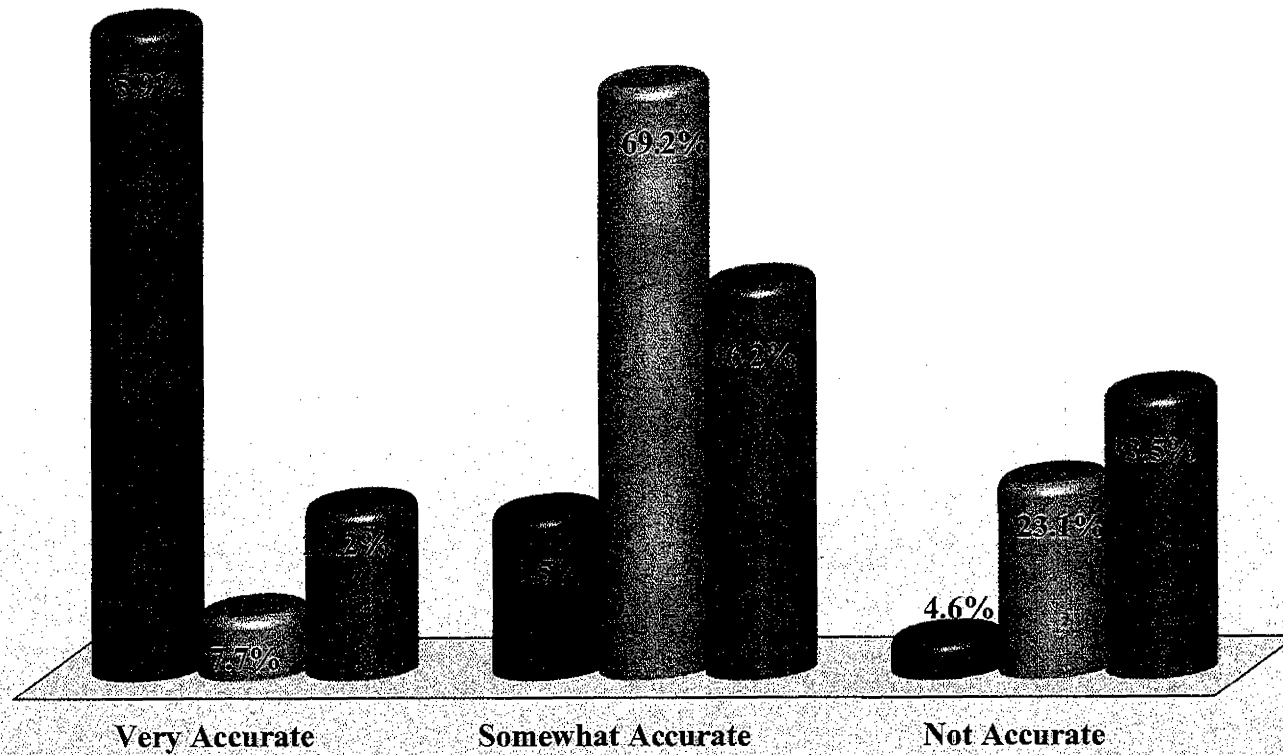
How accurately the respondent felt their case was stated is closely related to whether or not the respondent received an award in the arbitration process. (See Figure 1)

Respondents were then asked whether they had been notified of the time, place, and date of the arbitration hearing. Close to three-quarters of all users (73.3 percent), pursuing their case through arbitration indicated they had been notified. Another 19.2 percent said they chose the document only hearing, and 7.5 percent said they were not notified.

Although a majority of the respondents (92.5 percent) had been notified of the time, date, and location of the hearing or chose a document only hearing, slightly more than half, 53.4 percent participated in the hearing. Of that percentage, 51.2 percent attended in person and 2.2 percent by telephone.

FIGURE 1. ACCURACY OF CLAIM FORMS CORRELATED WITH ARBITRATION AWARD

■ Award Granted - Accepted ■ Award Granted - Rejected ■ No Award Granted



Those who **did not** attend their hearing were asked for the reason(s) why. Those results are summarized in Table 4.

**Table 4: Reasons Given for Not Attending Hearing
Claverhouse Survey 2016⁸**

Reason	Number	Percent
Was told presence not necessary at hearing or meeting	114	52.5%
Distance of meeting or hearing, unable to travel to the location	60	27.6%
Work, school, other professional commitments conflicted with the time of hearing or meeting	36	16.6%
Personal commitments (family, medical) conflicted with time of the hearing or meeting	7	3.2%
Total	217	100.0%

- 28.6 percent, who attended the hearing in person, and 17.9 percent, who did not attend the hearing received an award.
- Among the users who chose the document only hearing, 17.9 percent received an award, as did 5.4 percent who indicated that they were not notified of the hearing.

FTC Rule 703.6(e) 4-7 requires warrantors to report the proportion of arbitration decisions with which they have complied, the proportion with which they have not complied, and the proportion for which the date of compliance has not yet passed. They must also report the proportion of decisions adverse to the consumer.

⁸ Respondents could give more than one reason for not attending the hearing or meeting. The percentages are based on number of responses (217) not the number of respondents answering the question (158).

Table 5 presents the data about the outcomes of arbitrated cases.

*Table 5: Outcomes of Arbitrated Cases Comparison
Claverhouse Survey and AWAP Indices 2016*

Arbitration Outcomes	Claverhouse	AWAP
	<i>Percentage (Number)</i>	<i>Percentage (Number)</i>
Case decided by board and warrantor has complied	16.4% 79	7.2% (164)
Case decided by board, time for compliance has occurred, and the warrantor has not complied	2.9% (14)	0.0% (0)
Case decided by board and time for compliance has not occurred	-	-
Total Award Granted And Accepted	93	164
Decision adverse to consumer	80.7% (390)	92.8% (2,099)
Total Arbitrated Decisions For Purpose of Verifying Statistics	483	2,263
Case decided by board and consumer rejected the decision/award	13	-
Total Arbitrated Decisions	496	2,263

The statistics “case decided by board and warrantor has complied” and “decision adverse to consumer” are **not** in agreement, because the difference falls outside of the margin of error, ± 3.84 percent. These differences should not be of great concern since the **difference favors the consumer** and not the AWAP. Respondents in the Claverhouse sample reported a higher level of compliance, 16.4 percent compared to 7.2 percent, than the AWAP indices show.

The Claverhouse data also shows a lower percentage of adverse decisions, 80.7 percent compared to 92.8 percent, than the AWAP.

The difference in these statistics, in part, can be attributed to non-response bias (as explained earlier in this report) in that those with unfavorable outcomes may be less likely to participate than those with favorable outcomes.

A small percentage of respondents (12.3 percent) rejected their awards. When asked the reasons for doing so 76.9 percent felt that additional repair attempts would not solve the problems with the car, 7.7 percent indicated the expense (mileage) deduction was too high; and 15.4 percent did not want what was offered through arbitration.

Among consumers who accepted their awards, 58.1 percent received the award within the time period specified in their agreement, 26.8 percent received the award, but not within the time period specified in the agreement, and 15.1 percent indicated that they had not yet received their

award at the time of data collection. Overall, 84.9 percent of consumers reported receiving their award from the AWAP.

Table 6 details the awards respondents reported receiving and accepting from their arbitration hearings.

*Table 6: Specific Outcomes of Arbitrated Cases
Claverhouse Survey 2016*

Award	Number	Percentage
Ordered a partial refund (buyback)	61	57.5%
Ordered a replacement vehicle	27	25.5%
Ordered additional repairs	15	14.2%
Ordered or recognized a trade assist	3	2.8%
Total	106	100.0%

- Of those who received their award **within** the period specified in the agreement, 64.8 percent were granted a partial refund (buyback), 24.1 percent were awarded a replacement vehicle, 5.6 percent a trade assist, and 5.6 additional repair attempts⁹.
- Consumers who had indicated that they had **not** received the award within the period specified in their decision were awarded either a partial refund (buyback) (72.0 percent) or a replacement vehicle (28.0 percent).
- Of those who had **not yet** received their award, 42.9 percent were awarded a partial refund (buyback); another 42.9 percent were awarded a replacement vehicle, and 14.3 percent additional repairs¹⁰.

All respondents whose cases were arbitrated were asked whether they had pursued their case further after the arbitration decision, with 36.8 percent indicating that they had done so. Table 7 shows by what means they pursued their cases.

⁹ Due to rounding, actual percentages may add to 99.9 or 100.1 percent.

¹⁰ Ibid.

*Table 7: Methods of Pursuing Arbitrated Cases
Claverhouse Survey 2016*

Method	Number	Percent
Contacted Attorney	81	35.2%
Re-contacted AWAP (NCDS)	58	25.2%
Contacted state/government agency	44	19.1%
Worked Out Solution Dealer/Manufacturer	41	17.8%
Other method	6	2.6%
Total	230¹¹	100.0%¹²

Most of the respondents, 76.8 percent, only used one method to pursue their case after the decision. The remaining respondents used up to five methods, with 18.6 percent using two (2), 2.8 percent three (3), 1.1 percent four (4), and 0.6 percent five (5)¹³.

When looking at which users pursued their cases, the data show that:

- Of those **granted** an award, 20.8 percent pursued their cases further. They were more likely to contact an attorney (43.5 percent) or re-contact the AWAP (30.4 percent). More than half who were granted a partial refund (buyback), 57.5 percent, pursued their cases after the decision, and a quarter, 25.5 percent, who were granted a replacement vehicle also pursued their cases.
- Slightly more than half, 53.8 percent, who rejected the award, pursued their cases further, with most, 80.0 percent, contacting an attorney.
- Among those who were **not** granted an award, 41.0 percent pursued their case further. Again like those who were granted an award, most chose to contact an attorney (34.3 percent) or re-contact the AWAP (24.6 percent).

Respondents were asked if they followed up with the AWAP by talking directly to the staff or by returning a postcard after their arbitration case was closed. Slightly more than half, 53.0 percent, whose cases were arbitrated, followed up with the AWAP in some manner.

¹¹ Respondents could indicate multiple means of pursuing their cases; therefore, the data is based on the number of responses (230), not the number of respondents answering the question (177).

¹² Due to rounding, actual percentages may add to 99.9 or 100.1 percent.

¹³ Ibid.

The data show that among those with arbitrated cases who did follow up, 41.0 percent spoke directly to AWAP staff, 37.5 percent returned the postcard, and 21.5 percent spoke with staff and returned the postcard. The data also show:

- One-third, 33.0 percent, who were granted an award, did not follow up with the AWAP in any manner, with those who were awarded a partial refund (buyback) being the least likely to follow up at all.
- Those who were awarded additional repair attempts were most likely to follow up with the AWAP by speaking directly to the staff, 42.9 percent.
- Half, 50.8 percent, who were not granted an award, did not follow up with the AWAP in any manner. Of those that did follow up, 36.4 percent spoke to an AWAP staff member, 42.2 percent returned the postcard, and 21.4 percent did both.

DELAYS TO ARBITRATION DECISIONS

Under FTC Rule 703.6(e) 9-13, warrantors must report the proportion of cases in which arbitration cases were delayed beyond the 40 days allocated for arbitration decisions. The AWAP reports the reasons for such delays in three categories:

- (1) Consumer made no attempt to seek redress directly from the manufacturer
- (2) Consumer failed to submit required information in a timely manner
- (3) All other reasons

AWAP indices report that less than one percent (0.1 percent) of the closed, in-jurisdiction cases was settled beyond 40 days, whereas 39.0 percent of all survey respondents reported their cases were settled beyond 40 days.

The difference is statistically significant, but should not be of great concern. We can attribute this to error in recall and reporting on the part of the respondents, in particular, misunderstanding the AWAP rules regarding when a case is opened and closed and not referring to case documentation when completing the questionnaire.

Respondents are asked to recall very specific information about an event that may have occurred a year or more ago. When asked for the date in which their case was opened:

- 52.0 percent were able to give a full date when their case was opened, 15.2 percent a partial date (i.e., month or day), and 32.8 percent were unable to give any date.

Survey respondents' recollections on when their cases were closed were similar:

- 47.5 percent were able to give a full date as to when their case was closed, 13.9 percent a partial date, and 38.6 percent were unable to give a closed date
- Only 17.8 percent of respondents could give both a full date for when their case was opened and closed.

Given this information, most respondents (even though they are asked to review case documentation prior to completing the questionnaire) are answering these questions from memory, not from official documentation.

Qualtrics software's ability to allow actual case data to be recorded as part of respondents' answers to the other questions in the survey, the opened and closed dates for individual cases that were provided by the AWAP were recorded as part of the dataset for those who completed the survey. Using the "date difference" command in SPSS, the actual number of days a case was opened can be calculated. The table below shows the actual number of days cases were opened overall and by case type.

*Table 8: Analysis of Days Case Opened
AWAP Records and Claverhouse Respondents Recall 2016*

	<i>Days</i>
Minimum Days a Case Was Opened	10.0
Maximum Days a Case Was Opened	41.0
Average Days Case Open: Respondent Answering "Yes" to delay	33.1
Average Days Case Open: Respondent Answering "No" to delay	32.9
Average Days a Case Was Opened	33.0

The difference in this statistic can be attributed mainly to two factors: error in recall and reporting and interpretation of the terms "case opened" and "case closed."

- The above analysis indicates that respondents are not using documentation to answer the questions and are relying on memory or guesswork to provide opened and closed dates.
- The user may not be using the same criteria for when a case is considered "opened" and "closed" as does the AWAP. The AWAP considers a case opened when the forms are received in the office and processed. Consumers, on the other hand, may see their cases as having been opened when they first contacted the AWAP, when they mailed the forms, or even when they first began to experience problems with the vehicle. Similar considerations apply to when a case was closed, especially if the case had a negative outcome or there was a perceived delay in delivering the award.

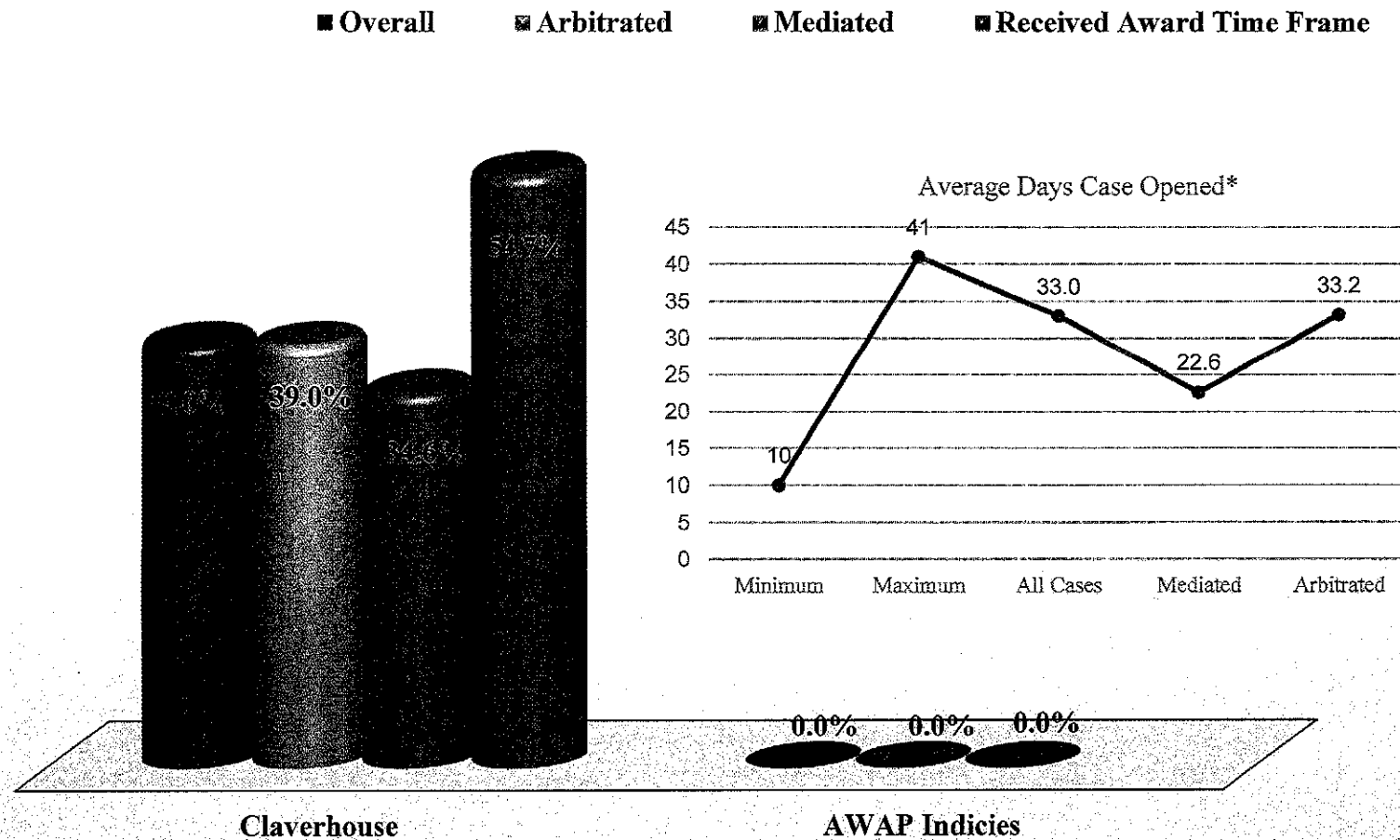
There are also differences in delays by type of case. (See Figure 2)

For these reasons, the statistical difference between the AWAP indices and the Claverhouse data should not be a cause for concern.

Respondents were also asked two questions about the reasons for delays in their cases. One was using categories used in the statistics and the other was an opened-ended question asking respondents to explain why their case was delayed. These responses were coded into like categories.

There is also a statistical difference between the Claverhouse data and the AWAP indices for the reasons for the delays.

FIGURE 2. PERCENTAGE OF CASES DELAYED BEYOND 40 DAYS OVERALL AND BY CASE TYPE



* Calculated by using AWAP provided opened and closed dates

Table 9 shows the explanation for the delays based on the categorical answers used by the AWAP.

Table 9: Reason for Delays Beyond 40 Days Comparison between Claverhouse Survey and AWAP Indices 2016

Reason for Delay	Claverhouse	AWAP
	Percentage (Number)	Percentage (Number)
Consumer failure to submit information in a timely manner	1.0% (2)	0.0% (0)
Consumer had made no attempt to seek redress directly from warrantor	6.2 % (12)	0.0% (0)
Decision delayed beyond 40 days for any other reason	92.8% (181)	>0.1% (2)
Total arbitrated decisions	100.0% (195)	100.0% (2)

Table 10 shows the reasons for delays based on the respondent's perceptions.

Table 10: Reason for Delays Beyond 40 Days Respondent Perceptions 2016

Reason for Delay	Number	Percent
Paperwork/Scheduling Delays	35	25.7%
Unsure	34	25.0%
Dealership/Manufacturer Delays/Lack Communication	23	16.9%
Scheduling/Conducting Repairs	17	12.5%
AWAP Delays	10	7.4%
Delays Obtaining/Finding Vehicle	9	6.6%
Needed More Information	8	5.9%
Total	136	100.0%

The data in Table 10 show that 25.0 percent of the respondents, who indicated a delay in their case, were unsure of the reason, and another 44.8 percent indicated a delay in obtaining paperwork, scheduling repairs, or finding a vehicle. It is not known if these delays occurred after the award, which could be expected, depending on the award.

Again, due to reasons mentioned above regarding recall and reporting, this discrepancy should not be of concern.

CONSUMER ATTITUDES TOWARD THE AWAP'S INFORMAL DISPUTE SETTLEMENT PROCEDURES

Part of the survey is designed to evaluate consumers use and satisfaction with the program itself. At the beginning of the questionnaire, respondents were asked how they learned about the Automobile Warranty Arbitration Program. The responses are summarized in Table 11.

*Table 11: How Consumers Learned about AWAP Availability
Claverhouse Survey 2016*

Sources of Information	Number	Percent
Automaker Customer Service	175	27.0%
Owner's Manual/Warranty Info	151	23.3%
Dealership Purchased	118	18.2%
Internet, Website	93	14.3%
Attorney or Lawyer	45	6.9%
Friends, Family, Co-Workers	25	3.9%
Brochures, Literature, Pamphlets	18	2.8%
Previous Knowledge Program	12	1.8%
Government-State Agency	7	1.1%
Other	5	0.8%
Total	649¹⁴	100.0%

The leading source of information about the AWAP program was the Automaker Customer Service, 27.0 percent. This was followed by the owner's manual/warranty information and the dealership where the vehicle was purchased. The data also show:

- The leading source for users with mediated and arbitrated cases was the automaker customer service, 37.5 percent and 26.7 percent respectively.
- At least one user whose case was arbitrated used one of the sources indicated above, whereas, those with mediated cases only used the automaker customer service, an attorney or lawyer, brochures, literature, pamphlets, the Internet, and the dealership to learn about the program.
- Overall, respondents reported using between one (1) and five (5) sources of information with 78.0 percent using a single source, 16.2 percent using two (2) sources, 4.3 percent using three (3) sources, 1.4 percent using four (4) sources, and 0.1 percent using five (5).
- Those with mediated cases used an average of 1.45 sources, where those with arbitrated cases used an average of 1.29 sources.

¹⁴ Respondents could indicate more than one source of information; therefore, the statistics are based on the number of responses, 649, not the number of respondents answering the question, 501.

Those who reported that they had learned about the program through the dealer or the automobile manufacturer were asked additional questions about the means in which they were informed of the program. Table 12 shows those results.

*Table 12: Ways in Which Dealer or Manufacturer Informed User of Program
Claverhouse Survey 2016*

Information Sources	Number	Percent
Talked Over the Phone	157	54.9%
Talked in Person About Program	82	28.7%
Gave or Sent Program Info	42	14.7%
Other	4	1.4%
Showed Poster or Other Materials	1	0.3%
Total	286 ¹⁵	100.0%

After answering questions about how they learned about the program, respondents were asked how many times they contacted the dealer about problems or issues with the car, how many times they contacted the manufacturer about problems or issues with the car, and how many times the car went in for service or repairs.

The median number of times respondents reported contacting the dealer about problems or issues with the car was 7.0. The median number of times respondents reported contacting the manufacturer was 4.0, and the median number of repair attempts was 5.0.¹⁶ The difference by case type (mediated or arbitrated) can be seen in Figure 3.

Respondents were also asked a series of questions about the informational materials and forms they received from the AWAP.

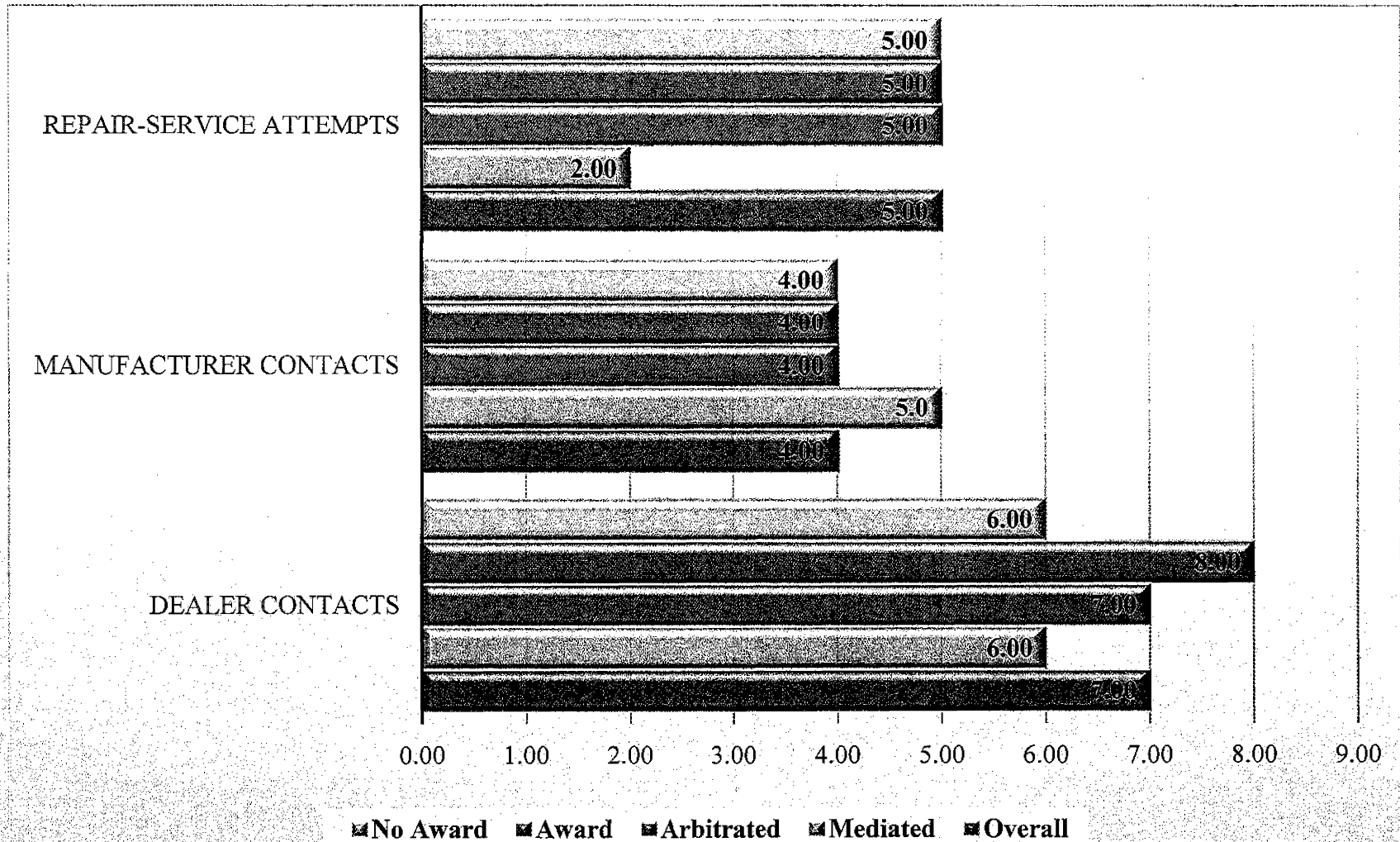
Respondents were then asked if they received the program information by mail or accessed program information via the Internet. More than half, 58.2 percent, indicated they used the Internet to access information and claim forms. Users whose cases were arbitrated were more likely to access the informational materials and claim forms from the Internet, 58.5 percent, than those whose cases were mediated, 45.5 percent.

When asked the level of difficulty in understanding the **informational materials**, slightly more than one-third, 36.2 percent, of respondents said the forms were very clear and easy to understand. Nearly half, 47.6 percent said the informational materials were a little difficult but still easy to understand, while only 16.2 percent said they were pretty difficult to understand.

¹⁵ Respondents could indicate more than one way in which the dealer or manufacturer informed them of the program; therefore, the statistics are based on the number of responses, 286, not the number of respondents answering the question, 244.

¹⁶ For these variables, we are reporting median, not means, as some respondents reported contacting the dealer or manufacturer up to 100 times. This number was also reported for the number of repairs. A statistical test shows the mean for these variables highly skewed, therefore, reporting median is a more accurate representation of the sample overall.

FIGURE 3. CONTACTS WITH DEALER AND MANUFACTURER AND REPAIR ATTEMPTS BY CASE TYPE AND AWARD STATUS*



*Median values are displayed

Respondents overall found the **complaint forms** easier to understand with 44.3 percent indicating there were very clear and easy to understand. Only 10.1 percent found them pretty difficult to understand and complete. The remaining 45.6 percent found the forms a little difficult but still easy to understand and complete.

Respondents were very consistent in their assessment of the ease or difficulty of the informational materials and forms. The data show:

- 89.4 percent who found the program informational materials easy to understand and complete, also found the complaint forms easy to understand and complete.
- Among those that found the program information pretty difficult to understand, 56.6 percent also found the complaint forms pretty difficult to understand, 34.9 percent found them a little difficult but still fairly easy to understand, and 8.4 percent indicated they were very clear and easy to understand.

There was a difference in ease of understanding the complaints forms by method of case resolution as well. (See Figures 4 and 5)

SATISFACTION WITH THE AWAP PROGRAM AND PROCESS

Respondents also rated their satisfaction with the AWAP program and staff overall and in four areas:

- Objectivity and fairness
- Promptness in handling the complaint during the process
- Effort to assist in resolving the complaint
- Quality of in-person or telephone interactions

Respondents rated each area using a ten-point scale, where **1** represented **very dissatisfied** and **10** represented **very satisfied**. A respondent could only choose one number between 1 and 10. This type of scale is better for computing means (or averages) as a way to gauge satisfaction or dissatisfaction with the program. For these items, the closer the mean is to **10**, the higher the level of **satisfaction**. The closer the mean is to **1**, the higher level of **dissatisfaction**.

Of the three areas, users of the program gave the **highest** satisfaction rating in the area of **promptness**, with 17.3 percent providing a rating of 10. The mean rating for this area was 5.55, which indicates slightly more people were satisfied with the AWAP in the area of promptness than dissatisfied. Only 21.4 percent of all respondents gave the AWAP a rating of 1 in this area (very dissatisfied).

The area in which respondents were **most dissatisfied** was **objectivity and fairness**. Close to half, 45.6 percent gave the AWAP a rating of 1 in this area, which indicates a high level of dissatisfaction. Only 14.3 percent gave the AWAP a rating of 10 in this area. The mean response among all respondents was 3.76.

Respondents also showed high levels of dissatisfaction with the AWAP in the area of **effort**, with 41.3 percent providing a rating of 1. Only 12.0 percent gave the AWAP a rating of 10 in this area. The overall rating in the area of effort among all respondents was 3.89.

FIGURE 4. EASE OF UNDERSTANDING INFORMATIONAL FORMS WITH CASE OUTCOME

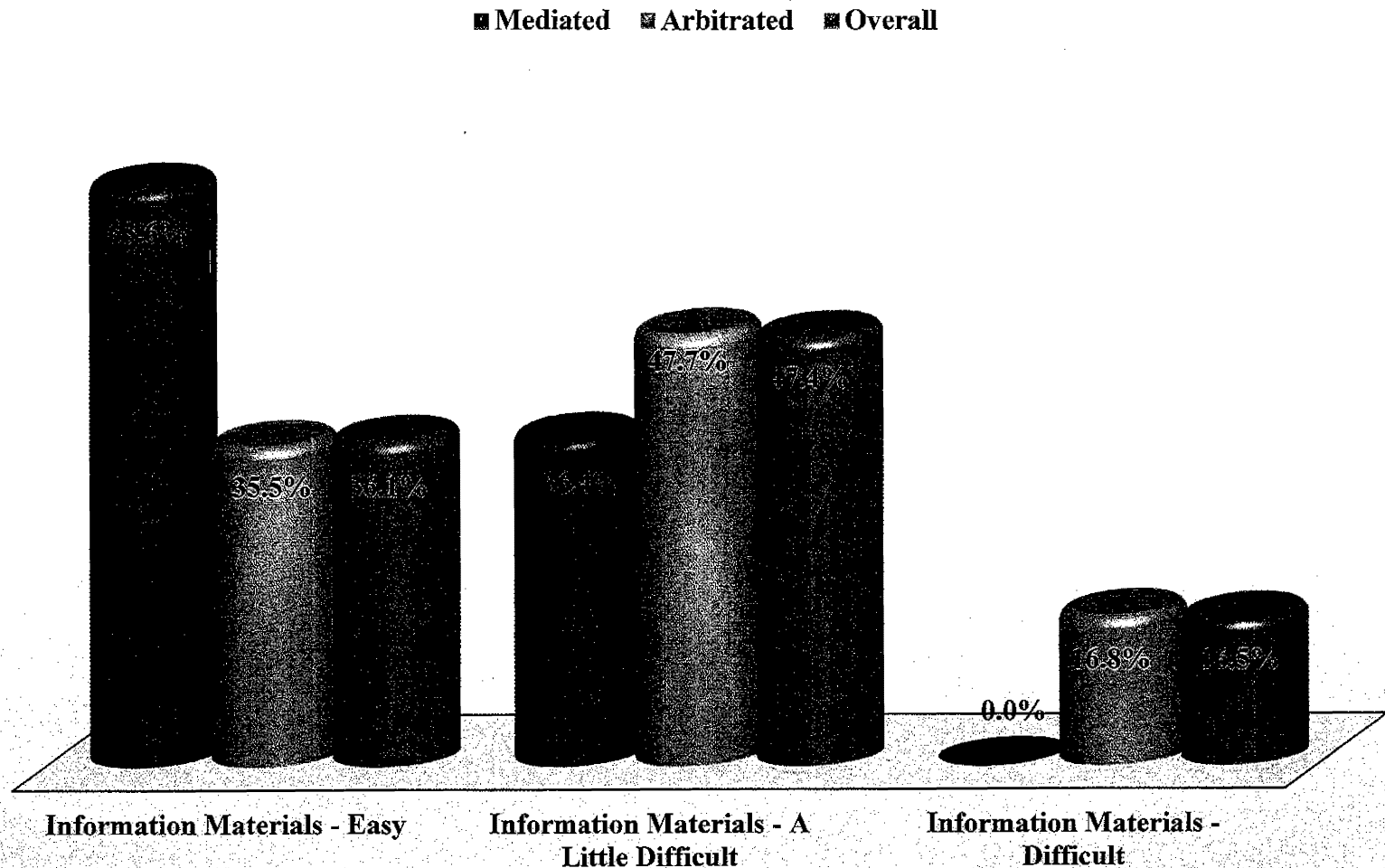
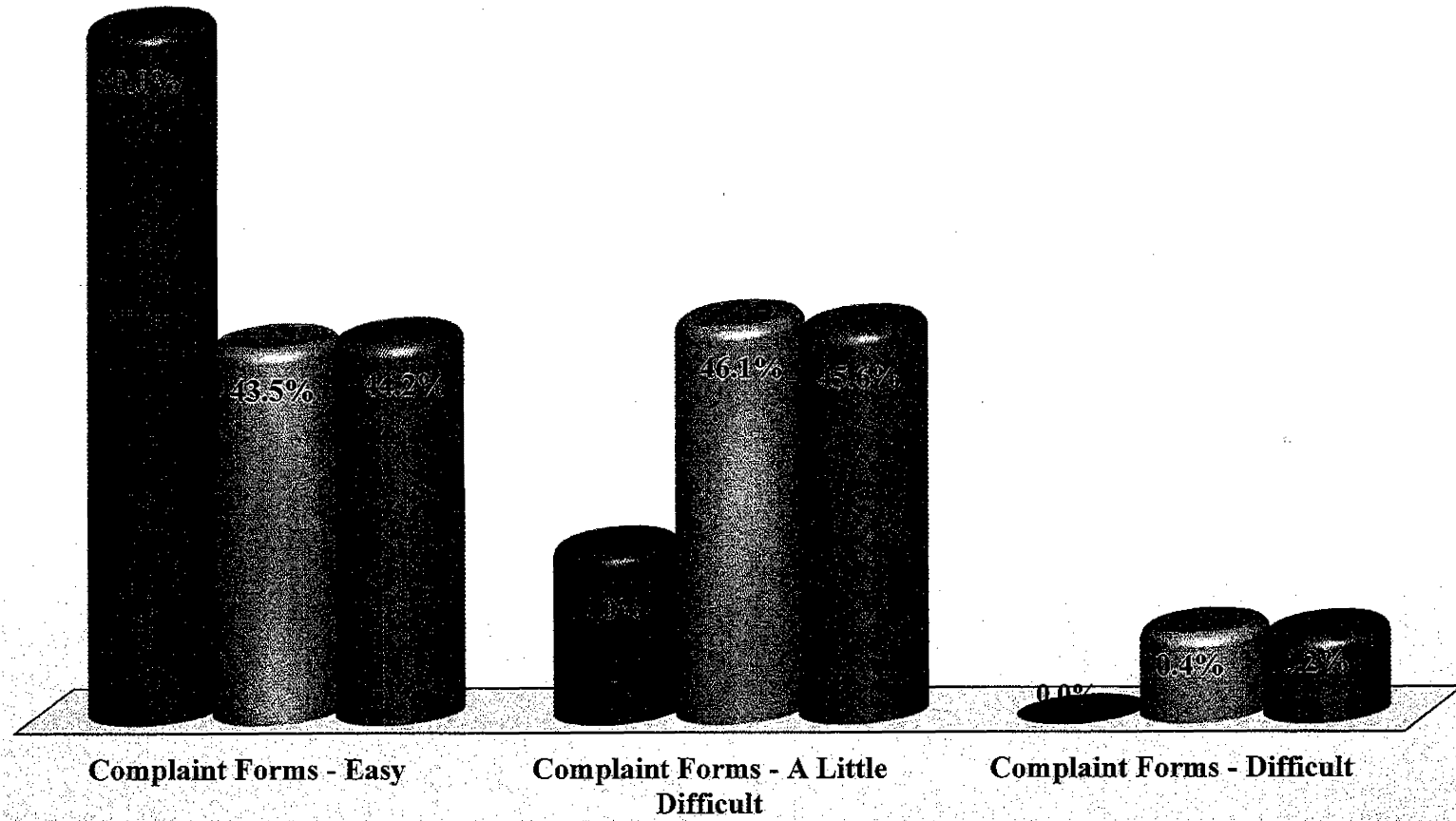


FIGURE 5. EASE OF UNDERSTANDING COMPLAINT FORMS WITH CASE OUTCOME

■ Mediated ■ Arbitrated ■ Overall



When asked to rate their level of satisfaction regarding their **interactions** with AWAP in person or by telephone, respondents gave the AWAP an overall rating of 4.72, which indicates respondents were nearly evenly split in their assessment of in person or telephone interactions with the AWAP.

When asked to give an **overall** satisfaction rating, only 10.7 percent gave a rating of 10, which indicates only 1 in 10 users of the program in 2016 were very satisfied. On the opposite end of the scale, 39.7 percent gave a rating of 1 (very dissatisfied), which indicates 4 in 10 respondents were very dissatisfied with the program in 2016. The overall rating for the program was 3.83.

Table 13 shows the detail ratings for all five-satisfaction areas overall and by case type.

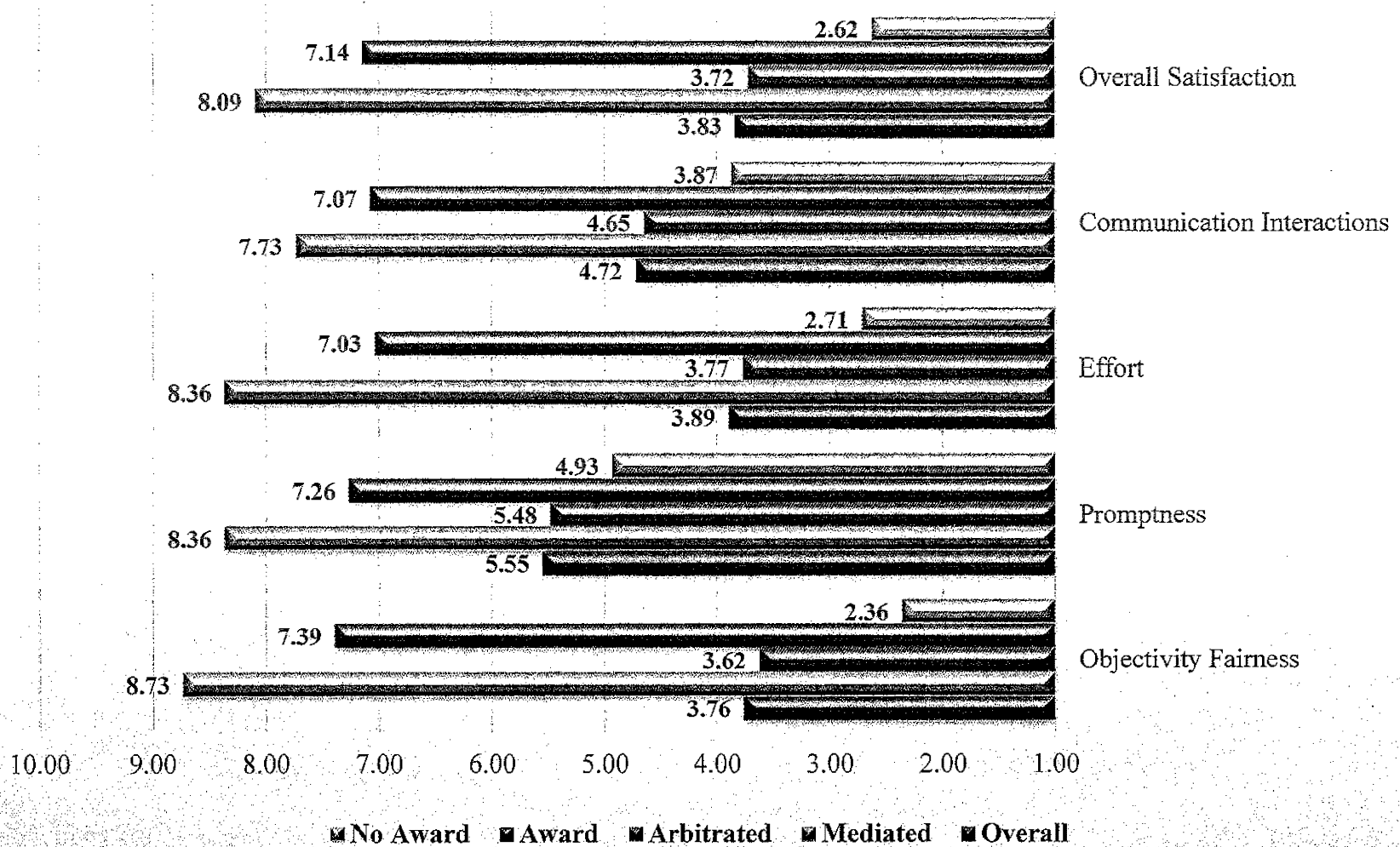
Table 13: Survey Respondents' Ratings of AWAP Staff Means Comparison Claverhouse Survey 2016

Method of Resolution		Performance Item				
		<i>Objectivity and Fairness</i>	<i>Promptness</i>	<i>Effort</i>	<i>Interactions</i>	<i>Overall</i>
Mediation	Mean	8.73	8.36	8.36	7.73	8.09
	N	11	11	11	11	11
	<i>Std. Deviation</i>	<i>1.849</i>	<i>1.963</i>	<i>1.748</i>	<i>1.737</i>	<i>2.587</i>
Arbitration	Mean	3.62	5.48	3.77	4.65	3.72
	N	410	446	415	424	420
	<i>Std. Deviation</i>	<i>3.341</i>	<i>3.290</i>	<i>3.278</i>	<i>3.393</i>	<i>3.206</i>
Overall	Mean	3.76	5.55	3.89	4.72	3.83
	N	421	457	426	435	431
	<i>Std. Deviation</i>	<i>3.408</i>	<i>3.292</i>	<i>3.327</i>	<i>3.395</i>	<i>3.263</i>

The type of case and case outcome also plays an important role in consumer's satisfaction or dissatisfaction with the program. Comparisons that are more detailed are shown in Figure 6.

The five satisfaction items can also be combined to give each respondent an overall satisfaction score. This can only be done if the items are highly correlated. When two items are correlated, it means that they vary together. Positive correlation means that high scores on one item are associated with high scores on another item, and that low scores on one are associated with low scores on the other. To determine if items are correlated, a statistical test, Cronbach's Alpha, is run on the items. Cronbach's alpha is a measure of internal consistency, that is, how closely related a set of items are as a group. The closer the score is to 1.00 suggests that the items have relatively high internal consistency. A reliability coefficient of .70 or higher is considered "acceptable" in most social science research situations. The Cronbach's alpha for the five items measuring satisfaction with the AWAP is .948.

FIGURE 6. MEAN COMPARISONS OF SATISFACTION INDEX BY CASE TYPE AND OUTCOMES*



*Values Range From 1 – 10 with 1 Being Very Dissatisfied and 10 Being Very Satisfied

The overall satisfaction scores across all items for all respondents, by case type, and by award status are shown in Table 14.

**Table 14: Survey Respondents Overall Satisfaction Score
Claverhouse Survey 2016**

Satisfaction Score	N	Mean	Std. Deviation
All Respondents	389	4.88	3.09
Mediated	11	8.25	1.84
Arbitrated	378	4.37	3.05
Award (accepted)	87	7.93	2.59
Award (rejected)	12	3.27	2.75
No Award	279	3.31	2.26

Another measure of consumers' satisfaction or dissatisfaction with the AWAP program is whether they would recommend the program to others. Table 15 shows these results.

**Table 15: Would Consumer Recommend the AWAP Program to Others?
Claverhouse Survey 2016**

Method of Resolution and Outcome	Yes	No	Depends on Circumstances
Mediated	63.6%	9.1%	27.3%
Arbitrated	15.5%	58.9%	25.6%
Award Granted (accepted)	65.6%	12.9%	21.5%
Award Granted (rejected)	7.7%	69.2%	23.1%
No Award Granted	3.8%	69.5%	26.7%
Overall	16.6%	57.8%	25.6%

Finally, survey respondents were given an opportunity to comment on their experiences with the AWAP and offer suggestions for program changes or improvements. Respondents could freely type their own responses to this question, on any topic that they considered important enough to mention. All comments have been categorized according to the most common topics raised, and are presented in Table 16.

**Table 16: Consumer Suggestions for Program Improvements
Claverhouse Survey 2016**

<i>Suggestion for Improvement</i>	<i>N</i>	<i>Percent</i>
Bias Arbitrators/Arbitrators Favor Manufacturer	153	28.4%
Dealers/Manufacturers More Responsive to Consumers/Complainant	83	15.4%
More Communication/Contact/Interaction Arbitrators Staff	59	10.9%
Allow More Information/History of Problems in Complaint	54	10.0%
Better Review Complaint/Problems by Staff/Arbitrators	52	9.6%
Better Explanation/Documentation of Process/Program/Easier Understand	33	6.1%
Better/ More Knowledgeable Mechanics/Review Staff	29	5.4%
Did Good Job/Pleased/No Complaints	29	5.4%
Better Follow-up/Enforcement of Awards/Settlements	15	2.8%
Fair/Equitable Settlements/Awards	14	2.6%
More/ Better Representation at Hearings	7	1.3%
Quicken Process/ Speedier Decisions	6	1.1%
Make Program More Well Known/ Advertising	2	0.4%
Electronic, On-Line, Email Communication/Forms	2	0.4%
Need More Program Locations	1	0.2%
Total	539	100.0%

The suggestions for improvement given by those whose cases were mediated were:

- Better follow-up/enforcement of awards/settlements, more communication/contact/interaction with staff, and did a good job/no complaints, each mentioned by 22.2 percent of respondents.
- Dealers/manufacturers more responsive to consumers/complainant; better explanation of program/processes; and more on-line or email communication, each mentioned by 11.1 percent of respondents

For those with arbitrated cases, the suggestions for improvement varied greatly:

- Bias arbitrators/arbitrators favor manufacturers was mentioned by 28.9 percent of program users.
- 15.5 percent mentioned dealers/manufacturers more responsive to consumers/complainants; 10.8 percent more communication/contact/interaction with arbitrators staff, and 9.8 percent saw a need to allow more information/history of problems in complaint.

CONCLUSIONS

Based on the comparison of the Claverhouse survey results with the AWAP national indices, it is concluded that the AWAP indices are in agreement in all but four areas, none of which should raise concerns about the program or how the program is administered.

The differences are “case decided by board and warrantor has complied,” “arbitration decision adverse with consumer,” “case delayed beyond 40 days,” and “reasons for delays beyond 40 days.”

For the statistics dealing with arbitration decisions, the differences should not be cause for concern since both of the differences favor the consumer and not the program. The difference may also be attributed to non-response bias in that those who were granted awards were probably more likely to participate than those who were not granted anything by the AWAP.

The other difference between the survey results and AWAP indices is the proportion of arbitrated cases delayed beyond 40 days. Again, this difference should not be cause for concern. The difference can be attributed to respondent error in recall and in reporting. This is substantiated by the facts detailed earlier in this report. There is also a statistical difference in the reasons for the delays.

It is concluded that the AWAP indices are in agreement with the Claverhouse survey for the majority of the indices, and for those that are not, it is not to be a cause for concern because the differences do not indicate that the program is improperly collecting or reporting program statistics.

SECTION VI

Audit Related Regulatory Requirements

REQUIREMENT: § 703.7 (c)(3)(I)

A report of each audit under this section shall be submitted to the Federal Trade Commission, and shall be made available to any person at reasonable cost. The Mechanism may direct its auditor to delete names of parties to disputes, and identity of products involved, from the audit report.

A copy has been supplied to the Federal Trade Commission consistent with this requirement.

REQUIREMENT: § 703.7 (d)

Auditors shall be selected by the Mechanism. No auditor may be involved with the Mechanism as a warrantor, sponsor or member, or employee or agent thereof, other than for purposes of the audit.

The audit was conducted consistent with this requirement.

SECTION VII
Appendix/Codebook

CODEBOOK

AWAP-NATIONAL-2016
507 Cases

CONTENTS

item		page
CASEID	CASE IDENTIFICATION NUMBER	1
STATE	STATE	2
Q1	CONSENT	3
Q3_1_YEAR	Make-Model-Year : Year	3
Q3_1_MAKE	Make-Model-Year : Make	4
Q4	State	5
OPENMONTH	Dates : Month-Open Date:	6
OPENDAY	Dates : Day-Open Date:	7
OPENYEAR	Dates : Year-Open Date:	8
CLOSEDMONTH	Dates : Month-Closed Date:	8
CLOSEDDAY	Dates : Day-Closed Date:	9
CLOSEDYEAR	Dates : Year-Closed Date:	10
Q7_1	Learn - Program-Owner's Manual/Warranty Info	10
Q7_2	Learn - Program-Attorney or Lawyer	10
Q7_3	Learn - Program-Brochures, Literature, Pamphlets	10
Q7_4	Learn - Program-Television, Radio, Newspapers	11
Q7_5	Learn - Program-Friends, Family, Co-Workers	11
Q7_6	Learn - Program-Previous Knowledge Program	11
Q7_7	Learn - Program-Internet, Website	11
Q7_8	Learn - Program-Automaker Customer Service	12
Q7_9	Learn - Program-Dealership Purchased	12
Q7_10	Learn - Program-Other	12
Q7_11	Learn - Program-Government-State Agency	12
Q8_1	Dealer-Manufacturer Inform-Talked in Person	13
Q8_2	Dealer-Manufacturer Inform-Talked Over the Phone	13
Q8_3	Dealer-Manufacturer Inform-Gave or Sent Program Info	13
Q8_4	Dealer-Manufacturer Inform-Showed Poster Other Materials	13
Q8_5	Dealer-Manufacturer Inform-Other	14
Q52_1	Times-Contacted Dealer	15
Q52_2	Times-Contacted Manufacturer	16
Q52_4	Times-Service/Repairs	17
Q9	Mail-Internet	18
Q10	Program Info	18
Q11	Complaint Forms	18
OUTCOME	Outcome	19
Q13	Mediated Outcome	19
Q14	Mediated-Received	19
Q15	Mediated-Receive Time Frame	20
Q16	Mediated-Not Receive	20
Q18	Mediated-Purse Case	20
Q19_1	Mediated-Method Pursue-Contacted Attorney	20
Q19_2	Mediated-Method Pursue- Different Solution Dealer/Man.	21
Q19_3	Mediated-Method Pursue-Contacted State/Government Agency	21

item		page
Q19_4	Mediated-Method Pursue-Re-contacted the NCDS	21
Q19_5	Mediated-Method Pursue-Other	21
Q21	Arb - Paperwork	22
Q22	Arb - Accuracy Claim	22
Q23	Arb - Notified Hearing	22
Q25	Arb - Attend Hearing	23
Q26_1	Arb - Not Attend Hearing-Work, School, Other Professiona	23
Q26_2	Arb - Not Attend Hearing-Personal Commitment	23
Q26_3	Arb - Not Attend Hearing-Distance Meeting Location	23
Q26_4	Arb - Not Attend Hearing-Told Not Necessary	24
Q26_6	Arb - Not Attend Hearing-Not Notified	24
Q27	Arb - Outcome	24
Q28	Arb - Accept-Reject	25
Q29	Reason Reject	25
Q31	Arb - Receive Time Frame	25
Q32	Arb-Reason For Delay Receiving Award	26
Q30	Arb - Pursue Case	26
Q33_1	Arb-Method Pursue-Contacted Attorney	26
Q33_2	Arb-Method Pursue-Worked Solution Dealer/Man	27
Q33_3	Arb-Method Pursue-Contacted State/Government Agency	27
Q33_4	Arb-Method Pursue-Re-contacted the NCDS	27
Q33_5	Arb-Method Pursue-Other	27
Q39	Delay 40 Days	28
Q41	Reason Delay 40 Days	28
Q41A	Explanation Delays	28
Q34	Return Postcard/Talk	29
Q42_1	Satisfaction-Their objectivity and fairness.	29
Q42_2	Satisfaction-Their promptness in handling your complaint	30
Q42_3	Satisfaction-Their efforts to assist in resolving your c	30
Q42_5	Satisfaction-Their interactions with you in person/by te	31
Q42_4	Satisfaction-The NCDS program overall.	31
Q43	Recommend Program	32
IMPROVE1	Improvement - 1st Mention	32
IMPROVE2	Improvement - 2nd Mention	33

CASEID CASE IDENTIFICATION NUMBER

507 cases (Range of valid codes: 1-507)

Data type: numeric

Record/columns: 1/596-598

STATE	STATE	VALUE	LABEL
	%	N	
	0.2	1	AK
	1.4	7	AL
	2.4	12	AR
	2.8	14	AZ
	14.0	71	CA
	2.0	10	CO
	0.6	3	CT
	0.6	3	DE
	6.1	31	FL
	3.4	17	GA
	0.2	1	HI
	1.2	6	IA
	0.4	2	ID
	3.7	19	IL
	0.8	4	IN
	1.2	6	KS
	2.0	10	KY
	2.8	14	LA
	1.4	7	MA
	1.0	5	MD
	0.4	2	ME
	1.4	7	MI
	1.4	7	MN
	1.4	7	MO
	1.0	5	MS
	0.8	4	MT
	3.7	19	NC
	0.2	1	ND
	2.6	13	NJ
	0.6	3	NM
	0.2	1	NV
	5.9	30	NY
	5.9	30	OH
	1.0	5	OK
	1.2	6	OR
	3.0	15	PA
	0.8	4	RI
	1.8	9	SC
	2.4	12	TN
	6.9	35	TX
	0.8	4	UT
	3.4	17	VA
	2.2	11	WA
	2.4	12	WI
	1.0	5	WV

----- ---
 100.0 507 cases

Data type: character
 Record/columns: 1/1-2

Q1 CONSENT

%	N	VALUE	LABEL
100.0	503	1	Yes
0.0	0	2	No
	4	.	(Not Applicable)

----- ---
 100.0 507 cases

Data type: numeric
 Record/columns: 1/3-10

Q3_1__YEAR Make-Model-Year : Year

%	N	VALUE	LABEL
0.6	3	2006	2006
0.0	0	2007	2007
0.2	1	2008	2008
0.0	0	2009	2009
0.0	0	2010	2010
0.8	4	2011	2011
2.0	10	2012	2012
7.5	38	2013	2013
25.4	128	2014	2014
43.3	218	2015	2015
20.2	102	2016	2016
0.0	0	2017	2017
	3	.	(Not Applicable)

----- ---
 100.0 507 cases

Data type: numeric
 Record/columns: 1/11-18

Q3_1__MAKE Make-Model-Year : Make

%	N	VALUE	LABEL
1.6	8	1	Accura
27.4	139	2	Chrysler
7.1	36	3	Honda
0.0	0	4	Mitsubishi
4.3	22	5	Lexus
0.0	0	6	Porsche
0.2	1	7	Suzuki
9.7	49	8	Toyota
31.6	160	9	Jeep
18.1	92	10	Dodge
-----	---		
100.0	507	cases	

Data type: numeric

Record/columns: 1/19-26

Q4

State

%	N	VALUE	LABEL
1.6	8	1	Alabama
2.8	14	2	Arizona
2.4	12	3	Arkansas
14.1	71	4	California
1.8	9	5	Colorado
0.6	3	6	Connecticut
0.6	3	7	Delaware
0.0	0	8	District of Columbia
6.2	31	9	Florida
3.4	17	10	Georgia
0.4	2	11	Idaho
3.8	19	12	Illinois
1.0	5	13	Indiana
1.2	6	14	Iowa
1.2	6	15	Kansas
2.0	10	16	Kentucky
2.8	14	17	Louisiana
0.4	2	18	Maine
1.0	5	19	Maryland
1.2	6	20	Massachusetts
1.2	6	21	Michigan
1.4	7	22	Minnesota
1.0	5	23	Mississippi
1.6	8	24	Missouri
0.8	4	25	Montana
0.0	0	26	Nebraska
0.2	1	27	Nevada
0.2	1	28	New Hampshire
2.4	12	29	New Jersey
0.6	3	30	New Mexico
6.2	31	31	New York
3.8	19	32	North Carolina
0.2	1	33	North Dakota
5.8	29	34	Ohio
0.8	4	35	Oklahoma
1.2	6	36	Oregon
2.8	14	37	Pennsylvania
0.8	4	38	Rhode Island
1.8	9	39	South Carolina
0.0	0	40	South Dakota
2.2	11	41	Tennessee
6.9	35	42	Texas
0.8	4	43	Utah
0.0	0	44	Vermont
3.4	17	45	Virginia

2.2	11	46	Washington
1.0	5	47	West Virginia
2.4	12	48	Wisconsin
0.0	0	49	Wyoming
0.0	0	50	Puerto Rico
0.2	1	51	Alaska
0.2	1	52	Hawaii
0.0	0	53	I do not reside in the United States
	3	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/27-34

OPENMONTH Dates : Month-Open Date:

%	N	VALUE	LABEL
3.7	17	1	January
3.5	16	2	February
3.5	16	3	March
3.7	17	4	April
3.1	14	5	May
5.0	23	6	June
3.7	17	7	July
5.0	23	8	August
5.3	24	9	September
6.4	29	10	October
3.7	17	11	November
1.5	7	12	December
51.8	236	99	Do Not Recall
	51	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/35-42

OPENDAY Dates : Day-Open Date:

%	N	VALUE	LABEL
2.7	7	1	1
0.0	0	2	2
1.2	3	3	3
1.6	4	4	4
2.7	7	5	5
1.2	3	6	6
1.9	5	7	7
3.1	8	8	8
1.6	4	9	9
2.3	6	10	10
1.9	5	11	11
1.2	3	12	12
0.8	2	13	13
1.9	5	14	14
1.9	5	15	15
1.6	4	16	16
0.8	2	17	17
1.9	5	18	18
0.4	1	19	19
3.5	9	20	20
2.7	7	21	21
3.1	8	22	22
1.9	5	23	23
0.8	2	24	24
0.4	1	25	25
0.8	2	26	26
1.6	4	27	27
2.3	6	28	28
1.6	4	29	29
2.7	7	30	30
0.0	0	31	31
47.9	123	99	Do Not Recall
	250	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/43-50

OPENYEAR Dates : Year-Open Date:

%	N	VALUE	LABEL
1.0	3	2014	2014
14.3	43	2015	2015
84.7	255	2016	2016
	206	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
 Record/columns: 1/51-58

CLOSEDMONTH Dates : Month-Closed Date:

%	N	VALUE	LABEL
3.3	14	1	January
0.7	3	2	February
2.9	12	3	March
1.9	8	4	April
3.1	13	5	May
2.9	12	6	June
3.6	15	7	July
4.1	17	8	August
4.1	17	9	September
3.3	14	10	October
5.0	21	11	November
8.1	34	12	December
57.0	239	99	Do Not Recall
	88	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
 Record/columns: 1/59-66

CLOSEDDAY Dates : Day-Closed Date:

%	N	VALUE	LABEL
1.8	4	1	1
0.9	2	2	2
2.7	6	3	3
0.4	1	4	4
2.2	5	5	5
3.1	7	6	6
1.3	3	7	7
0.9	2	8	8
1.3	3	9	9
1.8	4	10	10
1.3	3	11	11
1.3	3	12	12
2.2	5	13	13
2.7	6	14	14
1.3	3	15	15
0.9	2	16	16
1.3	3	17	17
2.7	6	18	18
0.9	2	19	19
1.3	3	20	20
1.8	4	21	21
0.9	2	22	22
1.8	4	23	23
0.4	1	24	24
1.3	3	25	25
0.0	0	26	26
2.2	5	27	27
2.2	5	28	28
0.4	1	29	29
1.3	3	30	30
2.7	6	31	31
52.2	117	99	Do Not Recall
	283	.	(Not Applicable)
-----	---		
100.0	507		cases

Data type: numeric
 Record/columns: 1/67-74

CLOSEDYEAR Dates : Year-Closed Date:

%	N	VALUE	LABEL
0.8	2	2014	2014
5.8	15	2015	2015
93.5	243	2016	2016
	247	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/75-82

Q7_1 Learn - Program-Owner's Manual/Warranty Info

%	N	VALUE	LABEL
100.0	151	1	
	356	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/83-90

Q7_2 Learn - Program-Attorney or Lawyer

%	N	VALUE	LABEL
100.0	45	1	
	462	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/91-98

Q7_3 Learn - Program-Brochures, Literature, Pamphlets

%	N	VALUE	LABEL
100.0	18	1	
	489	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/99-106

Q7_4 Learn - Program-Television, Radio, Newspapers

%	N	VALUE	LABEL
	507	.	(Not Applicable)
-----	---		
100.0	507	cases	

Data type: numeric
Record/columns: 1/107-114

Q7_5 Learn - Program-Friends, Family, Co-Workers

%	N	VALUE	LABEL
100.0	25	1	
	482	.	(Not Applicable)
-----	---		
100.0	507	cases	

Data type: numeric
Record/columns: 1/115-122

Q7_6 Learn - Program-Previous Knowledge Program

%	N	VALUE	LABEL
100.0	12	1	
	495	.	(Not Applicable)
-----	---		
100.0	507	cases	

Data type: numeric
Record/columns: 1/123-130

Q7_7 Learn - Program-Internet, Website

%	N	VALUE	LABEL
100.0	93	1	
	414	.	(Not Applicable)
-----	---		
100.0	507	cases	

Data type: numeric
Record/columns: 1/131-138

Q7_4 Learn - Program-Television, Radio, Newspapers

%	N	VALUE	LABEL
	507	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/107-114

Q7_5 Learn - Program-Friends, Family, Co-Workers

%	N	VALUE	LABEL
100.0	25	1	
	482	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/115-122

Q7_6 Learn - Program-Previous Knowledge Program

%	N	VALUE	LABEL
100.0	12	1	
	495	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/123-130

Q7_7 Learn - Program-Internet, Website

%	N	VALUE	LABEL
100.0	93	1	
	414	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/131-138

Q7_8 Learn - Program-Automaker Customer Service

%	N	VALUE	LABEL
100.0	175	1	
	332	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/139-146

Q7_9 Learn - Program-Dealership Purchased

%	N	VALUE	LABEL
100.0	118	1	
	389	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/147-154

Q7_10 Learn - Program-Other

%	N	VALUE	LABEL
100.0	5	1	
	502	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/155-162

Q7_11 Learn - Program-Government-State Agency

%	N	VALUE	LABEL
100.0	7	1	
	500	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/163-170

Q8_1 Dealer-Manufacturer Inform-Talked in Person

%	N	VALUE	LABEL
100.0	82	1	
	425	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/171-178

Q8_2 Dealer-Manufacturer Inform-Talked Over the Phone

%	N	VALUE	LABEL
100.0	157	1	
	350	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/179-186

Q8_3 Dealer-Manufacturer Inform-Gave or Sent Program Info

%	N	VALUE	LABEL
100.0	42	1	
	465	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/187-194

Q8_4 Dealer-Manufacturer Inform-Showed Poster Other Materials

%	N	VALUE	LABEL
100.0	1	1	
	506	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/195-202

Q8_5 Dealer-Manufacturer Inform-Other

%	N	VALUE	LABEL
100.0	4	1	
-----	---		
	503	.	(Not Applicable)
-----	---		
100.0	507	cases	

Data type: numeric

Record/columns: 1/203-210

Q52_1 Times-Contacted Dealer

%	N	VALUE	LABEL
1.6	8	0.00	
0.6	3	1.00	
4.6	23	2.00	
7.3	37	3.00	
8.7	44	4.00	
14.1	71	5.00	
12.7	64	6.00	
6.9	35	7.00	
7.1	36	8.00	
1.4	7	9.00	
12.1	61	10.00	
1.2	6	11.00	
3.6	18	12.00	
0.4	2	13.00	
0.4	2	14.00	
6.9	35	15.00	
0.2	1	16.00	
0.6	3	17.00	
0.4	2	18.00	
0.4	2	19.00	
3.6	18	20.00	
0.2	1	22.00	
0.2	1	24.00	
1.0	5	25.00	
0.2	1	26.00	
0.4	2	27.00	
0.8	4	30.00	
0.2	1	32.00	
0.4	2	35.00	
0.2	1	40.00	
0.2	1	45.00	
1.0	5	50.00	
0.4	2	100.00	
	3	.	(Not Applicable)

 100.0 507 cases

Data type: numeric
 Decimals: 2
 Record/columns: 1/211-218

Q52_2 Times-Contacted Manufacturer

%	N	VALUE	LABEL
12.5	63	0.00	
7.9	40	1.00	
15.6	79	2.00	
10.7	54	3.00	
8.7	44	4.00	
13.2	67	5.00	
3.4	17	6.00	
2.0	10	7.00	
3.4	17	8.00	
0.8	4	9.00	
8.5	43	10.00	
0.6	3	11.00	
1.8	9	12.00	
0.4	2	14.00	
2.8	14	15.00	
0.2	1	16.00	
0.4	2	17.00	
4.7	24	20.00	
0.2	1	24.00	
0.4	2	25.00	
0.4	2	30.00	
0.2	1	31.00	
0.2	1	44.00	
1.0	5	50.00	
0.2	1	75.00	
	1	.	(Not Applicable)

 100.0 507 cases

Data type: numeric
 Decimals: 2
 Record/columns: 1/219-226

Q52_4 Times-Service/Repairs

%	N	VALUE	LABEL
5.5	28	0.00	
5.5	28	1.00	
5.7	29	2.00	
11.5	58	3.00	
13.0	66	4.00	
14.8	75	5.00	
13.2	67	6.00	
4.9	25	7.00	
7.3	37	8.00	
1.4	7	9.00	
6.5	33	10.00	
0.4	2	11.00	
1.6	8	12.00	
0.2	1	13.00	
0.4	2	14.00	
2.6	13	15.00	
0.4	2	16.00	
0.4	2	17.00	
0.2	1	18.00	
0.2	1	19.00	
2.0	10	20.00	
0.2	1	21.00	
0.2	1	27.00	
0.2	1	29.00	
0.4	2	30.00	
0.2	1	32.00	
0.2	1	41.00	
0.2	1	47.00	
0.2	1	50.00	
0.2	1	60.00	
0.2	1	100.00	
	1	.	(Not Applicable)

 100.0 507 cases

Data type: numeric

Decimals: 2

Record/columns: 1/227-234

Q9 Mail-Internet

%	N	VALUE	LABEL
41.8	210	1	Received program information and claims forms by mail
58.2	292	2	Accessed program information and claim forms from website
	5	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/235-242

Q10 Program Info

%	N	VALUE	LABEL
36.1	182	1	Very clear and easy to understand
47.4	239	2	A little difficult but still easy to understand
16.5	83	3	Pretty difficult to understand
	3	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/243-250

Q11 Complaint Forms

%	N	VALUE	LABEL
44.2	222	1	Very clear and easy to understand and complete
45.6	229	2	A little difficult but still easy to understand and complete
10.2	51	3	Pretty difficult to understand and complete
	5	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/251-258

OUTCOME	Outcome		
	%	N	VALUE LABEL
	2.2	11	1 Mediation - Settlement with Dealer or Manufacturer
	97.8	496	2 Arbitration - Decision by Arbitrator, Panel or Board
	-----	----	
	100.0	507	cases

Data type: numeric
 Record/columns: 1/259-266

Q13	Mediated Outcome		
	%	N	VALUE LABEL
	9.1	1	1 Ordered additional repair attempts
	0.0	0	2 Ordered or recognized a trade assist (trade current vehicle towards a different vehicle)
	54.5	6	3 Ordered a partial refund (includes buyback or cash settlement less mileage expenses)
	36.4	4	4 Ordered a replacement vehicle
	0.0	0	5 Other (please specify)
	0.0	0	6 Dismissed your claim/no settlement was offered
		496	. (Not Applicable)
	-----	----	
	100.0	507	cases

Data type: numeric
 Record/columns: 1/267-274

Q14	Mediated-Received		
	%	N	VALUE LABEL
	100.0	11	1 Yes
	0.0	0	2 No
		496	. (Not Applicable)
	-----	----	
	100.0	507	cases

Data type: numeric
 Record/columns: 1/275-282

Q15 Mediated-Receive Time Frame

%	N	VALUE	LABEL
100.0	11	1	Yes
0.0	0	2	No
	496	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/283-290

Q16 Mediated-Not Receive

%	N	VALUE	LABEL
0.0	0	1	Yes
0.0	0	2	No
	507	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/291-298

Q18 Mediated-Purse Case

%	N	VALUE	LABEL
9.1	1	1	Yes
90.9	10	2	No
	496	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/299-306

Q19_1 Mediated-Method Pursue-Contacted Attorney

%	N	VALUE	LABEL
	507	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/307-314

Q19_2 Mediated-Method Pursue- Different Solution Dealer/Man.

%	N	VALUE	LABEL
100.0	1	1	
	506	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/315-322

Q19_3 Mediated-Method Pursue-Contacted State/Government Agency

%	N	VALUE	LABEL
	507	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/323-330

Q19_4 Mediated-Method Pursue-Re-contacted the NCDS

%	N	VALUE	LABEL
	507	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/331-338

Q19_5 Mediated-Method Pursue-Other

%	N	VALUE	LABEL
	507	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/339-346

Q21 Arb - Paperwork

%	N	VALUE	LABEL
90.3	447	1	Yes
9.7	48	2	No
	12	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/347-354

Q22 Arb - Accuracy Claim

%	N	VALUE	LABEL
30.7	137	1	Very accurately
41.7	186	2	Somewhat accurately
27.6	123	3	Not too or not at all accurately
	61	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/355-362

Q23 Arb - Notified Hearing

%	N	VALUE	LABEL
73.3	362	1	Yes, notified
7.5	37	2	No, was not notified
19.2	95	3	Chose document only hearing
	13	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/363-370

Q25 Arb - Attend Hearing

%	N	VALUE	LABEL
51.2	185	1	In person
2.2	8	2	By telephone
46.5	168	3	Did not attend hearing
	146	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/371-378

Q26_1 Arb - Not Attend Hearing-Work, School, Other Professional Commitment

%	N	VALUE	LABEL
100.0	36	1	
	471	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/379-386

Q26_2 Arb - Not Attend Hearing-Personal Commitment

%	N	VALUE	LABEL
100.0	7	1	
	500	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/387-394

Q26_3 Arb - Not Attend Hearing-Distance Meeting Location

%	N	VALUE	LABEL
100.0	60	1	
	447	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/395-402

Q26_4 Arb - Not Attend Hearing-Told Not Necessary

%	N	VALUE	LABEL
100.0	114	1	
	393	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/403-410

Q26_6 Arb - Not Attend Hearing-Not Notified

%	N	VALUE	LABEL
100.0	12	1	
	495	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/411-418

Q27 Arb - Outcome

%	N	VALUE	LABEL
3.0	15	1	Ordered additional repairs attempts
0.6	3	2	Ordered or recognized a trade assist (trade current vehicle towards a different vehicle)
12.3	61	3	Ordered a partial refund (includes buyback or cash settlement less mileage expenses)
5.4	27	4	Ordered a replacement vehicle
0.0	0	5	Ordered other (please specify)
78.6	390	6	The NCDS ruled against your claim and the manufacturer or dealer did not have to do anything further in your case.
	11	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/419-426

Q28 Arb - Accept-Reject

%	N	VALUE	LABEL
87.7	93	1	Accept the decision (award)
12.3	13	2	Reject the decision (award)
	401	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/427-434

Q29 Reason Reject

%	N	VALUE	LABEL
7.7	1	1	Milage Deduction/Expenses Too High
76.9	10	2	Additional Repairs Unable Solve Issues
15.4	2	3	
	494	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/column: 1/435

Q31 Arb - Receive Time Frame

%	N	VALUE	LABEL
58.1	54	1	Receive your award within the time frame specified in the decision?
26.9	25	2	Receive your award but not within the time frame specified in your decision?
15.1	14	3	Not receive your award?
	414	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/436-443

Q32 Arb-Reason For Delay Receiving Award

%	N	VALUE	LABEL
10.5	4	1	Disagreement/Dispute Over Mileage Deduction/Payout Amount
36.8	14	2	Delays in Obtaining Replacement Vehicle
36.8	14	3	NCDS Delayed Sending Proper Paperwork/Notice
10.5	4	4	Difficulty Scheduling Repairs
5.3	2	5	No Reason Given
	469	.	(Not Applicable)
-----	-----		
100.0	507		cases

Data type: numeric
Record/columns: 1/444-451

Q30 Arb - Pursue Case

%	N	VALUE	LABEL
36.8	182	1	Yes
63.2	313	2	No
	12	.	(Not Applicable)
-----	-----		
100.0	507		cases

Data type: numeric
Record/columns: 1/452-459

Q33_1 Arb-Method Pursue-Contacted Attorney

%	N	VALUE	LABEL
100.0	81	1	
	426	.	(Not Applicable)
-----	-----		
100.0	507		cases

Data type: numeric
Record/columns: 1/460-467

Q33_2 Arb-Method Pursue-Worked Solution Dealer/Man

%	N	VALUE	LABEL
100.0	41	1	
	466	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/468-475

Q33_3 Arb-Method Pursue-Contacted State/Government Agency

%	N	VALUE	LABEL
100.0	44	1	
	463	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/476-483

Q33_4 Arb-Method Pursue-Re-contacted the NCDS

%	N	VALUE	LABEL
100.0	58	1	
	449	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/484-491

Q33_5 Arb-Method Pursue-Other

%	N	VALUE	LABEL
100.0	6	1	
	501	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/492-499

Q39 Delay 40 Days

%	N	VALUE	LABEL
39.0	196	1	Yes
61.0	307	2	No
	4	.	(Not Applicable)
-----	---		
100.0	507		cases

Data type: numeric
Record/columns: 1/500-507

Q41 Reason Delay 40 Days

%	N	VALUE	LABEL
1.0	2	1	You failed to submit information in a timely manner
6.2	12	2	You did not first seek to solve issues directly with the automaker/manufacturer
92.8	181	3	The delay was due to other reasons (please specify)
	312	.	(Not Applicable)
-----	---		
100.0	507		cases

Data type: numeric
Record/columns: 1/508-515

Q41A Explanation Delays

%	N	VALUE	LABEL
12.5	17	1	Scheduling/Conducting Repairs
6.6	9	2	Delays Obtaining/Finding Vehicle
5.9	8	3	Needed More Information
16.9	23	4	Dealership/Manufacturer Delays/Lack Communication
25.0	34	5	Unsure
25.7	35	6	Paperwork/Scheduling Delays
7.4	10	7	NCDS Delays
	371	.	(Not Applicable)
-----	---		
100.0	507		cases

Data type: numeric
Record/columns: 1/516-523

Q34 Return Postcard/Talk

%	N	VALUE	LABEL
21.7	107	1	Yes, talked to staff
20.0	99	2	Yes, returned postcard
11.3	56	3	Both, talked to staff and returned the postcard
47.0	232	4	No, didn't bother
	13	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/524-531

Q42_1 Satisfaction-Their objectivity and fairness.

%	N	VALUE	LABEL
45.6	192	1	
10.2	43	2	
6.2	26	3	
4.3	18	4	
6.2	26	5	
3.6	15	6	
2.4	10	7	
3.6	15	8	
3.8	16	9	
14.3	60	10	
	86	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
Record/columns: 1/532-539

Q42_2 Satisfaction-Their promptness in handling your complaint

%	N	VALUE	LABEL
21.4	98	1	
5.3	24	2	
6.3	29	3	
4.8	22	4	
10.1	46	5	
8.5	39	6	
7.0	32	7	
12.3	56	8	
7.0	32	9	
17.3	79	10	
	50	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/540-547

Q42_3 Satisfaction-Their efforts to assist in resolving your complaint.

%	N	VALUE	LABEL
41.3	176	1	
10.8	46	2	
8.2	35	3	
2.8	12	4	
6.8	29	5	
3.8	16	6	
4.5	19	7	
6.3	27	8	
3.5	15	9	
12.0	51	10	
	81	.	(Not Applicable)
-----	----		
100.0	507	cases	

Data type: numeric
Record/columns: 1/548-555

Q42_5 Satisfaction-Their interactions with you in person/by
telephone.

%	N	VALUE	LABEL
29.2	127	1	
10.8	47	2	
6.0	26	3	
5.1	22	4	
8.7	38	5	
5.7	25	6	
5.7	25	7	
8.7	38	8	
4.8	21	9	
15.2	66	10	
-----	72	.	(Not Applicable)
100.0	507	cases	

Data type: numeric
Record/columns: 1/556-563

Q42_4 Satisfaction-The NCDS program overall.

%	N	VALUE	LABEL
39.9	172	1	
13.7	59	2	
5.8	25	3	
4.6	20	4	
7.2	31	5	
4.9	21	6	
3.2	14	7	
4.9	21	8	
5.1	22	9	
10.7	46	10	
-----	76	.	(Not Applicable)
100.0	507	cases	

Data type: numeric
Record/columns: 1/564-571

Q43 Recommend Program

%	N	VALUE	LABEL
16.6	84	1	Yes
57.8	293	2	No
25.6	130	3	Depends on the circumstances
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/572-579

IMPROVE1 Improvement - 1st Mention

%	N	VALUE	LABEL
6.2	26	2	Better Explanation/Documentation of Process/Program/Easier Understand
0.5	2	3	Make Program More Well Known/ Advertising
0.0	0	4	Need More Program Locations
0.5	2	5	Quicken Process/ Speedier Decisions
0.5	2	6	More/ Better Representation at Hearings
32.9	138	7	Bias Arbitrators/Arbitrators Favor Manufacturers
13.4	56	8	More Communication/Contact/Interaction Arbitrators Staff
5.0	21	9	Better/ More Knowledgeable Mechanics/Review Staff
6.7	28	10	Better Review Complaint/Problems by Staff/Arbitrators
6.9	29	11	Allow More Information/History of Problems in Complaint
3.3	14	12	Better Follow-up/Enforcement of Awards/Settlements
2.4	10	13	Fair/Equitable Settlements/Awards
14.8	62	14	Dealers/Manufacturers More Responsive to Consumers/Complainant
0.2	1	15	Electronic, On-Line, Email Communication/Forms
6.7	28	16	Did Good Job/Pleased/No Complaints
	88	.	(Not Applicable)
-----	----		
100.0	507		cases

Data type: numeric
 Record/columns: 1/580-587

IMPROVE2 Improvement - 2nd Mention

%	N	VALUE	LABEL
5.8	7	2	Better Explanation/Documentation of Process/Program/Easier Understand
0.0	0	3	Make Program More Well Known/ Advertising
0.8	1	4	Need More Program Locations
3.3	4	5	Quicken Process/ Speedier Decisions
4.2	5	6	More/ Better Representation at Hearings
12.5	15	7	Bias Arbitrators/Arbitrators Favor Manufacturers
2.5	3	8	More Communication/Contact/Interaction Arbitrators Staff
6.7	8	9	Better/ More Knowledgeable Mechanics/Review Staff
20.0	24	10	Better Review Complaint/Problems by Staff/Arbitrators
20.8	25	11	Allow More Information/History of Problems in Complaint
0.8	1	12	Better Follow-up/Enforcement of Awards/Settlements
3.3	4	13	Fair/Equitable Settlements/Awards
17.5	21	14	Dealers/Manufacturers More Responsive to Consumers/Complainant
0.8	1	15	Electronic, On-Line, Email Communication/Forms
0.8	1	16	Did Good Job/Pleased/No Complaints
	387	.	(Not Applicable)
-----	---		
100.0	507	cases	

Data type: numeric
 Record/columns: 1/588-595