

United States Federal Trade Commission

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

2012 Audit

(January – December 2012)

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Introduction

This 2012 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 was conducted by the Center for Survey Research, a division of the Institute for Public Policy and Social Research at Michigan State University.

Arrangements to conduct the audit were initiated by an invoice submitted in late 2012. 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.

Hearings that were held in Alabama, Georgia, and Ohio were included in the on-site field inspections. Visits to these locations were arranged to coordinate with scheduled arbitration hearings. In addition, we audited an arbitrator training conducted in Orlando, Florida, on April 16, 2013. 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 (2012). 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 2012 as required.

¹ Chrysler offers arbitration in these four states only (Arkansas, Idaho, Kentucky, and Minnesota.) Acura, Honda and Tesla were added recently, but had no cases in 2012.

SECTION I

Compliance Summary

This is the tenth 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.

The three regions audited: Alabama, Georgia, and Ohio, all functioned during 2012 in compliance with FTC Rule 703. 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.² Our original survey sample consisted of 884 closed cases³, of which we completed surveys for 302 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.

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.

² There are discrepancies in some areas but those identified are either of no significant consequence or are understandable and without significant regulatory implications. Discrepancies are detailed in the Survey Section of the report.

³ The sample was drawn from a universe of 1,409 cases but only the 884 closed arbitrated or mediated cases were used to establish the universe from which the sample was drawn. For details see Survey Section.

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 2012. An important component of the audit is the survey of a randomly selected sample of 884 NCDS' Dispute Settlement Program applicants whose cases were closed in 2012 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 (Clinton Twp.) office of the National Center for Dispute Settlement.

We performed field audits of the AWAP as it operates in Alabama, Georgia, and Ohio. We also examined a random sample of current (i.e., 2012) case files for accuracy and completeness. A random sample of case files was drawn from all case files for the years 2009-2012 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 monitored arbitration hearings in Enterprise, Alabama; Thomasville, Georgia; and Brunswick, Ohio. We also interviewed participants including arbitrators and AWAP/NCDS administrative personnel.

To assess arbitrator training, we monitored the NCDS-sponsored training session held in Orlando, Florida, on April 16, of 2013. 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 tenth (2012) Claverhouse Associates annual audit of NCDS AWAP informal dispute settlement program. Records pertaining to the NCDS' AWAP that are required to be maintained by 703. 6 (Recordkeeping) are being kept and were made available for our review.

REQUIREMENT: § 703.6 (a) [Recordkeeping]

- (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 [Clinton Township] office of the program's independent administrators. Our review of randomly selected cases drawn from the four-year period (2008-2011) demonstrated that the case files were maintained in 2012, 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 2012 cases validated these findings. The review of randomly chosen cases drawn from the four-year period 2009-2012 was done this year in a new way using hard copies that were generated from an electronic file created via an optical scanning technique. This innovation was necessitated by a move that was in process of both the facility and the files. There is no difficulty in our being able to represent the availability of these files as we have reviewed them for three years in recent prior audits.

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. This year we found some arbitrator decision statements which auditors found to be 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.⁴ 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 [2012] maintained by the NCDS staff at the NCDS headquarters in Detroit [Clinton Township], Michigan.

The audit includes a review and assessment of a data printout for the calendar year 2012.

The *AWAP Statistics* identifies 1, 505 AWAP disputes filed for 2012. Of these, 1,031 cases were eligible for AWAP review, and 474 cases were determined by the AWAP to be out-of-jurisdiction. Of the in-jurisdiction closed cases, NCDS reports that 717 were arbitrated⁵ and 100 were mediated.⁶ There were 673

⁴ 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.

⁵ 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"].

⁶ 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.

arbitrated decisions which were reported as “adverse to the consumer” per § 703.6 (E) representing 93.8% of all arbitrated cases.

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 2012. 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 2012, three 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 although with no cases to report, the necessity

for a report was obviated. 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. At the same time, we found nothing during our assessment review that calls into question the accuracy of any of the required statistical indexes. [Note: The statistical report does include 63 cases categorized as "PENDING DECISION." We do not review the "Pending Decision" cases to determine how many days they remained open and unresolved.

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 2012 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 (Clinton Township) 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].

For the 2012 report, we interviewed NCDS staff and inquired as to any changes from 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.

I. 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

⁷ The eight current manufacturers are: Acura, Chrysler, Honda, Lexus, Mitsubishi, Suzuki, Tesla, and Toyota. Acura, Honda, and Tesla are new to the program and had no cases in 2012.

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*.⁸ 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.

In 2013 [for 2012 report], we visited several Toyota dealerships.

Sunnyside Toyota
2700 Lorain Rd.
North Olmstead, Ohio 44070

Toyota Scion of Bedford
18151 Rockside Road
Bedford, Ohio 44146

Buckeye Toyota
1903 Riverway Dr.
Lancaster, Ohio 43130

Toyota of Dothan
2285 Ross Clark Circle
Dothan, Alabama 36301

Rheinhardt Toyota
720 Eastern Blvd.
Montgomery, Alabama 36117

⁸ 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 Claim Form*.

Toyota of Albany
2865 Ledo Rd.
Albany, Georgia 31707

The result of our review of dealership personnel interviewed during the Toyota dealership visits was fairly 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. Most Toyota dealerships gave us inaccurate information in response to our inquiries about a customer's warranty dispute options generally and about the NCDS dispute settlement program. A Toyota dealer in Georgia provided partially accurate and useful information about arbitration and NCDS. Two Toyota dealers in Florida provided incorrect feedback. In Ohio we obtained excellent feedback with accurate and useful information but one dealer gave us no useful information.

In a recent past audit we referenced one Michigan dealership's response to our inquiry which was excellent. The employee showed us an Owner's Manual and pointed out the section referencing the NCDS Dispute Settlement program [arbitration] and how a customer with a warranty dispute can initiate a review of their complaint. Other Toyota dealers should consider adopting the Michigan dealer's response to our inquiries.

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.

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 in the last three audited years (2010: 2,581 claims filed) and (2011: 1,359 claims filed) and 1,505 claims filed in 2012 demonstrate many Toyota customers were 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 reiterate 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. 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.

II. 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 2013, we visited the following Lexus dealership.⁹

Lexus of Orlando
305 N. Semoran
Winter Park, Florida 32792

The result of our only Lexus dealer visit this year is as poor as what we found last year. At this year's visit we talked with two advisors at the same time and both provided completely false information. One of the two advisors gave deceptive information including a false assertion that a customer with a warranty dispute must "go Lemon Law"(sic) and the other said, "In order to go to arbitration their must be a problem so great that it could easily leave the customer stranded." Neither appeared to even be aware that the company sponsors a third-party dispute resolution program [arbitration] and both failed, or refused, to reference either NCDS or the Owner's Manual provision explaining the process and how to access it.

In 2012, we visited the following Lexus dealerships

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

⁹ As is the case with several dimensions to the 2012 audit we carried out this aspect in the year 2013, but we included our last year's findings for Lexus because the poor result of this years assessment mirrors our findings last year for Lexus in three states suggesting that there may be something systemic that Lexus needs to address because of the importance of this aspect of the audit.

(Note: The Ohio Dealership audits were conducted as part of a State audit and yet the state review findings as regards this particular aspect, are also applicable to this federal audit.)

Lexus of Jacksonville
10259 Atlantic Blvd.
Jacksonville, Florida 32225

Metro Lexus
13600 Brookpark Road
Brookpark, Ohio 44135

The dealership visit results were poor. In last 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.

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:

The Lexus program for making customers aware of the availability of this no cost option for dispute resolution poses a compliance concern regarding the federal Magnuson-Moss Warranty Act and the administrative law, Rule 703. If results such as these continue, Lexus' "in compliance" status is at great risk.

III. MITSUBISHI:

Mitsubishi uses the following means by which to meet this important requirement:¹⁰

- 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.

¹⁰ 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 2006.

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 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.

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 two 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.

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 their best efforts.

DISCREPANCIES:

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

IV. SUZUKI

- Suzuki provides all new car customers with a New 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 the 2012 audit report.

DISCREPANCIES:

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

V. CHRYSLER

Chrysler uses several means by which to meet this important requirement. They are as follows: **[Note: This information only applies in the four states wherein the program is offered (Arkansas, Idaho, Kentucky, and Minnesota)].**

- The *2006 Warranty Information* booklet,¹¹ 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 an organization called the Chrysler customer assistance center to obtain an application for arbitration as administered by NCDS. It also includes a mailing address for contacting NCDS.
- The booklet *Owner's Rights Under State Lemon Laws, Supplement to Owner's & Warranty Manual* is provided with each new vehicle. This booklet does not give the CAP address, but at page four it refers customers with unresolved disputes to the CAP brochure that accompanies the *Owner's Manual* and *Warranty Manual*, which are shipped as part of the Glove Box Kit in the applicable states. It also refers customers to the Chrysler toll-free customer relations (Customer Center) number where the customer can request the address of the CAP.

We did not visit a Chrysler Dealership for the 2012 report.

DISCREPANCIES:

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

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**

¹¹ 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 our 2008 report.

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.¹²

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.

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

¹² We note that the *Customer Claim Form* solicits some information that raises questions, in our minds, about the purpose and applicability to the 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, § 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.

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 extra cost.

3) **Mediation**¹³

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 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

¹³ Mediation 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.

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.¹⁴

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

¹⁴ 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.

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.

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.¹⁵ 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 arbitrator training in June of 2012, we confirmed that these efforts continue and are having some noteworthy effects. This finding set forth in last year's report was consistent with our experience with the 2013 "re-fresher training" in Orlando, Florida. [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

¹⁵ Currently, NCDS arbitrators are provided a per diem allowance of \$100.00 a hearing plus reimbursement for any mileage expenses incurred.

SECTION III

Field Audit of Three Geographical Areas

I. **Alabama**

A. Case Load and Basic Statistics

In Alabama, NCDS handled 26 AWAP cases in 2012.

Of the total number of 2012 cases (26), eight (30.7%) were "no-jurisdiction" cases. There were 12 cases arbitrated (66.6%) of the 18 in-jurisdiction cases, and 3 cases were mediated. Of the 12 cases arbitrated, 11 (91.6%) were decided "adverse to the consumer." The average number of days for handling a 2012 case in Alabama was 29 days. This compares with an average of 30 days handling nationwide.

B. Recordkeeping, 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 2012 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 2012 "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. 2009-2012)¹⁶

§ 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 2009 through 2012 was drawn from the NCDS data base program. Our inspection of this sample verified 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 Detroit, Michigan, office. We did not inspect the off-site facility for this year's audit. The files we viewed 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 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.

¹⁶ Since some of the participating manufacturers have not been administered by NCDS for four years, we could not render any judgment in that regard to that manufacturer. Still, we have seen how the files were maintained in other audits we have conducted, and as a result, we have confidence the files are being stored as required. Moreover, we saw no substantive inconsistency in how NCDS maintains files between manufacturers so we feel comfortable in assuming that what is true in this regard for Toyota, Chrysler, Mitsubishi and Lexus will be seen to also be true for the Acura, Honda, Suzuki, and Tesla aspects of the national AWAP.

E. Hearing Process

On February 8, 2013, the auditors traveled to Enterprise, Alabama to assess a scheduled arbitration hearing. The meeting was scheduled to begin at 10:00 a.m. at Bondy's Toyota Dealership at 519 Boll Weevil Circle. Upon arrival, we were informed that the parties had resolved their dispute prior to the initiation of the hearing.

In order to follow the same template from year-to-year, the report will include the results of a Toyota hearing assessed and reported in last year's audit report. The contents, of course, have no regulatory bearing on this year's report. The inapplicable content that follows will be greyed-out to emphasize its inapplicability. The reader will note, however, the typical way in which we assess an audit hearing in our reports.

Claverhouse Associates in cooperation with the National Center For Dispute Settlement [NCDS] has a system in place to avoid, as much as is possible, traveling to a hearing that results in a last minute cancellation. Last minute cancellations of this sort are a true rarity. Fortunately, we have many years experience with this program. We are confident that our overall findings based on the other hearings conducted this year for this national audit, as well for two state audits, are reflective of the program's operations as they relate to conducting dispute resolution [arbitration] hearings.

*****A SAMPLE ASSESSMENT FROM A PREVIOUS YEAR'S REPORT*****

E. Hearing Process

The AWAP hearing was held at the Bert Allen Toyota dealership in Gulf Port, Mississippi. The hearing was scheduled for February 7, 2012 . The hearing began as scheduled at 2:00 pm.

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

The hearing room was of adequate size for accommodating the hearing. The parties included the customer, two Toyota manufacturer representatives, the arbitrator, and the auditors [2]. In this case the customer's wife represented their case.

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 was complete. He invited the parties to present whatever information they wanted him to consider. He then proceeded to allow each party to present their case. Both the customer and the manufacturer's representative made oral presentations. Following the presentations, the arbitrator

accompanied the Toyota representative and the customer to the vehicle at issue and then took a brief test drive. The arbitrator demonstrated throughout the hearing 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 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 this case's decision and a sample of Mississippi NCDS decisions rendered in 2011 while conducting our on-site visit to the metropolitan 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. The decision in this particular case was also reasonably consistent with the facts as presented in the case file and those presented during the hearing.

CONCLUSION:

The AWAP, as it operates in the state of Mississippi, is in substantial compliance with 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.

This terminates our use of a convention and inclusion of a hearing review found in our 2011 FTC report. What follows is a continuation of our 2013 review of the NCDS program as it operated in 2012.

II. Georgia

A. Case Load and Basic Statistics

The Georgia statistical compilations identifies 31 total disputes closed for 2012. Of these 12 (38.7 % of all disputes) were beyond jurisdiction for NCDS' arbitration program review. Of the remaining 19 cases, one (5.2% of all in-jurisdiction disputes¹⁷) was mediated and 13 (68.4% of all in-jurisdiction disputes) were arbitrated¹⁸. One 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 2012 case in Georgia was 30. This is identical to case handling nationwide (30).

We requested a random sample of cases drawn from all 2012 Georgia 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. Recordkeeping Accuracy and Completeness

The Georgia audit includes a review of a hearing held at the Thomasville, Georgia, Toyota dealership on March 19, 2013. This review included interviews with the principal parties involved in the hearing. In addition, we reviewed a sample of case files for Georgia 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;**

¹⁷ Our calculation here is based only on the 19 cases within the program's jurisdiction.

¹⁸ Only 12 cases were fully "decided" at the time the statistics report was created but one case was categorized as a "pending decision" which implies that this case was eventually arbitrated [i.e., "decided by Members"/arbitrators] or, may have been delayed during the compliance stage of the case's final disposition. This can happen for many reasons. For example, a decision may have ordered a replacement of the customer's vehicle but the parties may have agreed to an upgrade requiring a search for a vehicle that meets the specifications mutually agreed upon by them.

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. 2009-2012)

§ 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 [Detroit], Michigan, office. We did not inspect the off-site facility for this year's audit. The files we viewed appeared intact and were readily available for inspection. We inspected a random sample inspection of case files drawn from all cases in the four-year universe of cases from Georgia. 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 held at the Thomasville Toyota Dealership. The hearing was scheduled for March 19, 2013. The hearing began as scheduled at 10:00 a.m..

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

The hearing room was of adequate size for accommodating the hearing. The parties included the customers, a Toyota manufacturer representative who attended by use of a speaker-phone, a service department representative, the arbitrator, and the auditor.

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 to be complete. The arbitrator read most of his opening statement which was accurate but incomplete because he failed to explain the hearing process prior to taking testimony and evidence. He then inexplicably explained that he would now exit himself from the hearing and allow the parties an attempt to mediate. This is completely inconsistent with the program's structured hearing format and the arbitrator training. After the arbitrator's departure from the room the Toyota manufacture representative made a statement and the customer[s] rejected the statement.

The arbitrator returned to the room and re-convened the hearing.

The arbitrator then took testimony from each of the parties. When that concluded, the arbitrator allowed the parties to question each other. This predictably deteriorated into quibbling. Fortunately, the arbitrator intervened and took control of the hearing, and concluded the hearing by taking final statements and visiting the customer's vehicle for an inspection. The arbitrator, thereafter, declared the hearing to be closed.

iv. Hearing

The hearing was poorly conducted and improperly managed. Fortunately, all parties were heard and afforded an opportunity to present evidence. Even poorly managed hearings can still be conducted within regulatory guidelines. The arbitrator's decision was reviewed and assessed for compliance with regulatory requirements. We do not, however, assess the outcome so much as the methodology used and the related rationale for reaching their decision. The decision in this case was not inappropriate in substance, but the rationale was incorrect and rather incoherent. The same conclusion could have been reached based on the facts and justified with a more appropriate rationale. It was improper for the arbitrator to conclude that "...the issue with this vehicle is related to the design of the vehicle. As such, this Arbitrator does not have the authority to rule on this matter as it is not eligible for the arbitration process." Indeed, the arbitrator did have the authority to rule and, in fact, he did rule. He ruled on the eligibility of the case. In this he was wrong. He was also wrong to conclude that the alleged problem was "design related." He was, however, well within his right to deny the customer's claim for relief, but only because he obviously did not believe that the customer had made a compelling case that their problem amounted to an unrepaired warranty defect. Few, if any arbitrators in this process possess the expertise required to conclude what is, or is not, within the specifications of the vehicle's design, much less the ability to determine if a specific action which might affect the vehicle was caused by a design feature.

In addition, arbitrators could, by way of extreme example, conclude, based on evidence presented, that the vehicle's brakes predictably fail when in passing gear. Such would constitute a design feature based on its predictability, but it would also render such a vehicle "unfit for the purpose for which it was intended," invoking the implied warranty of fitness for a specific purpose, and the implied warranty of marketability embodied in the Uniform Commercial Code and cross-referenced in the Magnuson-Moss Warranty Act. This in turn would, in theory, allow for a decision awarding a refund, or replacement, based on the requested relief. For this reason, the arbitrator's comments were both inappropriate and in error. Nevertheless, his conclusion is entirely justifiable based on the facts presented by the parties. His error then, is one of form more than of substance. In other words, we do not question the arbitrator's finding but rather, his commentary and written explanation.

v. Board/Arbitrator Decisions

We reviewed this case's decision and a sample of Georgia NCDS decisions rendered in 2012. Overall, the decisions we reviewed were

reasonable and consistent with the facts of the case, at least insofar as the case file is concerned.

The decision in this particular case while poorly reasoned was, in its effect, consistent with the facts as presented in the case file and those presented during the hearing. No injustice resulted, and no harm to the customer, but clearly the arbitrator needs further training.

CONCLUSION:

The AWAP, as it operates in the state of Georgia, is in substantial compliance with 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.

III. Ohio

A. Case Load and Basic Statistics

The 2012 Ohio Statistical compilations identifies 41 total disputes closed for 2012. Of these, 16 (39 % of all disputes) were beyond jurisdiction for NCDS' arbitration program review. Of the remaining 27 cases, 4 (14.8% of all in-jurisdiction disputes¹⁹) were mediated and 22 (81.4% of all in-jurisdiction disputes) were arbitrated.²⁰ The numbers reported appear to us to be incorrect by a value of either one, two, or three depending on how the numbers are determined. In any event, the error is so minor that it is of no regulatory consequence and is only worth noting. We opted to use the number 27 for in-jurisdiction cases for purposes of conducting our calculations

B. Recordkeeping Accuracy and Completeness

We had a random sample of Ohio case files drawn from all cases closed during the audit period [2012] 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 2012 "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.

¹⁹ Our calculation here is based only on the 27 cases within the program's jurisdiction.

²⁰ Only 22 cases were fully "decided" at the time the statistics report was created and one case was categorized as a "pending decision" which implies that this case was eventually arbitrated [i.e., "decided by Members" [i.e., arbitrators] or, may have been delayed during the compliance stage of the case's final disposition. This can happen for many reasons. For example, a decision may have ordered a replacement of the customer's vehicle but the parties may have agreed to an upgrade requiring a search for a vehicle that meets the specifications mutually agreed upon by them.

- 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.²¹

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

²¹ 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.

CONCLUSIONS:

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

C. Case File Records (4 yrs. 2009-2012)

§ 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 2009 through 2012 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 Detroit, 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 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 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 AWAP hearing was scheduled to be held at the Brunswick Toyota Dealership in Brunswick, Ohio, June 17, 2013, at 2:00 p.m. The originally identified hearing room

was not of adequate size for accommodating the hearing. Alternative accommodations were located and the hearing was moved to a building nearby. The hearing commenced at 2:15 pm. The parties included the customer, a Toyota manufacturer representative, two Toyota trainees, the arbitrator, and two auditors from Claverhouse Associates.

ii. Openness of Meeting

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 requisite information from the parties. He then proceeded to allow each party to present their case. The customer, made the initial oral presentation. Following the customer's presentation, the manufacturer's representative made a useful presentation.

The arbitrator demonstrated throughout the hearing that he knew how to properly conduct a hearing, however, he made one serious mistake. The arbitrator in his opening, said there is a mileage off-set provided for in any refund, or replacement decision. This is always improper and inconsistent with arbitrator training in every state. In Ohio, the error is egregious because the State of Ohio does not allow for any mileage off-set.

iv. Hearing Process

The hearing was, with the one important exception referenced in the preceding sub-section, 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.

The NCDS rules do provide that the Parties may agree to suspend the hearing in order to attempt to mediate the dispute. The purpose of the hearing, however, as established by the governing regulations, is very limited in scope. It is for the arbitrator or, decision maker[s] to hear and decide the matter in dispute."

The arbitrator's error alluded to above, is more troubling in light of what transpired in the hearing thereafter when the parties did agree to enter into a mediation, or, as in this case, a negotiation process. This is allowed in those circumstances where both parties freely express a desire to suspend the hearing for that purpose. This hearing was suspended and the parties came to an agreement to settle the dispute. The serious question that arises is this: To what degree, if any, did the arbitrator's improper instruction to the parties concerning an estimated \$4,000.00 mileage off-set, affect the customer's decision to mediate? The answer is unknown, but the

seriousness of the error is palpable and requires that NCDS take steps to address the issue.

v. Board/Arbitrator Decisions

There was no decision in this mediated case but we reviewed a sample of other Ohio NCDS decisions rendered in 2012. Overall, the decisions we reviewed were reasonable and consistent with the facts of the case, at least insofar as the case file is concerned.

CONCLUSION:

The AWAP, as it operates in the state of Ohio, is in substantial compliance with Rule 703, notwithstanding the important concerns discussed above regarding the need to address the arbitrator's error and misconception concerning mileage-offset in Ohio. The error is one of creating a false impression for the participants as it relates to the applicability of mileage offsets. Announcing that a mileage offset will be applied prior to the taking of evidence is a mistake. No formula exists in federal law for applying a mileage offset allowance. We have been advised by the staff at NCDS that this issue will be addressed specifically with this arbitrator.

The NCDS administrative staff and the NCDS program demonstrate 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 training of arbitrators. However, there are several general requirements for ensuring that the program does 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.

The NCDS programs offers several training programs each year (new arbitration seminars, refresher seminars, state-specific seminars and on-line training assistance).

FINDINGS:

The NCDS provided a new arbitration seminar in 2012 at the DFW Lakes Hilton in Grapevine, Texas on June 8 through June 10, 2012. Prospective arbitrators and a few manufacturer representatives attended the program. Auditors from Claverhouse Associates monitored this particular training program. As noted in the introduction, certain facets of the audit are conducted in the year following the audit period for the purpose of review. The 2012 Audit includes a training review conducted in 2013 in Orlando, Florida. These two separate training programs will be treated in two distinct sections: the Orlando training assessment, followed by the Dallas training assessment.

Dallas Training Assessment:

Training was conducted by NCDS staff with legal augmentation provided by Ms. Mary Bedikian on regulatory matters. Ms. Bedikian is on the faculty at Michigan State University's Law School and has a long association with various arbitration associations. As is typical, the regulatory aspects of training are conducted by an attorney having familiarity with the historical development of and the intricate interrelationships of the applicable federal and state statutes. 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.

The "New Arbitrator" weekend seminar opened with an introduction of trainers, followed by an overview of the training agenda. The first day's agenda included the role of arbitrators (discussion of potential conflicts of interest, arbitrator disqualification issues), and a review of arbitration's history as regards automobile warranty. The concept of due process was introduced and its scope of authority as well as a cursory discussion of administrative case review.

The second day of training was very comprehensive and opened with a detailed review of due process, the code of ethics placing special significance on arbitrator impartiality. An arbitrator's duty to disclose possible conflicts of interest where applicable was stressed. Trainees also covered the sources of arbitrators' authority and provided a detailed review of regulatory laws (federal and state). NCDS's arbitration administrative process was carefully reviewed followed by procedural steps in preparing for a hearing. A review of automotive terminology and its significance to the auto arbitration process was covered. The actual steps of conducting a hearing were covered and then practices in mock arbitration hearings in group format followed.

The final day of training focused on drafting decisions. A thorough review for drafting decisions and all its associated elements were addressed followed by decision drafting exercises. Trainees applied their training principles and acquired necessary tools to draft decisions. Trainers also demonstrated NCDS's on-line portal system.

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. In addition, NCDS offers on-line course supplemental instruction to all its arbitrators.

Overall, the training appears to have left trainees with an opportunity to develop a good grasp of their responsibilities as arbitrators. As was true at last year's training, trainees were presented with information that makes it clear 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 or the appropriate state automobile warranty statute.

The presentation of the legal issues was professional and accurate. Particular emphasis was given to this critical subject area again this year, and the result was very positive as regards trainees' understanding of their role. Emphasis was placed on the importance of arbitrators' neutrality and the related issue of making appropriate disclosures when applicable. Attention was also given to disclosures that may be important but are not necessarily disqualifying.

An important and thorough presentation centered around the Federal Magnuson-Moss Warranty Act²² and its relationship to the Uniform Commercial Code. Our field experience suggests that some periodic updates on the arbitrators' scope of authority and the related available remedies under federal law would also be beneficial.

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.

²² Also addressed was the Act's related administrative rules commonly known as Rule 703.

The invaluable role-playing demonstrations have become a standard feature of NCDS training. Some exercises involve trainees simply observing role-playing by staff, but a major component of training involves trainees themselves in role play exercises.

Also discussed was the appropriate use of independent technical inspections and their limitations. Emphasis was given to the arbitrator's duty to not accede 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.

Finally, the training session provided a clear discussion of issues surrounding jurisdiction of the program to hear and decide cases. In this program, the NCDS 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 and final determination.

We said in last year's report the following:

“On several occasions, trainees interrupted the trainer and posed very broad and theoretical questions that resulted 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 subject under consideration and reduces the likelihood of essential retention of the subjects set forth in the training agenda.”

Trainers discussed this issue earlier in the seminar and, for the most part, were able to curtail prolonged tangential questions on matters not relevant to the process or unlikely scenarios arbitrators usually confront. Nevertheless, several trainees managed to disrupt training on non-germane queries thus using valuable training time and potentially confusing other trainees in the session.

Orlando Review Training Assessment:

The Florida-specific review training session was held in Orlando, Florida, on April 16, 2013.

The Florida-specific training included 13 arbitrators plus attendees: Management staff of NCDS, Claverhouse auditor, NCDS trainers, and a representative from the Florida Attorney General's office.

This training was designed to address issues that had arisen over the years demonstrating a need for greater clarification for arbitrators. Issues

addressed include: jurisdictional determination; due-process requirements; collateral charges, mileage off-set determination issues, where applicable, and defining the limits of arbitration in the hearing process.

The training was professionally presented and accurate in every aspect. It appeared to be useful to current arbitrators who asked numerous questions throughout and, we believe, received helpful clarifications on some of the more complicated issues that sometimes arise.

CONCLUSION:

We recommend that training personnel continue to advise participants at the onset of training that 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 helpful to most of the trainees.

The NCDS arbitrator training programs are valuable exercises that operates in substantial compliance with the Magnuson-Moss warranty Act and its corresponding Rule 703. We have observed many important additions to the national training program over the past several years and those have been carried over into this year's program. 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	VERY GOOD
4) Quality of presentation	VERY GOOD
5) Apparent understanding and likely comprehension of the information	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 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 to be "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 contracted with the Office for Survey (OSR) of the Institute for Public Policy and Social Research (IPPSR) at Michigan State

University to conduct a survey of consumers nationwide who filed disputes with the AWAP during the calendar year 2012.

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 302 of the 884¹ users of the AWAP program nationally in 2012 whose cases were "in jurisdiction" and "closed." To achieve the research goal of obtaining 300 completed surveys nationally, surveys were sent to 600 randomly sampled users of the program². Closed cases are defined as those where a decision has been made and the time for compliance has occurred.

¹ The database sent by the AWAP for conducting the survey contained 884 eligible cases. The AWAP provided a report with 1,409 cases. The cases in the AWAP indices break down as follows: 100 mediated cases (11 which the time for compliance had not occurred), 772 arbitrated cases (22 which the time for compliance had not occurred), 63 pending cases, and 474 "no jurisdiction" cases. **The data in this report is based on only the closed mediated and arbitrated cases – 89 mediated and 750 arbitrated cases for a total of 839.** There is still a discrepancy between the number of cases sent for conducting the survey (884) and the number of cases in the statistics (839). The status of the 45 cases included in the AWAP report is unknown.

² Using a projected completion rate of 50%, a proportional random sample of 600 users of the program nationally was selected from the database of close and in-jurisdiction cases supplied by the AWAP. The file sent by the AWAP contained 884 cases that met study criteria. A proportional 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 is representative of the universe of cases filed in 2012 with the AWAP.

	Toyota	Lexus	Mitsubishi	Chrysler	Suzuki	Total
Claverhouse Sample	252 (84.3%)	14 (4.6%)	11 (3.6%)	14 (4.6%)	11 (3.6%)	302 (100.0%)
AWAP	705 (79.8%)	42 (4.8%)	31 (3.5%)	51 (5.8%)	55 (6.2%)	884 (100.0%)

Data was collected using both a web-based questionnaire and a mailed self-administered questionnaire. A web-based version of the questionnaire was programmed using Vovici Professional Edition web-based data collection software. Vovici 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 for individualized, confidential links to be emailed to each respondent. It also tracks who responds electronically and who does not so that email reminders are only sent 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. Vovici also can be published through an SSL certificate, uses 128-bit data encryption to ensure that downloaded data, and all information remains confidential.

Of those randomly selected to participate in the audit, 449 users had an email address of which 426 were valid. All of these users were sent a pre-notification letter on January 23, 2013, informing them of the study, the date in which they would receive an email, and to what address the email would be sent. Approximately one week after the pre-notification letter was sent, each user was sent an individualized link asking them to complete the on-line survey. The first email invitation was sent out on January 31, 2013. Reminder emails were sent out on February 8, 2013, February 16, 2013, and the final reminder was sent February 27, 2013.

Respondents with electronic contact information who had not completed the survey on-line as of February 18, 2013 were sent a packet on February 19, 2013. It contained a letter explaining that several efforts had been made to reach them via email. The letter also asked them to either look for the email reminder and complete the survey electronically or complete the enclosed paper copy of the survey.

Of the 426 users with valid email addresses, 212 completed the survey through an emailed link. An additional 11 respondents accessed the URL from a letter sent to them and completed the survey electronically for an overall on-line completion rate of 51.0 percent.

To ensure that everyone selected had an equal opportunity to participate and to increase the overall response rate, OSR used a methodology designed by Professor Donald Dilman of the University of Washington, a nationally known expert in the field of survey research. His method involves an initial mailing of a cover letter, questionnaire, and postage paid envelope. Approximately one week after the initial mailing, a postcard thank-you/reminder is sent to everyone. Three weeks after the initial mailing, a second full mailing is sent to non-responders.

On February 1, 2013, a packet containing the questionnaire (which matched the electronic version of the survey exactly), a cover letter, and a postage-paid return envelope was sent to the 151 sampled users of the AWAP program without electronic contact information. The same packet of

information was also sent to the 23 users with invalid email address. The cover letter explained the purpose of the survey, why and how he or she was selected to participate, and how the results would be used. It also explained his or her rights in the research process and provided contact information for OSR staff in case they had questions about the survey or the survey process itself. The letter also contained information about the year, make and model of the automobile selected for the audit. This information was provided to ensure that the consumer referred to the correct vehicle in the event they had filed more than one case with the AWAP program.

A week after the initial mailing (February 8, 2013), the combination thank-you/reminder postcard was sent to everyone who had received the initial mailing. This postcard also contained the electronic link.

Each person in the study was assigned a unique identification number for tracking purposes. This tracking number was used so that the second mailing could only be sent to those who had not completed and returned their questionnaire by a specific date.

On March 1, 2013, OSR mailed to those who had not yet returned their completed questionnaire another packet. This packet contained a different cover letter that explained that OSR had not yet received their initial questionnaire and that their participation was important to ensure a complete and thorough audit. It also contained another questionnaire and a postage-paid envelope. Respondents were asked to return their completed questionnaire within one week of receiving it.

Data collection ended on March 15, 2013. In total, OSR received 223 surveys electronically and 79 completed self-administered questionnaires for a total of 302 completed surveys. Those returned by mail were data-entered using the web-based software. The data was then outputted, proofed, and coded for data analysis. The completion rate for those mailed a survey is 45.4 percent.

A threat to the validity of a study is non-response bias. That is, if there is any systematic reason certain consumers are unavailable or chooses not to participate, the results can be biased. 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, postcard reminders, and second mailings to non-responders are attempts to increase overall completion rates and to reduce non-response bias.

The overall completion rate for this study is 50.3 percent and the margin of error is ± 4.58 percent³.

³ This is the sampling error when the responses divide roughly 50-50 on a given question and when there are 302 cases, given a 95 percent confidence interval the margin of error is ± 4.6 percent (i.e., there is a 1-in-20 chance that the actual proportion in the population falls outside the range of ± 4.6 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 ± 3.5 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 in-jurisdiction cases, out-of-jurisdiction cells in the Claverhouse section of the table are blank, and the subtotal (representing in-jurisdiction cases) is equal to total disputes. In this case, only AWAP in-jurisdiction cases are compared with the Claverhouse sample. Also excluded are the AWAP cases in which time for compliance has not yet occurred or pending cases since the Claverhouse sample only includes closed cases.

The difference between the 11.9 percent of cases mediated in the Claverhouse sample and the 10.6 percent of cases mediated in the AWAP figures is not statistically significant. Likewise, the difference between the 88.1 percent of arbitrated cases in the Claverhouse sample and the 89.4 percent of arbitrated cases in the AWAP figures is also not statistically significant. Therefore, the statistics are in agreement.

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

Resolution	Claverhouse		AWAP		
	Number	Percent	Number	Percent of in-jurisdiction closed cases	Percent of all cases
Mediation	36	11.9%	89	10.6%	6.8%
Arbitration	266	88.1%	750	89.4%	57.1%
Subtotal (in-jurisdiction)	302	100.0 %	839	100.0%	63.9%
Out-of-jurisdiction	-	-	474	-	36.1%
Total disputes	302	100.0%	1,313⁴	-	100.0%⁵

Mediated Cases

⁴ This table does not include the 11 mediated and 22 arbitrated cases for which time for compliance has not occurred nor the 63 pending cases.

⁵ Due to rounding, actual percentages in this table may add to 100.1% or 99.9%. For ease of reading, all percentages in tables are totaled at 100.0%

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 surveys 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

Mediated Settlements	Claverhouse	AWAP
	Percent (Number)	Percent (Number)
Resolved by staff of the mechanism and warrantor has complied	94.4% (34)	98.9% (88)
Resolved by staff of the mechanism and time for compliance has occurred and warrantor has not yet complied	5.6% (2)	1.1 % (1)
Total Mediated Cases	100.0% (36)	100.0% (89)

The survey data shows that the manufacturer complied with 94.4 percent of mediated cases within the timeframe specified in the agreement. AWAP indices show that the AWAP complied with 98.9 percent of mediated cases within the timeframe specified 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**” fall within the margin of error and 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 11 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 their responses.

Table 3
Specific Outcomes of Mediated Settlements
Claverhouse Survey 2012

Outcome	Number	Percent
Ordered additional repairs	14	38.9%
Ordered a partial refund (buyback)	11	30.6%
Ordered a replacement vehicle	9	25.0%
Ordered a trade assist	2	5.6%
Total	36	100.0⁶

When asked if they pursued their cases any further, only 8.3 percent of the respondents indicated that they had done so. Of the respondents who indicated they had pursued their cases further:

- 66.7 percent said they re-contacted the dealer or manufacturer and 33.3 percent said they re-contacted the NCDS.
- Only respondents whose settlement was either additional repairs or a replacement vehicle pursued their cases further.

Respondents were then asked if they recalled talking to an AWAP staff member or returning a postcard to the AWAP about their settlement and how their case was handled. Overall 74.3 percent indicated that they had followed up with the AWAP in some manner. Of those who did follow-up, 53.8 percent recalled talking to a staff member, 23.1 percent returned the postcard, and another 23.1 percent said that they did both.

- Of those who **did not** follow-up with the AWAP after their case was settled, 44.4 percent had received additional repairs, another 44.4 percent received a partial refund, and 11.1⁷ percent received a replacement vehicle.
- Of those that **did** follow-up 34.6 percent had received additional repairs, 7.7 percent had received a trade assist, 26.9 percent a partial refund (buyback), and 30.8 percent a replacement vehicle.

⁶ Due to rounding, actual percentages in this table may add to 100.1% or 99.9%. For ease of reading, all percentages in tables are totaled at 100.0%.

⁷ Due to rounding, actual percentages in this table may add to 100.1% or 99.9%. For ease of reading, all percentages in tables are totaled at 100.0%.

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, 91.0 percent said that they recalled receiving the forms. Respondents were also asked a question about how accurately they felt the forms stated their **claim** – 45.1 percent said very accurately; 35.6 percent said somewhat accurately; and 19.3 percent said not very accurately or not at all accurately.

How accurately the respondent felt their case was stated is closely related to whether or not the respondents received an award in the arbitration process. Those who said their case was stated very accurately or somewhat accurately were more likely to receive an award. (see **Figure 1**)

Respondents were then asked whether they had been notified of the time, place, and date of the arbitration hearing. Of those who answered this question, 91.4 percent said they had been notified, and of those who had been notified. Of those who were notified:

- 77.9 percent attended their hearing in person, 4.7 percent said that they participated in the hearing by phone, and 17.4 percent said that they did not attend the hearing in person or participate by phone.

Those who **did not** attend their hearing were asked for the reason why they did not. Among this group:

- Close to half (48.7 percent) indicated that they chose the document only option; 30.8 percent reported that they had other commitments such as work or school, 12.8 percent said the distance was too great, and 7.7 percent said they were not informed of the hearing.

Does the choice of the type of hearing or does attending the hearing have any effect on the outcome of a case? These results are shown in Table 4.

Figure 1. Accuracy of Claim Forms Correlated with Whether an Award Was Granted

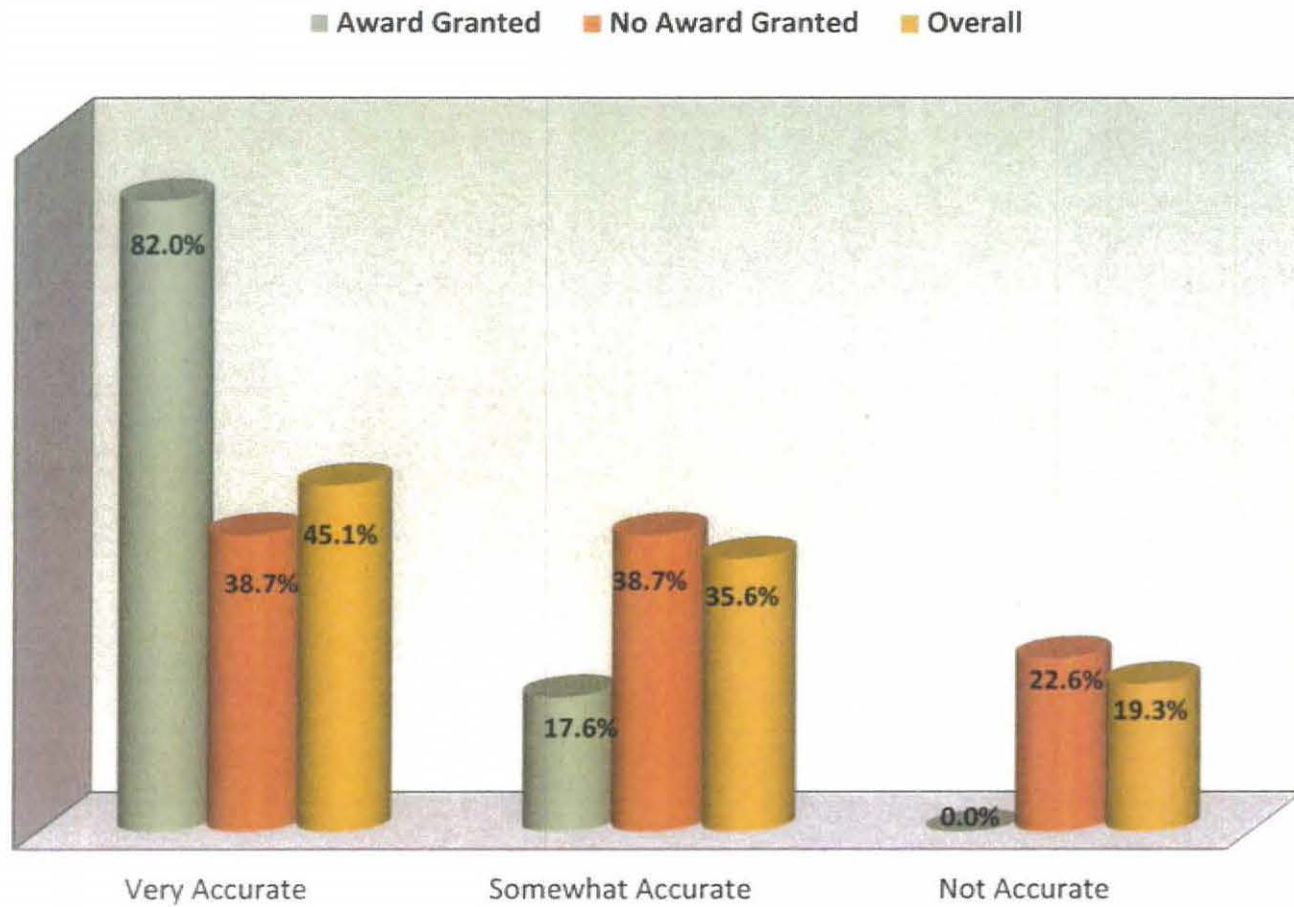


Table 4
Outcome Based on Hearing Attendance
Claverhouse Survey 2012

	Attend Hearing/Meeting Person	Attend Hearing/Meeting Phone	Did Not Attend Meeting/Hearing	Total
Award Granted	17.5% (32)	9.1% (1)	7.3% (3)	15.3% (36) ⁸
No Award Granted	82.5% (151)	90.9% (10)	92.7% (38)	84.7% (199)
Total	100.0% (183)	100.0% (11)	100.0% (41)	100.0% (235)

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.

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

Table 5
Outcomes of Arbitrated Cases
Comparison between Claverhouse Survey and AWAP Indices 2012

Outcome	Claverhouse	AWAP
	Percentage (Number)	Percentage (Number)
Arbitration – Award Granted and Accepted		
Case decided by board and warrantor has complied	13.5% (36)	10.3% (77)
Case decided by board and warrantor has not complied	0.4 % (1)	0.0% (0)
Case decided by board and time for compliance not passed	NA	NA
Total award granted and accepted	13.9% (37)	10.3% (77)
Arbitration Decision adverse to consumer	86.1% (229)	89.7% (673)
Total arbitrated decisions	100.0% (266)⁹	100.0% (750)

⁸ Cases where the respondent did not indicate whether they attended the hearing are not included in these statistics.

⁹ Due to rounding, actual percentages in this table may add to 100.1% or 99.9%. For ease of reading, all percentages in tables are totaled at 100.0%.

The statistics “case decided by board and warrantor has complied” and “decision adverse to consumer” are in agreement because the difference for both falls within the margin of error of ± 4.58 percent.

All respondents reported accepting what was awarded to them in the arbitration process. Table 6 details the awards respondents reported receiving from their arbitration hearings.

Table 6
Specific Outcomes of Arbitrated Cases
Claverhouse Survey 2012

Award	Number	Percentage
Ordered a partial refund (buyback)	15	40.5%
Ordered additional repairs	14	37.8%
Ordered a replacement vehicle	8	21.6%
Total	37	100.0%¹⁰

All respondents whose cases were arbitrated were asked whether they had pursued their cases further after the arbitration decision. Slightly less than one quarter (24.1 percent) of respondents indicated that they had pursued their cases in some manner. Table 7 shows by what means they pursued their cases. Respondents could select multiple answers therefore; the number of responses (85) is greater than the number of respondents (60).

Table 7
Methods of Pursuing Arbitrated Cases
Claverhouse Survey

Method	Number	Percent
Contacted Attorney	32	37.6%
Worked Out Solution Dealer/Manufacturer	16	18.8%
Re-contacted AWAP (NCDS)	16	18.8%
Contacted state/government agency	14	16.5%
Other method	7	8.2%
Total	85	100.0%

¹⁰ Due to rounding, actual percentages in this table may add to 100.1% or 99.9%. For ease of reading, all percentages in tables are totaled at 100.0%.

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

- Overall 7.9 percent of respondents who were **granted** an award chose to pursue their cases further. Within this group, equal numbers (33.3 percent) worked out a solution with the dealer or manufacturer and/or re-contacted the NCDS.
- Of those who were **not granted** an award, 16.2 percent indicated that they chose to pursue their case further. The most common methods among this group were contacting an attorney (40.8 percent) and contacting a state government agency (18.4 percent).

Respondents were then asked if they followed up with the AWAP by talking directly to the staff or returning a postcard after their arbitration case was closed. Over half (51.2 percent) said they **did not** follow up with the AWAP in any form. Of those who **did** follow up:

- 19.1 percent said they only talked with a staff member, 22.4 percent said they only returned the postcard, and 7.3 percent said they did both.
- Most respondents who received an award, 64.8 percent, followed up with the AWAP in some manner, with most (35.1 percent) returning the postcard.
- Those who did not receive an award were less communicative with the AWAP with 54.1 percent reporting no follow up in any manner.

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.

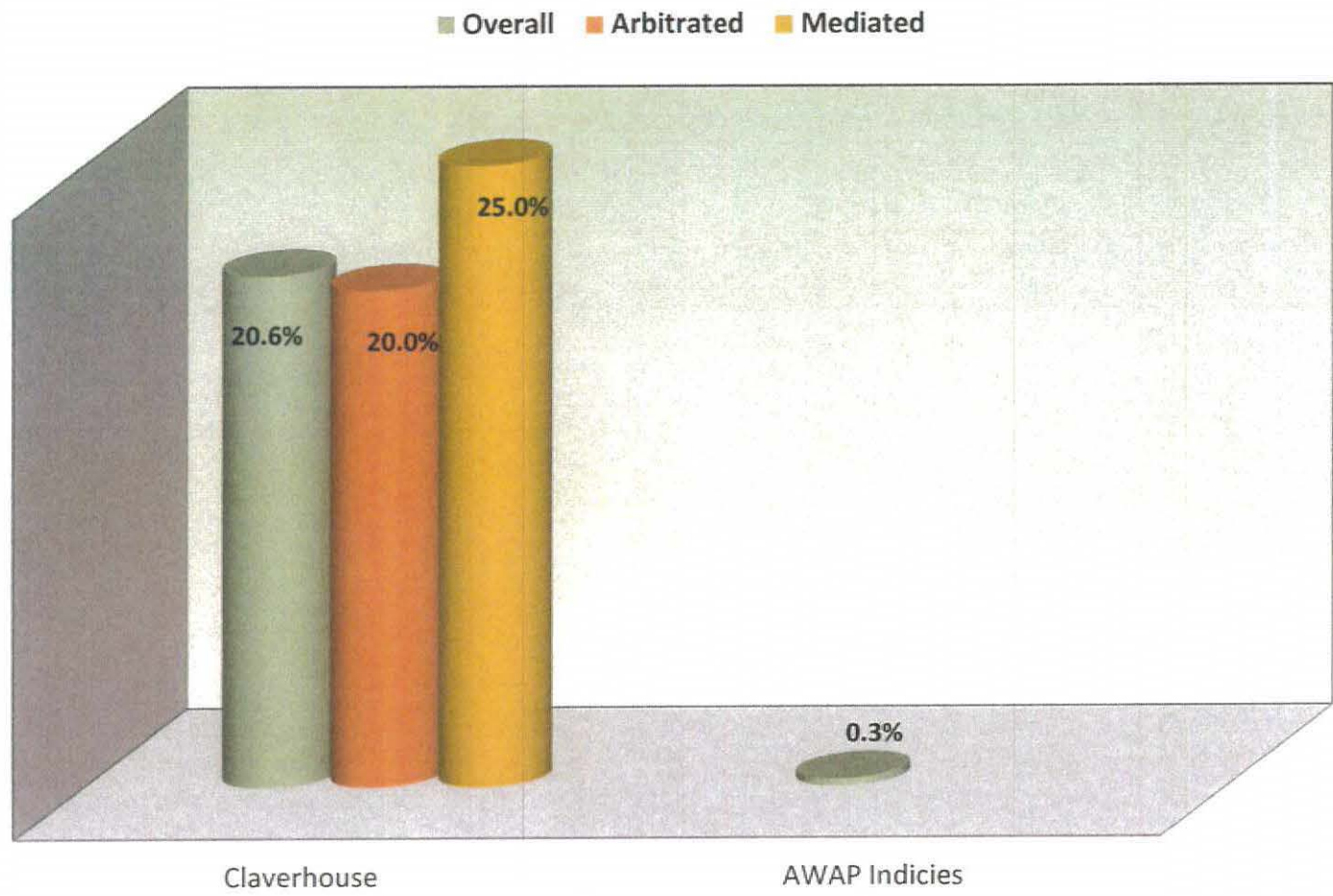
AWAP indices report that less than one percent (0.3 percent) of the closed, in-jurisdiction cases was settled beyond 40 days, whereas 20.6 percent of survey respondents reported their cases were settled beyond 40 days. (see **Figure 2**)

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.

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:

- 30.8 percent of the respondents were able to provide a full open date (i.e. month, day, year), 8.9 percent were able to give a partial date (i.e., month and year), and 60.3 percent were unable to provide any dates.

Figure 2. Percentage of Cases Delayed Beyond 40 Days Overall and by Case Type



Survey respondents' recollections on when their cases were closed were similar – 29.8 percent were able to give a full date; 9.9 percent a partial date, and 60.3 percent gave no date at all.

- Only 28.1 percent of all respondents were able to give both a full date for when their cases were opened and closed. Whether or not the full dates given are the correct dates is unknown.

It is interesting to note that of the respondents who were able to give a full opened and closed date, only 8.0 percent of them indicated that their case was delayed beyond 40 days. To investigate further the statistical discrepancy, OSR calculated a variable to find the number of days using the opened and closed dates provided by the respondents. Among this group, only 3.3 percent of the cases were actually delayed beyond 40 days, which falls within the margin of error (± 4.58 percent).

The difference in this statistic can be attributed mainly to two factors: error in recall and reporting.

- The above analysis indicates that respondents are not using documentation to determine whether their cases were indeed delayed and are relying on memory or guesswork.
- 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 delay in delivering the award.

It is also interesting to note that overall 70.6 percent of all respondents indicated that they were satisfied to some degree with the AWAP in the area of promptness.

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

There is also a statistical difference between the Claverhouse data and the AWAP indices for the reasons for the delays. The results are shown in Table 8.

Table 8
Reason For Delays Beyond 40 Days
Comparison between Claverhouse Survey and AWAP Indices

Reason for Delay	Claverhouse	AWAP
	Percentage (Number)	Percentage (Number)
Consumer failure to submit information in a timely manner	1.8% (1)	0.0% (0)
Consumer had made no attempt to seek redress directly from warrantor	17.5 % (10)	0.0% (0)
Decision delayed beyond 40 days for any other reason	80.7% (46)	100.0% (3)
Total arbitrated decisions	100.0% (57)	100.0% (3)

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.

At the beginning of the questionnaire, respondents were asked how they had learned about the Automobile Warranty Arbitration Program. The responses are summarized in Table 9.

Table 9
How Consumers Learned about AWAP Availability
Claverhouse Survey 2012

Sources of Information	Number	Percent
Owner's Manual/Warranty Information	136	35.9%
Automaker Customer Complaint Toll-Free Number	94	24.8%
A Dealership	75	19.8%
Internet, Website	29	7.7%
Friends, Family, Co-Workers	16	4.2%
Brochures, Literature, Pamphlets	12	3.2%
Attorney/Lawyer/Government Agency	9	2.4%
Previous Knowledge of the Program	7	1.8%
Other source	1	.3%
Total	379¹¹	100.0%

¹¹ Because respondents could indicate more than one source, the percentages are based on number of responses (379), not the number of respondents answering the question (286).

There are differences in how respondents learned about the program by the method of how their case was settled:

- Those with mediated cases reported only four (4) sources for information about the program. The majority of those, 54.5 percent, learned about the AWAP from the owner's manual or warranty information.
- Users whose cases were arbitrated used all the above-mentioned sources to learn about the program with most indicating the owner's manual or warranty information (33.4 percent), the customer complaint toll-free number (25.4 percent), and the dealership (20.3 percent).

Those who reported that they had learned about the program through the dealership or the automaker were asked additional questions about the means in which they were informed of the program. Table 10 shows those results.

Table 10
Method Learned About Program from Dealer or Manufacturer
Claverhouse Survey

Method	Number	Percent
Talked about the program	107	48.6%
Given information to read about the program	81	36.8%
Other methods	30	13.6%
Shown or saw a poster	2	.9%
Total	220¹²	100.0%

Survey respondents were also asked about the program informational materials and complaint forms they received from the AWAP. Close to all, 94.1 percent recalled receiving the materials.

- 94.4 percent with mediated cases recalled receiving the materials compared to 90.9 percent of those with arbitrated cases.

Of those who said they recalled receiving the materials, 63.9 percent reported the **informational materials** were very clear and easy to understand; 31.0 percent said the materials were a little difficult, but still fairly easy to understand, and 5.1 percent said that the materials were difficult or very difficult to understand.

When asked about the **complaint forms**, 63.9 percent said they were very clear and easy to understand; 31.0 percent said a little difficult but still fairly easy to understand; and 5.1 percent said they were difficult or very difficult to understand.

¹² Because respondents could indicate more than one method, the percentages are based on number of responses (220), not the number of respondents (146) answering the question.

Respondents were very consistent in their ease of understanding both forms of information:

- 90.8 percent of respondents who found the informational materials easy to understand also found the complaint forms easy to understand.
- 85.7 percent of respondents who found the informational materials difficult to understand also found the complaint forms difficult to understand as well.

Ease of understanding the materials, both the informational materials and the complaint forms, is also highly correlated with the type of case and outcome of the case. Those with mediated cases were slightly more likely to find the information materials and the complaint forms easier to understand than those with arbitrated cases as did those who were granted awards in the arbitration process. (see **Figure 3**)

Respondents were then asked to rate their satisfaction with the AWAP staff in three areas as well as their overall satisfaction with the AWAP program:

- Objectivity and fairness
- Effort
- Promptness

The respondents were asked to rate each item using a six-point scale. Using a scale with an equal number of data points eliminates an exact midpoint so respondents are not drawn to the “middle” or neutral category. 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 1.00, the higher the level of satisfaction. The closer the mean is to 6.00, the higher level of dissatisfaction. Table 11 reports the results in percentages.

Figure 3. Ease of Understanding Informational and Complaint Forms by Case Type

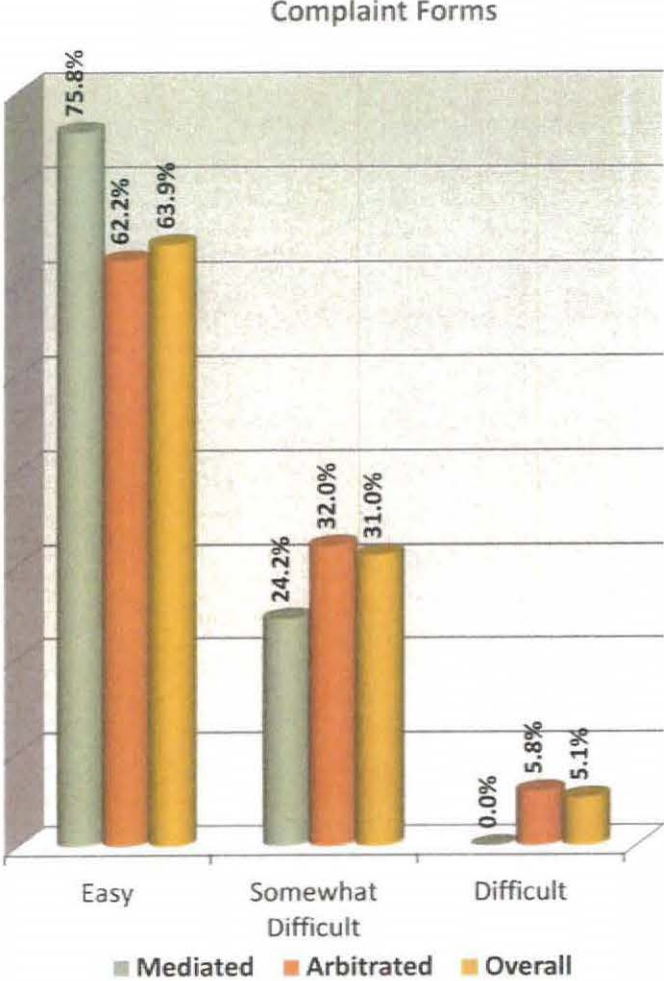
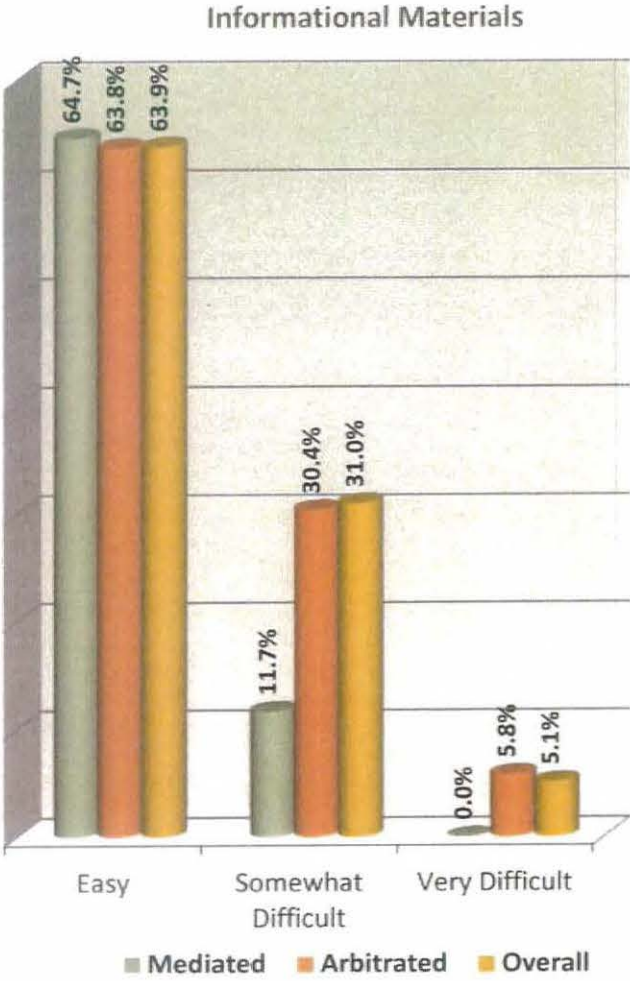


Table 11
Survey Respondents' Ratings of AWAP Staff by Percentage
Claverhouse Survey 2012

Performance Item	Level of Satisfaction						Total
	Satisfied			Dissatisfied			
	Very (1)	(2)	(3)	(4)	(5)	Very (6)	
Objectivity and fairness	19.9% (56)	7.8% (22)	8.5% (24)	6.0% (17)	7.1% (20)	50.7% (143)	100.0% (282)
Efforts to assist you in resolving your complaint	20.5% (58)	8.5% (24)	11.0% (31)	6.7% (19)	9.2% (26)	44.2% (125)	100.0% (283)
Promptness in handling your complaint during the process	32.3% (91)	19.9% (56)	18.4% (52)	4.6% (13)	6.0% (17)	18.8% (53)	100.0% (282)
Overall rating of the program	17.5% (49)	9.5% (27)	10.6% (31)	5.3% (14)	11.8% (33)	45.2% (123)	100.0% (286)

Of the three areas, users of the program gave the **highest** satisfaction rating in the area of **promptness**, with 70.5 percent, saying that they were more satisfied than dissatisfied in this area, with 32.3 percent indicating they were very satisfied. On the opposite end of the scale, only 18.8 percent said they were very dissatisfied in this area.

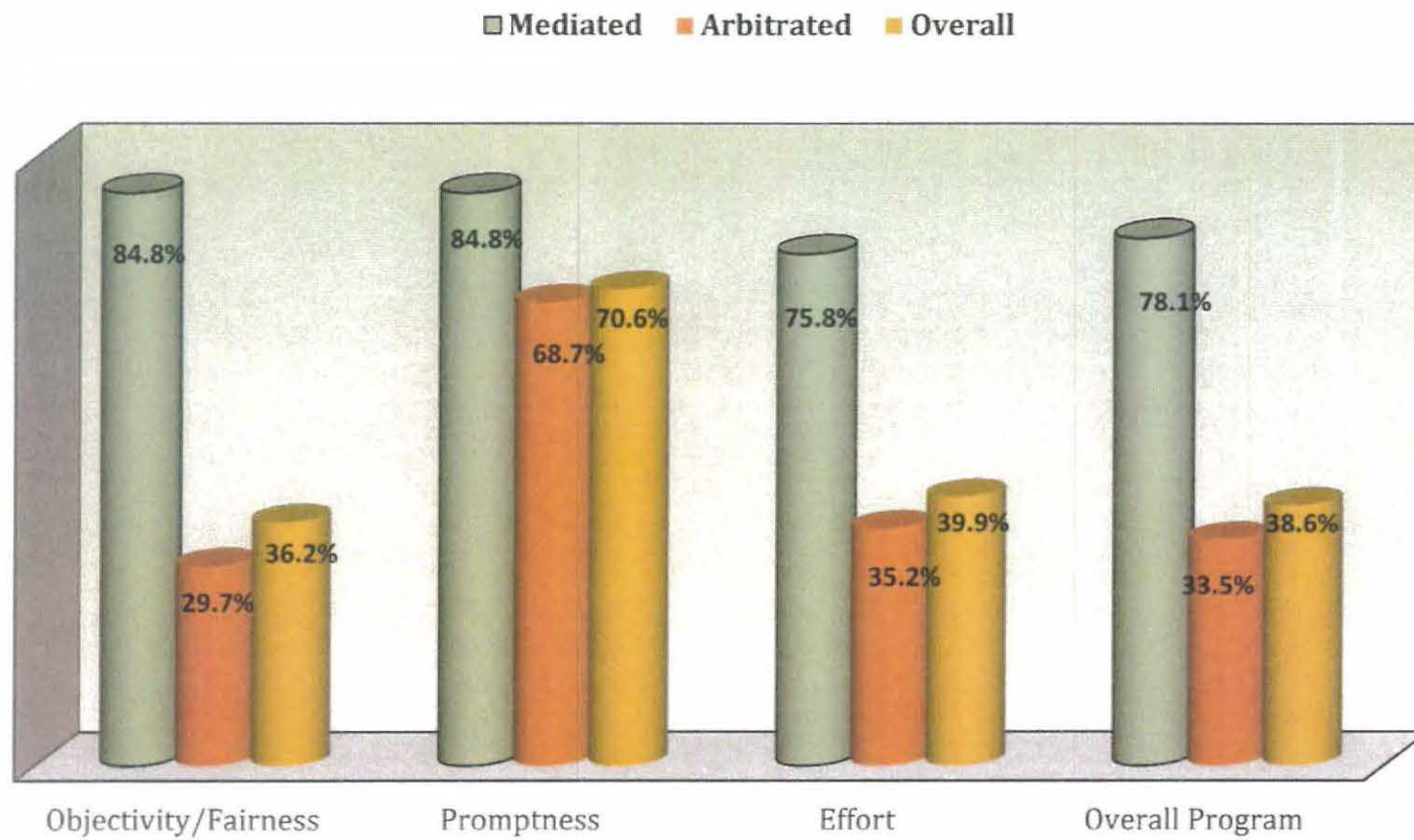
The **lowest** level of satisfaction was in the area of **objectivity and fairness** with only 36.0 percent of respondents giving a satisfaction rating between one and 3 with only 19.9 percent indicated that they were very satisfied (a rating of 1). On the reverse end of this scale, 63.8 percent indicated that they were dissatisfied in this area with over half of all the respondents (50.7 percent) percent being very dissatisfied (a rating of 6). This area was the highest level of dissatisfaction among the three areas rated.

Respondents also did not give favorable ratings to the AWAP in the area of **effort** to assist in resolving the complaint. Only 40.0 percent indicating they were satisfied to some degree in this area.

When asked to give an overall satisfaction rating, only 38.1 percent gave a rating falling within the satisfaction range (1-3) with only 17.5 percent indicating that they were very satisfied (1). Almost two-thirds of the respondents, 62.4 percent, indicated they were dissatisfied with the program with 44.4 percent saying they were very dissatisfied.

The level of satisfaction and dissatisfaction differs greatly among case type and outcome. These results are shown in **Figure 4**.

Figure 4. Respondents Satisfaction with Program Aspects by Case Type*



*Data has been recoded. Values 1-3, Satisfied, Values 4-6 Dissatisfied

Another approach to gauging satisfaction among these items is to compare means across the items and across different groups. The closer the mean value is to 1.00, the greater the level of satisfaction and the closer the mean value is to 6.00, the greater the level of dissatisfaction. The table below (Table 12) shows the overall mean for each item as well as a comparison of the means by type of case. As the table shows, the type of case is an important part in consumers' satisfaction with the program. Comparisons that are more detailed are shown in **Figure 5**.

Table 12
Survey Respondents' Ratings of AWAP Staff Means Comparison
Claverhouse Survey 2012

Performance Item	Mean	Median	Mode	Std. Deviation
Objectivity and fairness	4.25	6.00	6	2.058
Promptness in handling your complaint during the process	2.89	2.00	1	1.862
Efforts to assist you in resolving your complaint	4.08	5.00	6	2.040
Overall rating of the program	4.17	6.00	5	1.994 ¹³

Another measure of consumers' satisfaction or dissatisfaction with the AWAP program is whether or not they would recommend the program to others. Overall, 28.2 percent said that they would recommend the program to others, 49.3 percent said they would not, and 22.5 percent said that it would depend on the circumstances. Table 13 shows these results.

¹³ The **mean** is the average and is computed as the sum of all the observed outcomes from the sample divided by the total number of events. The **median** is the middle score. The **mode** of a set of data is the number with the highest frequency. The **standard deviation** describes how spread out the data is. If the data all lies close to the mean then the standard deviation will be small. If the data is spread out over a large range of values, the standard deviation will be larger.

Figure 5. Mean Comparisons of Satisfaction Index by Case Type and Outcomes

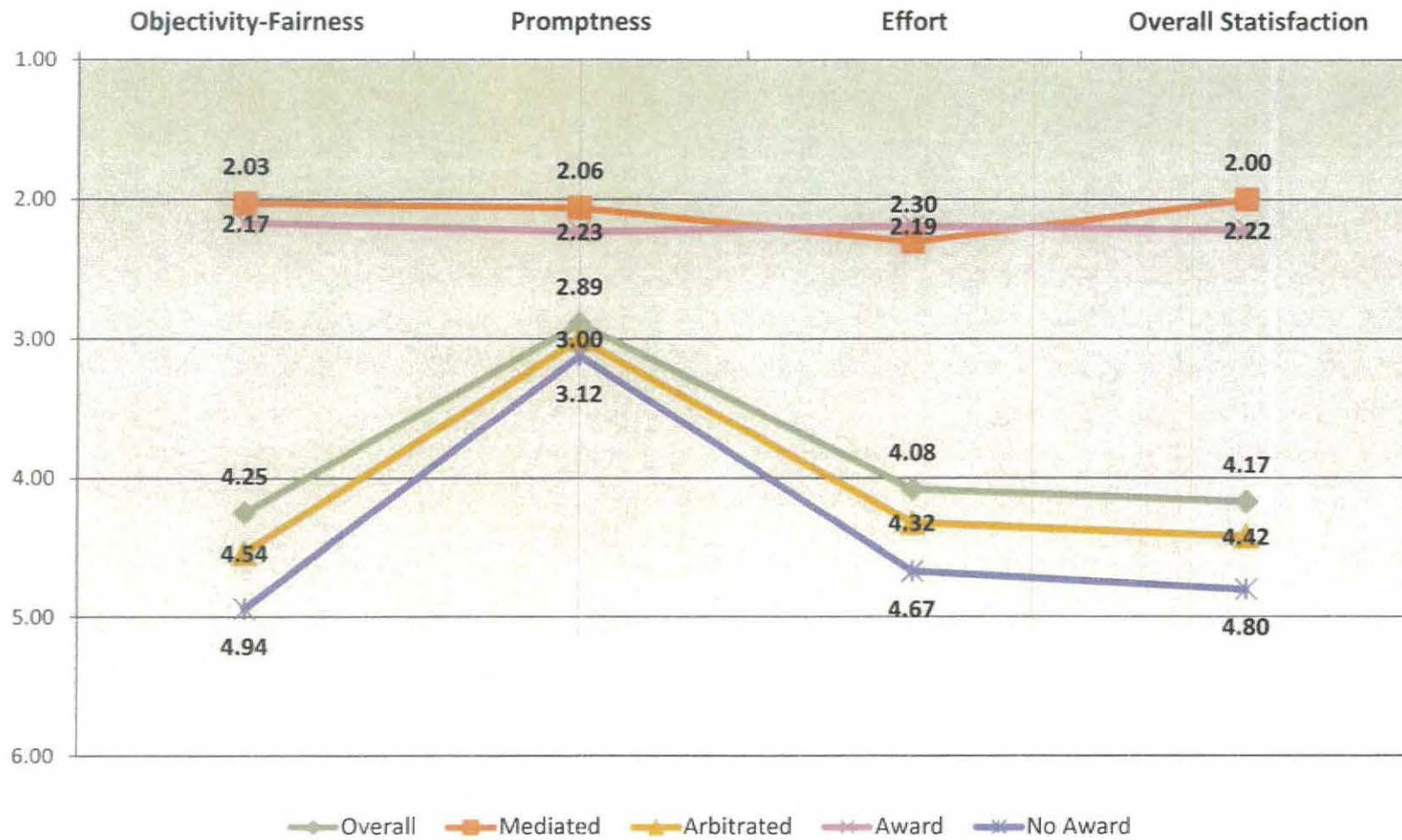


Table 13
Would Consumer Recommend the AWAP Program to Others?
Claverhouse Survey 2012

Method of Resolution and Outcome	Yes	No	Depends on Circumstances
Mediated	75.8% (25)	12.1% (4)	12.1% (4)
Arbitrated	20.3% (55)	50.2% (136)	29.5% (80)
Award Granted	61.1% (22)	11.1% (4)	27.8% (10)
No Award Granted	15.3% (33)	61.4% (132)	23.3% (50)

Finally, survey respondents were given an opportunity to make comments and suggestions about AWAP program changes or improvements. These comments are summarized in Table 14.

Table 14
Consumer Suggestions for Program Improvement
Claverhouse Survey 2012

Suggestion	Number	Percent
Bias Arbitrators/Arbitrators Favor AWAP	116	47.7%
Dealers/Manufacturers More Responsive to Consumers/Complainants	26	10.7%
Better Review Complaint/Problems by Staff/Arbitrators	24	9.9%
More Communication/Contact/Interaction Arbitrators Staff	18	7.4%
Did Good Job/Pleased/No Complaints	16	6.6%
Allow More Information/History of Problems in Complaint	13	5.3%
Better/ More Knowledgeable Mechanics/Review Staff	9	3.7%
Better Follow-up/Enforcement of Awards/Settlements	9	3.7%
Quicken Process/ Speedier Decisions	5	2.1%
Fair/Equitable Settlements/Awards	5	2.1%
Make Program More Well Known/ Advertising	1	.4%
More/ Better Representation at Hearings	1	.4%
Total	243 ¹⁴	100.0%

¹⁴ Responses to this question were collected as open-ended comments, and then coded into response categories. The table is based on responses (243) not respondents (204).

There are differences in how respondents felt about the program by the method of how their case was settled:

- The most common suggestion for improvement among those with mediated cases was “more communication/contact/interaction arbitrators/staff” with 28.6 percent indicating this.
- The most common suggestion for improvement or comment about the program for those whose cases were arbitrated was “bias arbitrators/arbitrators favor the AWAP” with close to half, 49.8 percent, making this comment.
- Only 5.7 percent of those with arbitrated cases said the AWAP “did good job/pleased/no complaints” whereas 21.4 percent of those with mediated cases gave this response, the second most common response among this group.

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 with the exception of “warrantors must report the proportion of cases in which arbitration cases were delayed beyond the 40 days allocated for arbitration decisions and the reasons for the delays.”

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.

It is concluded that the AWAP indices are in agreement with the Claverhouse survey for all but one of the indices, which should not be a cause for concern because the difference does 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

NCDS 2012 National Codebook
302 Cases

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CASEID CASE IDENTIFICATION NUMBER

302 cases (Range of valid codes: 21001-21302)

Data type: numeric
Record/columns: 1/1-5

UNIQUEID uniqueid

302 cases (Range of valid codes: 21001-21302)

Data type: numeric
Record/columns: 1/1-5

WSB1 Consent

%	N	VALUE	LABEL
100.0	302	0	Yes
0.0	0	1	No
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/6

STATE	State		
	%	N	VALUE LABEL
	1.7	5	AL
	3.0	9	AR
	0.7	2	AZ
	13.2	40	CA
	1.3	4	CO
	1.0	3	CT
	0.3	1	DE
	14.6	44	FL
	2.0	6	GA
	0.7	2	IA
	1.3	4	IL
	0.3	1	IN
	3.3	10	KY
	2.6	8	LA
	1.0	3	MA
	0.7	2	MD
	1.0	3	ME
	1.0	3	MI
	0.7	2	MN
	0.3	1	MO
	1.3	4	MS
	2.3	7	NC
	0.3	1	NE
	2.6	8	NJ
	0.7	2	NM
	1.3	4	NY
	2.6	8	OH
	0.3	1	OK
	0.7	2	OR
	4.0	12	PA
	0.7	2	RI
	0.3	1	SC
	0.3	1	SD
	2.3	7	TN
	9.9	30	TX
	0.3	1	UT
	1.7	5	VA
	1.0	3	WA
	2.6	8	WI
	1.0	3	WV
	12.9	39	
-----	-----	-----	
100.0	302	cases	

Data type: character

Record/columns: 1/7-8

WSB101 Year of Car

%	N	VALUE	LABEL
0.7	2	2005	
2.3	7	2007	
8.6	26	2008	
1.0	3	2009	
16.2	49	2010	
40.1	121	2011	
30.5	92	2012	
0.7	2	2013	

 100.0 302 cases

Data type: numeric
 Record/columns: 1/9-12

WSB102 Make

%	N	VALUE	LABEL
4.6	14	0	Chrysler
83.4	252	1	Toyota
3.6	11	2	Mitsubishi
4.6	14	3	Lexus
0.0	0	4	Porsche
3.6	11	5	Suzuki

 100.0 302 cases

Data type: numeric
 Record/column: 1/13

WSB103		Model	
	%	N	VALUE LABEL
	2.6	8	4 Runner
	0.3	1	4-door Tacoma 4 x
	4.3	13	Avalon
	0.3	1	CAMRY SE
	17.9	54	Camry
	0.3	1	Camry LE
	1.7	5	Camry SE
	1.3	4	Camry XLE
	0.3	1	Camry 1E
	0.3	1	Charger
	5.0	15	Corolla
	1.0	3	Corolla LE
	1.7	5	Corolla S
	0.3	1	Dodge 1500 ram
	0.3	1	Dodge Charger
	0.3	1	Dodge Ram
	0.3	1	Dodge Ram 1500
	0.3	1	Durgo
	0.3	1	ES350
	1.0	3	Eclipse
	1.0	3	Endeavor
	0.3	1	Es350
	0.3	1	Evo
	1.3	4	FJ Cruiser
	0.3	1	FRS
	1.7	5	Forenza
	0.7	2	GS350
	0.3	1	GX 460
	1.0	3	Grand Vitara
	0.3	1	HS250
	4.6	14	Highlander
	0.3	1	Highlander Hybrid
	0.3	1	Highlander Limited
	0.3	1	Highlander
	0.7	2	Hylander
	0.3	1	ISC 250
	1.0	3	Jeep Grand Cherokee
	1.0	3	Jeep Wrangler
	0.7	2	Kizashi SLS
	0.7	2	LS 460
	0.3	1	LS460L
	0.3	1	Matrix
	0.7	2	Outlander
	5.3	16	Prius
	0.3	1	Prius C 4

0.3	1	Prius III
1.0	3	Prius V
4.0	12	RAV 4
0.3	1	RAV4
0.3	1	RX 450H
1.0	3	RX350
0.3	1	Raiden
0.3	1	Rav 4
2.0	6	Scion TC
0.3	1	Sequoia
2.3	7	Siena
0.3	1	Sienna
0.3	1	Sienna LE
0.3	1	Sienna Limited
0.3	1	Sienna Limited Van
0.3	1	Sienna SE
0.3	1	Sienna Van
7.9	24	Tacoma
0.3	1	Tacoma 4 Door TRD
0.7	2	Tacoma 4x4
0.7	2	Tacoma Double Cab
0.3	1	Town & Country Min
0.3	1	Truck
3.3	10	Tundra
0.3	1	Tundra 4 WD
1.0	3	Tundra Crew Max
3.0	9	Venza
0.3	1	XL7
0.3	1	XLE
0.3	1	Yaris
0.3	1	dodge carger
0.3	1	fj
0.3	1	pri us v5
0.7	2	sieanna
0.3	1	siena
0.7	2	
-----	---	
100.0	302	cases

Data type: character
Record/columns: 1/14-31

WSB136

State of Claim

%	N	VALUE	LABEL
1.7	5	0	Alabama
0.0	0	1	Alaska
0.7	2	2	Arizona
3.6	11	3	Arkansas
17.5	53	4	California
1.3	4	5	Colorado
1.0	3	6	Connecticut
0.3	1	7	Delaware
0.0	0	8	D.C.
14.6	44	9	Florida
2.0	6	10	Georgia
0.0	0	11	Hawaii
0.3	1	12	Idaho
1.0	3	13	Illinois
1.3	4	14	Indiana
0.7	2	15	Iowa
0.0	0	16	Kansas
3.6	11	17	Kentucky
3.3	10	18	Louisiana
1.0	3	19	Maine
0.7	2	20	Maryland
1.0	3	21	Massachusetts
1.7	5	22	Michigan
1.0	3	23	Minnesota
1.7	5	24	Mississippi
1.0	3	25	Missouri
0.0	0	26	Montana
0.3	1	27	Nebraska
0.0	0	28	Nevada
0.0	0	29	New Hampshire
2.3	7	30	New Jersey
0.7	2	31	New Mexico
2.0	6	32	New York
2.6	8	33	North Carolina
0.0	0	34	North Dakota
3.0	9	35	Ohio
0.7	2	36	Oklahoma
0.7	2	37	Oregon
4.6	14	38	Pennsylvania
1.0	3	39	Rhode Island
0.3	1	40	South Carolina
0.3	1	41	South Dakota
2.3	7	42	Tennessee
11.3	34	43	Texas
0.3	1	44	Utah

0.3	1	45	Vermont
1.7	5	46	Virginia
1.0	3	47	Washington
1.0	3	48	West Virginia
2.6	8	49	Wisconsin
0.0	0	50	Wyoming

100.0	302	cases	

Data type: numeric
Record/columns: 1/32-33

WSB3_2 Learn About NCDS : Owner's Manual/Warranty Information

%	N	VALUE	LABEL
55.0	166	0	No
45.0	136	1	Yes

100.0	302	cases	

Data type: numeric
Record/column: 1/34

WSB3_3 Learn About NCDS : Attorney or Lawyer

%	N	VALUE	LABEL
97.0	293	0	No
3.0	9	1	Yes

100.0	302	cases	

Data type: numeric
Record/column: 1/35

WSB3_4 Learn About NCDS : Brochures, Literature, Pamphlets

%	N	VALUE	LABEL
96.0	290	0	No
4.0	12	1	Yes

100.0	302	cases	

Data type: numeric
Record/column: 1/36

WSB3_5 Learn About NCDS : Television, Radio, Newspapers

%	N	VALUE	LABEL
100.0	302	0	No
0.0	0	1	Yes
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/37

WSB3_6 Learn About NCDS : Friends, Family, Co-Workers

%	N	VALUE	LABEL
94.7	286	0	No
5.3	16	1	Yes
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/38

WSB3_7 Learn About NCDS : Previous Knowledge of the Program

%	N	VALUE	LABEL
97.7	295	0	No
2.3	7	1	Yes
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/39

WSB3_9 Learn About NCDS : Internet, website

%	N	VALUE	LABEL
90.4	273	0	No
9.6	29	1	Yes
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/40

WSB3_8 Learn About NCDS : Other

%	N	VALUE	LABEL
99.7	301	0	No
0.3	1	1	Yes
-----	---		
100.0	302	cases	

Data type: numeric
Record/column: 1/41

WSB3_0 Learn About NCDS : Automaker Customer Complaint Toll-Free
Number

%	N	VALUE	LABEL
68.9	208	0	No
31.1	94	1	Yes
-----	---		
100.0	302	cases	

Data type: numeric
Record/column: 1/42

WSB3_1 Learn About NCDS : A Dealership

%	N	VALUE	LABEL
75.2	227	0	No
24.8	75	1	Yes
-----	---		
100.0	302	cases	

Data type: numeric
Record/column: 1/43

WSB4_0 Talk Program

%	N	VALUE	LABEL
82.3	107	0	Yes
17.7	23	1	No
	172	.	Not Applicable
-----	---		
100.0	302	cases	

Data type: numeric
Record/column: 1/44

WSB4_1 Give/Send Info About Program

%	N	VALUE	LABEL
62.8	81	0	Yes
37.2	48	1	No
	173	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/45

WSB4_2 Show Poster Program

%	N	VALUE	LABEL
2.0	2	0	Yes
98.0	96	1	No
	204	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/46

WSB4_4 Inform Other Ways

%	N	VALUE	LABEL
31.6	30	0	Yes
68.4	65	1	No
	207	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/47

WSB6 Received Information Program

%	N	VALUE	LABEL
91.4	275	0	Yes
8.6	26	1	No
	1	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/48

WSB7 Ease Information

%	N	VALUE	LABEL
63.9	175	0	Very Clear and Easy
31.0	85	1	Little Difficult - Still Easy
5.1	14	2	Pretty Difficult
	28	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/49

WSB9 Complaint Forms

%	N	VALUE	LABEL
63.9	175	0	Very Clear and Easy
31.0	85	1	Little Difficult - Still Easy
5.1	14	2	Pretty Difficult
	28	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/50

WSB10 Method Resolution

%	N	VALUE	LABEL
11.9	36	0	Mediated
88.1	266	1	Arbitrated
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/51

WSB12 Mediated - Outcome

%	N	VALUE	LABEL
38.9	14	0	Ordered Additional Repairs
5.6	2	1	Ordered Trade Assist
30.6	11	2	Ordered a Partial Refund (Buyback)
25.0	9	3	Ordered Replacement Vehicle
0.0	0	6	Nothing-No Settlement
0.0	0	7	Other
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/52

WSB13 Mediated - Receive Settlement

%	N	VALUE	LABEL
94.4	34	0	Yes
5.6	2	1	No
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/53

WSB14 Mediated - Receive Settlement Time Frame

%	N	VALUE	LABEL
94.4	34	0	Yes
5.6	2	1	No
	266	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
Record/column: 1/54

WSB15 Mediated - Not Received Settlement

%	N	VALUE	LABEL
0.0	0	0	Yes
0.0	0	1	No
	302	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
Record/column: 1/55

WSB17 Mediated - Pursue Case Further

%	N	VALUE	LABEL
8.3	3	0	Yes
91.7	33	1	No
	266	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
Record/column: 1/56

WSB18_0 Mediated - Method Pursue : Contacted Attorney

%	N	VALUE	LABEL
100.0	36	0	No
0.0	0	1	Yes
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/57

WSB18_1 Mediated - Method Pursue : Worked Out Solution Dealer/Man

%	N	VALUE	LABEL
94.4	34	0	No
5.6	2	1	Yes
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/58

WSB18_2 Mediated - Method Pursue : Contacted State/Gov't Agency

%	N	VALUE	LABEL
100.0	36	0	No
0.0	0	1	Yes
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/59

WSB18_3 Mediated - Method Pursue : Re-contacted NCDS

%	N	VALUE	LABEL
97.2	35	0	No
2.8	1	1	Yes
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/60

WSB18_4 Mediated - Method Pursue : Other Method

%	N	VALUE	LABEL
100.0	36	0	No
0.0	0	1	Yes
	266	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/61

WSB19 Mediated - Follow-Up Settlement

%	N	VALUE	LABEL
40.0	14	0	Yes, Talked Staff
17.1	6	1	Yes, Returned Postcard
17.1	6	2	Both, Talked, Returned Postcard
25.7	9	3	No Follow-Up
	267	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/62

WSB76 Arb - Recall Receiving Claim Paperwork

%	N	VALUE	LABEL
91.0	233	0	Yes
9.0	23	1	No
	46	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/63

WSB79 Arb - Accuracy of Claim

%	N	VALUE	LABEL
45.1	105	0	Very Accurately
35.6	83	1	Somewhat Accurately
19.3	45	2	Not Too/ Not at all Accurately
	69	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/64

WSB81 Arb - Notice of Hearing

%	N	VALUE	LABEL
91.4	234	0	Yes
8.6	22	1	No
	46	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/65

WSB82 Arb - Attend Hearing

%	N	VALUE	LABEL
77.9	183	0	Attend Hearing/Meeting Person
4.7	11	1	Attend Hearing/Meeting Phone
17.4	41	2	Did Not Attend Meeting/Hearing
	67	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/66

WSB99 Arb-Reason Did Not Attend Hearing

%	N	VALUE	LABEL
30.8	12	1	Work/School/Other Commitment
12.8	5	2	Distance/Too Far
48.7	19	3	Chose Document Only
7.7	3	4	Not Informed
0.0	0	5	Illness
	263	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/67

WSB84 Arb - Outcome

%	N	VALUE	LABEL
5.3	14	0	Additional Repairs
0.0	0	1	Trade Assist
5.6	15	2	Partial Refund
3.0	8	3	Replacement Vehicle
0.0	0	4	Other
86.1	229	5	NCDS Ruled Against Claim
	36	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/68

WSB85 Arb - Accept/Reject Decision

%	N	VALUE	LABEL
100.0	37	0	Accept Decision
0.0	0	1	Reject Decision
	265	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
Record/column: 1/69

WSB87 Arb - Reason Decision

%	N	VALUE	LABEL
0.0	0	0	Decision Not Solve Problems
0.0	0	1	Decision Cost Too Much Money
0.0	0	2	Did Not Like/Want Offer
0.0	0	4	Other (please specify below)
	302	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
Record/column: 1/70

WSB89 Arb - Received Award

%	N	VALUE	LABEL
97.3	36	2	Awarded Within Time Frame
0.0	0	3	Awarded NOT Within Time Frame
2.7	1	4	Have Not Received
	265	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
Record/column: 1/71

WSB96 Arb - Pursue Case Further

%	N	VALUE	LABEL
24.1	63	0	Yes
75.9	198	1	No
	41	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/72

WSB114_0 Arb - Method Pursue : Contacted Attorney

%	N	VALUE	LABEL
88.0	234	0	No
12.0	32	1	Yes
	36	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/73

WSB114_1 Arb - Method Pursue : Worked Out Solution Dealer/Man

%	N	VALUE	LABEL
94.0	250	0	No
6.0	16	1	Yes
	36	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/74

WSB114_2 Arb - Method Pursue : Contacted State/Gov't Agency

%	N	VALUE	LABEL
94.7	252	0	No
5.3	14	1	Yes
	36	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/75

WSB114_3 Arb - Method Pursue : Re-contacted NCDS

%	N	VALUE	LABEL
94.0	250	0	No
6.0	16	1	Yes
	36	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/76

WSB114_4 Arb - Method Pursue : Other Method

%	N	VALUE	LABEL
97.4	259	0	No
2.6	7	1	Yes
	36	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/77

WSB112 Arb - Follow-Up Settlement

%	N	VALUE	LABEL
19.1	47	0	Yes, Talked Staff
22.4	55	1	Yes, Returned Postcard
7.3	18	2	Both, Talked, Returned Postcard
51.2	126	3	No Follow-Up
	56	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
 Record/column: 1/78

WSB137_0_0 Case Opened: Month

%	N	VALUE	LABEL
2.3	7	1	
1.0	3	2	
4.0	12	3	
1.3	4	4	
3.6	11	5	
3.0	9	6	
2.6	8	7	
6.0	18	8	
5.3	16	9	
7.6	23	10	
2.0	6	11	
1.0	3	12	
9.6	29	98	
50.7	153	99	
-----	----		
100.0	302		cases

Data type: numeric
 Record/columns: 1/79-80

WSB137_1_0 Case Opened: Day

%	N	VALUE	LABEL
3.0	9	1	
0.7	2	2	
1.7	5	3	
1.7	5	4	
2.3	7	5	
2.3	7	6	
0.3	1	7	
1.0	3	9	
3.0	9	10	
0.7	2	11	
1.0	3	13	
0.3	1	14	
2.3	7	15	
0.7	2	16	
1.7	5	18	
0.7	2	19	
0.7	2	20	
0.3	1	21	
1.3	4	22	
0.7	2	23	
1.7	5	24	
0.3	1	25	
0.3	1	26	
0.7	2	28	
0.3	1	29	
1.3	4	31	
8.9	27	98	
60.3	182	99	
-----	----		
100.0	302	cases	

Data type: numeric

Record/columns: 1/81-82

WSB137_2_0 Case Opened: Year

%	N	VALUE	LABEL
50.7	153	99	
0.3	1	2011	
48.7	147	2012	
-----	----		
100.0	302	cases	

Data type: numeric
 Record/columns: 1/83-86

WSB137_0_1 Case Closed: Month

%	N	VALUE	LABEL
2.3	7	1	
2.3	7	2	
1.0	3	3	
1.3	4	4	
2.0	6	5	
3.3	10	6	
3.6	11	7	
3.6	11	8	
1.7	5	9	
6.3	19	10	
7.3	22	11	
4.6	14	12	
9.3	28	98	
51.3	155	99	
-----	----		
100.0	302	cases	

Data type: numeric
 Record/columns: 1/87-88

WSB137_1_1 Case Closed : Day

%	N	VALUE	LABEL
1.3	4	1	
1.3	4	2	
0.3	1	3	
1.3	4	4	
1.3	4	5	
0.3	1	6	
1.0	3	7	
0.3	1	8	
0.3	1	10	
0.7	2	11	
1.0	3	12	
0.3	1	13	
2.0	6	14	
3.6	11	15	
1.3	4	16	
1.3	4	17	
1.0	3	18	
0.7	2	19	
1.7	5	20	
0.7	2	21	
0.3	1	22	
0.3	1	23	
0.7	2	24	
1.0	3	25	
0.7	2	26	
0.7	2	27	
2.0	6	28	
0.3	1	29	
0.7	2	30	
1.3	4	31	
8.9	27	98	
61.3	185	99	
-----	----		
100.0	302	cases	

Data type: numeric
Record/columns: 1/89-90

WSB137_2_1 Case Closed: Year

%	N	VALUE	LABEL
0.3	1	0	
52.3	158	99	
45.4	137	2012	
2.0	6	2013	
-----	---		
100.0	302	cases	

Data type: numeric
 Record/columns: 1/91-94

WSB73 Case 40 Days More

%	N	VALUE	LABEL
20.6	62	0	Yes
79.4	239	1	No
	1	.	Not Applicable
-----	---		
100.0	302	cases	

Data type: numeric
 Record/column: 1/95

WSB53 Reason Delay in Case

%	N	VALUE	LABEL
1.8	1	0	Consumer failure to submit information in a timely manner
17.5	10	1	Consumer had made no attempt to seek redress directly from warrantor
80.7	46	2	Decision delayed beyond 40 days for any other reason
	245	.	Not Applicable
-----	---		
100.0	302	cases	

Data type: numeric
 Record/column: 1/96

WSB54_0 Objectivity and Fairness

%	N	VALUE	LABEL
19.9	56	1	Very Satisfied
7.8	22	2	
8.5	24	3	
6.0	17	4	
7.1	20	5	
50.7	143	6	Very Dissatisfied
	20	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/97

WSB54_1 Promptness

%	N	VALUE	LABEL
32.3	91	1	Very Satisfied
19.9	56	2	
18.4	52	3	
4.6	13	4	
6.0	17	5	
18.8	53	6	Very Dissatisfied
	20	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/98

WSB54_2 Effort Assist Complaint

%	N	VALUE	LABEL
20.5	58	1	Very Satisfied
8.5	24	2	
11.0	31	3	
6.7	19	4	
9.2	26	5	
44.2	125	6	Very Dissatisfied
	19	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/99

WSB54_4 The NCDS program overall

%	N	VALUE	LABEL
17.7	49	1	Very Satisfied
9.7	27	2	
11.2	31	3	
5.1	14	4	
11.9	33	5	
44.4	123	6	Very Dissatisfied
	25	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/100

WSB55 Recommend Program

%	N	VALUE	LABEL
28.2	80	0	Yes Recommend
49.3	140	1	Not Recommend
22.5	64	2	Depends
	18	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric
Record/column: 1/101

IMPROVE1

Suggestion/Improvement - 1st Mention

%	N	VALUE	LABEL
0.0	0	2	Less Paperwork/Make Forms Easier
0.5	1	3	Make Program More Well Known/ Advertising
0.0	0	4	Need More Program Locations
2.0	4	5	Quicken Process/ Speedier Decisions
0.5	1	6	More/ Better Representation at Hearings
55.4	113	7	Bias Arbitrators/Arbitrators Favor AWAP
6.4	13	8	More Communication/Contact/Interaction Arbitrators Staff
3.4	7	9	Better/ More Knowledgeable Mechanics/Review Staff
6.9	14	10	Better Review Complaint/Problems by Staff/Arbitrators
1.5	3	11	Allow More Information/History of Problems in Complaint
4.4	9	12	Better Follow-up/Enforcement of Awards/Settlements
2.0	4	13	Fair/Equitable Settlements/Awards
9.3	19	14	Dealers/Manufacturers More Responsive to Consumers/Complainant
0.0	0	15	Electronic, On-Line, Email Communication/Forms
7.8	16	16	Did Good Job/Pleased/No Complaints
	98	.	Not Applicable
-----	----		
100.0	302	cases	

Data type: numeric

Record/columns: 1/102-103

IMPROVE2

Suggestion/Improvement - 2nd Mention

%	N	VALUE	LABEL
0.0	0	2	Less Paperwork/Make Forms Easier
0.0	0	3	Make Program More Well Known/ Advertising
0.0	0	4	Need More Program Locations
2.6	1	5	Quicken Process/ Speedier Decisions
0.0	0	6	More/ Better Representation at Hearings
7.7	3	7	Bias Arbitrators/Arbitrators Favor AWAP
12.8	5	8	More Communication/Contact/Interaction Arbitrators Staff
5.1	2	9	Better/ More Knowledgeable Mechanics/Review Staff
25.6	10	10	Better Review Complaint/Problems by Staff/Arbitrators
25.6	10	11	Allow More Information/History of Problems in Complaint
0.0	0	12	Better Follow-up/Enforcement of Awards/Settlements
2.6	1	13	Fair/Equitable Settlements/Awards
17.9	7	14	Dealers/Manufacturers More Responsive to Consumers/Complainants
0.0	0	15	Electronic, On-Line, Email Communication/Forms
0.0	0	16	Did Good Job/Pleased/No Complaints
	263	.	Not Applicable
-----	----		
100.0	302		cases

Data type: numeric
 Record/columns: 1/104-105