

# **1999 AUDIT**

**OF**

## **BBB AUTO LINE**

**INCLUDING:**

**THE STATE OF FLORIDA  
AND  
THE STATE OF OHIO**

Prepared by:

**MORRISON AND COMPANY**

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# **PREFACE**

## **INCEPTIVE FINDINGS**

## PREFACE: INCEPTIVE INFORMATION

### SECTION 1: INTRODUCTION

A responsibility has been placed upon all manufacturers which issue warranties for consumer products in the United States, to abide by the terms of Public Law 93-637: the Magnuson-Moss Act; 15 U.S.C. § 2301 et seq. (hereinafter referred to as the **Magnuson-Moss Act**). If a warrantor incorporates an Informal Dispute Settlement Procedure into its warranty, thereby requiring consumers to utilize the procedure prior to enforcing rights under Magnuson-Moss in court, the warrantor and the procedure must also abide by Code of Federal Regulations; Title 16 -- Commercial Practices; Chapter I -- Federal Trade Commission; Subchapter G -- Rules, Regulations, Statements and Interpretations under the Magnuson-Moss Warranty Act; Part 703 -- Informal Dispute Settlement Procedures (hereinafter referred to as Rule 703)

In addition, if a warrantor elects to require that consumers use its procedure prior to enforcing rights under the lemon law in Florida or Ohio, the warrantor and the procedure must also abide by the following laws and administrative codes:

Florida Statutes Title 39 Chapter 681 Motor Vehicle Sales Warranties, Motor Vehicle Warranty Enforcement Act (hereinafter referred to as **Florida Lemon Law**)

Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification (hereinafter referred to as the **Florida Administrative Code**)

Ohio Revised Code Annotated, § 1345.71-78 (hereinafter referred to as the **Ohio Lemon Law**)

Ohio Revised Administrative Code, Chapter 109:4-4 (hereinafter referred to as the **Ohio Administrative Code**)

This audit is a direct result of these mandates. The above laws and administrative codes are fully quoted in the appendices. 16 C.F.R. part 703 mandates a yearly audit of any informal dispute settlement procedure incorporated into a manufacturer's warranty. Unique requirements in Florida and Ohio require separate consideration of claims filed by consumers in those states. Morrison and Company has reviewed BBB AUTO LINE records for the entire country, and also for Florida and Ohio consumers. Morrison and Company has chosen to visit an office in a third state, in addition to Florida and Ohio, which has been randomly selected on the basis that it has not been reviewed in the recent past in an audit. It is felt by Morrison and Company that an audit of the three chosen locations will give a fair sampling of the performance of the BBB AUTO LINE Program throughout the U.S., and more specifically, in Florida and Ohio.

Because Florida's and Ohio's laws require that the auditor provide certain specific information which applies to these two states only, certain portions of this report must deal specifically with these two states on an individual basis. As each state is discussed, it is listed separately for ease of reading.

There is often repetition of information; this document is deliberately designed in this fashion in order to facilitate the reader and to serve as a gentle reference to requisite information. It is hoped that this will not serve as an impediment nor a deterrent to readers.

The locations of the BBB AUTO LINE Program offices which have been visited are as follows:

1. Council of Better Business Bureaus, Inc.  
Dispute Resolution Division  
4200 Wilson Boulevard, Suite 800  
Arlington, Virginia 22203-1838  
[www.adr.bbb.org](http://www.adr.bbb.org)

2. Better Business Bureau of West Florida  
(BBB AUTO LINE Arbitration/Mediation site)  
5830 142nd Avenue  
Clearwater, Florida 33760-2819  
<http://bbbwestflorida.org>

3. Better Business Bureau of Central Ohio  
(BBB AUTO LINE hearing site)  
1335 Dublin Road Suite 30A,  
Columbus, Ohio 43215  
<http://www.columbus-ohbbb.org>

4. Better Business Bureau, Inc.  
(BBB AUTO LINE hearing site)  
1010 Market Street, Suite 200  
Chattanooga, Tennessee 37402  
<http://www.chattanooga.bbb.org>

The BBB AUTO LINE Program is employed by the manufacturers to handle all of the responsibilities in the Magnuson-Moss Act with the exception of those provisions in 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.2, which outlines the duties of the warrantor/manufacturer. There are certain manufacturers, which choose not to participate in the BBB AUTO LINE Program, instead using other programs for this purpose. There are also manufacturers which do not use any program at all, and thus are not afforded the opportunities that are provided under 16 C.F.R., part 703, in effect, October 1, 1983. The Informal Dispute Settlement Procedures of the



BBB AUTO LINE Program are the result of many years of fine-tuning and the program of today results in a well-organized, proficient organization.

The hard copies of case files are maintained at the CBBB's BBB AUTO LINE Program Central Intake Center office, with computerized information provided to the states as requested. All cases resulting in settlements and decisions are monitored by the BBB AUTO LINE Program staff in Arlington, Virginia, in order to insure that the terms of the settlement or decision are performed.

The method of handling case files is completed in a very security-conscious manner and expedience is not as important as security. This point is made very well when noting that all files are formatted as "Read Only"; local offices are able to access the information but no one, without prior authorization, is allowed to modify the data once it becomes part of the permanent data base. The BBB AUTO LINE Program's efforts appear to be working well, allowing the files to be useable and secure at the same time.

## **SECTION 2: STATUTORY REQUIREMENTS**

**[Please refer to appendices for complete text of all related laws, statutes, and regulations]**

## **SECTION 3: CONDITIONS**

In addition to reviewing BBB AUTO LINE case records for 1999 and for previous years, field audits have been conducted by Morrison and Company in the spring of the calendar year, 2000, with the understanding that the activities of the BBB AUTO LINE Program will be reflective of the activities of the calendar year, 1999. Morrison and Company's staff has visited the following hearing sites:

1. CBBB AUTO LINE Program office
  - a. the Council of Better Business Bureaus Central Intake Center, Arlington, Virginia;
2. BBB AUTO LINE Program offices
  - a. the BBB AUTO LINE office in Clearwater, Florida;
  - b. the BBB AUTO LINE office in Columbus, Ohio; and
  - c. the BBB AUTO LINE office in Chattanooga, Tennessee.

To satisfy the requirements discussed above, Morrison and Company has also completed the following:

1. an evaluation of participating **Manufacturer Warranty Materials**, which are given to the consumer and/or posted in the dealerships at the time of purchase of the vehicle as they relate to the above-listed requirements; the evaluation consists of the following activities:

- a. the review of manufacturer materials on the basis of whether they meet the requirement of information dissemination for consumers
- b. the review of manufacturer materials on the basis of whether they meet the requirement of information dissemination for dealers
- c. the review of manufacturer materials on the basis of the quality of content and the ease of use of materials by the average vehicle purchaser
- d. the review of manufacturer materials on the basis of compliance with the specific requirements of Florida and of Ohio, respectively.

2. an evaluation of **Office Practices and Procedures** of the CBBB AUTO LINE Program, and of state BBB AUTO LINE Program offices as they relate to the above-listed requirements; the evaluation consists of the following activities:

- a. Hearing Site
  1. the determination of the appropriateness of facilities
  2. the determination of the adequacy of personnel and equipment
  3. the determination of the accuracy and the security of record-keeping

b. Arbitration Process

1. the determination of the openness of hearings
2. the determination of the effectiveness of hearings
3. the determination of the appropriateness of decision-making

3. an evaluation of the **Informal Dispute Settlement Procedures** process of the CBBB AUTO LINE Program, and of state BBB AUTO LINE Program offices as they relate to the above-listed requirements This evaluation consists of the following activities:

- a. the determination of the implementation of each related requirement in the CBBB AUTO LINE Program on a national basis
- b. the determination of the implementation of each related requirement in the BBB AUTO LINE Program in Florida
- c. the determination of the implementation of each related requirement in the BBB AUTO LINE Program in Ohio

4. a **Comparative Statistical Analysis** of the results of the telephone survey results with the results of the BBB AUTO LINE Program records as they relate to the above-listed requirements; this evaluation consists of the following activities:

- a. the sampling by telephone of cases from Ohio and from Florida until in excess of a total of 100 responses is recorded for each state,
- b. the sampling by telephone of every fifth case from around the United States until in excess of a total of 400 responses is recorded nation-wide;
- c. the analysis of the statistics gained from the telephone survey and the

comparison of these statistics to those recorded in the BBB AUTO LINE Program office.

## **SECTION 4: FINDINGS**

This section covers, in brief, information about the four chapters in this report; they are as follows:

1. Manufacturer Warranty Materials
2. Office Practices and Procedures
3. Informal Dispute Settlement Procedures
4. Comparative Statistical Analysis

### **1. Manufacturer Warranty Materials**

Only those manufacturers which utilize the BBB AUTO LINE Program throughout the U.S., as well as those states which mandate certification to operate the Informal Dispute Settlement Procedures, are audited under the Magnuson-Moss Act and Rule 703. Due to the unique requirements of Florida and of Ohio, separate information is given for each of these two states.

The manufacturers which participate in the BBB AUTO LINE on a nationwide basis are listed as follows:

1. AM General Sales Corporation (Hummer)
2. American Honda Motor Company (Honda/Acura)
3. American Isuzu Motors
4. Daewoo Motor America
5. General Motors Corporation
6. Hyundai Motor America
7. Kia Motors America
8. Land Rover of North America
9. Lexus Division of Toyota Motor Sales, U.S.A.
10. Nissan North America (Nissan/Infiniti)
11. Porsche Cars North America
12. Saturn Corporation
13. Volkswagen of America (Volkswagen/Audi)
14. Workhorse Custom Chassis

The following is a list of the manufacturers who use the BBB AUTO LINE Program in the state of Florida:

1. AM General Sales Corporation (Hummer)
2. American Honda Motor Company (Honda/Acura)
3. American Isuzu Motors
4. Daewoo Motor America

5. General Motors Corporation
6. Hyundai Motor America
7. Kia Motors America
8. Lexus Division of Toyota Motor Sales, U.S.A.
9. Nissan North America (Nissan/Infiniti)
10. Porsche Cars North America
11. Rolls-Royce motor Cars
12. Saab Cars USA
13. Saturn Corporation
14. Volkswagen of America (Volkswagen/Audi)
15. Workhorse Custom Chassis

The following is a list of the manufactures who use the BBB AUTO LINE Program in the state of Ohio; several other manufacturers have applications pending:

1. General Motors
2. Volkswagen/Audi

The following is a list of those manufacturers who participate in some states and not in others:

1. American Suzuki Motor Corporation
2. BMW of North America
3. Jaguar Cars
4. Mazda North American Operations
5. Mercedes-Benz USA
6. Mitsubishi Motor Sales of America
7. Rolls-Royce Motor Cars
8. Saab Cars USA
9. Subaru of America
10. Volvo North America
11. Winnebago Industries

All fourteen of the manufacturers which currently participate in the BBB AUTO LINE Program on a national basis supplied information which tells consumers about the BBB AUTO LINE Program in some manner. Many manufacturers solely utilize their warranty/owners manuals to provide this information; others choose to publish special supplemental pamphlets informing consumers of the availability of the BBB AUTO LINE Program. Some of the programs provide additional information beyond the required minimum.

In addition, in some fashion, all fourteen participating manufacturers make information available to dealers regarding the BBB AUTO LINE Program. The quality and the ease of use of these materials vary significantly from manufacturer to manufacturer.

## **2. Office Practices and Procedures**

The applicable federal regulations which apply to this requirement are Rule § 703.6(a)(f) and Rule § 703.8(b)(c)(d)(e)(f) Openness of Records and proceedings. The full text of these rules may be found in the appendices.

Morrison and Company's review has found a very few minor irregularities in the operation of the sites listed above, which will be discussed in detail later in the report; however, no material regulatory irregularities in the BBB AUTO LINE Program have been found. Even in the aggregate, these irregularities are relatively inconsequential and should not be viewed as cause for regulatory alarm.

These discrepancies can be adjusted as part of the normal on-going managerial oversight process. In the main, the program is an efficiently and professionally managed informal dispute settlement process which is in compliance with all pertinent federal and state regulations.

## **3. Informal Dispute Settlement Procedures**

The details of Morrison and Company's findings will be discussed in extensive detail in the remaining chapters.

## **4. Comparative Statistical Analysis**

Before the telephone survey was conducted, each survey participant was sent a letter from Morrison and Company explaining the purposes of the survey and informing the consumer that Morrison and Company representatives would be calling in the near future. A telephone number was given if consumers had questions; several consumers took advantage of this opportunity to call and talk with representatives of Morrison and Company.

In Morrison and Company's telephone survey of participating consumers, the following statistics represent the numbers of cases surveyed by telephone:

1. 400 cases from consumers throughout the country for the national review.
2. 100 cases involving Florida consumers for the Florida review
3. 100 cases involving Ohio consumers for the Ohio review.

The telephone survey results have supplied feedback only from those consumers who managed to discover the existence of the program. What is not known is how many consumers with a warranty dispute were unaware of the arbitration option, and therefore were not afforded an opportunity to use the BBB AUTO LINE Program.

## **SECTION 5: RECOMMENDATIONS AND CONCLUSIONS**

For each of the four major areas evaluated (Manufacturer Warranty Materials, Office Practices and Procedures, Informal Dispute Settlement Procedures, and Comparative Statistical Analysis), the details of Morrison and Company's findings will be discussed extensively in the remaining chapters.

# **CHAPTER ONE**

## **MANUFACTURER WARRANTY MATERIALS**

## CHAPTER 1: MANUFACTURER WARRANTY MATERIALS

### SECTION 1: INTRODUCTION

Under the Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; and Ohio Administrative Code, there are mandates designed to assist the consumer who purchases a new vehicle and who experiences problems with it in seeking redress from the warrantor in a fair and expeditious manner. Laws such as those in Florida and Ohio are informally known as “Lemon Laws”, since the consumer often feels he/she has purchased a “lemon”.

All manufacturers have consumer relations programs upon which they expend a great deal of effort and money to encourage consumers to go to the selling dealer (or any other dealer of that particular manufacturer) or to work with the manufacturer’s representative as the first recourse in solving the problem. If this fails, the consumer is then directed to contact the BBB AUTO LINE Program as an alternative to litigation. The primary intent of the federal and state rules is to solve the problem in such a way that the necessity of resorting to the court system is completely eliminated.

BBB AUTO LINE § 703.2 (a) contains language that clearly permits the manufacturer to encourage consumers to seek redress directly from the manufacturer, as long as the manufacturer does not expressly require consumers to do so.

16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.2 reads as follows:

#### **§ 703.2 Duties of warrantor.**

(a) The warrantor shall not incorporate into the terms of a written warranty a Mechanism that fails to comply with the requirements contained in § 703.3 through § 703.8 of this part. This paragraph shall not prohibit a warrantor from incorporating into the terms of a written warranty the step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty as described in section 102(a) (7) of the Act and required by Part 703 of this subchapter.

The motor vehicle manufacturers and distributors which participate in BBB AUTO LINE on a nationwide basis are listed in the preface. This chapter deals with the requirements as they relate to the manner in which automobile manufacturers which choose to participate in the BBB AUTO LINE Program carry out the mandate of sharing required information with the vehicle purchaser so that it is not only available, but that it is also easy to find, easy to read, and easy to use, by the average vehicle purchaser. There are four basic steps involved in this process, as follows:

1. the consumer who purchases a new vehicle must be given information supplied by the manufacturer at the time of purchase, concerning the steps in



contacting the BBB AUTO LINE Program.

2. the dealer which sells a vehicle to a consumer must attempt to correct the problem at the dealership.

3. the manufacturer which is connected with the dealership should intervene, when necessary, in the process to aid the dealer directly in correcting the problem; if, after a reasonable number of repair attempts, the problem is not resolved by the dealer's efforts.

4. the consumer who is still dissatisfied must have the opportunity to begin the conciliation/mediation/arbitration process.

There are two avenues from which information has been gleaned for this chapter. They are as follows:

1. the participating manufacturers which sent information, as requested, to Morrison and Company for review, and

2. the telephone survey of randomly selected names of purchasers of new vehicles who are within the following parameters:

a. those consumers who utilized the BBB AUTO LINE Program,

b. those consumers who were within the program's jurisdiction,

c. those consumers who were among the cases closed in 1999,

d. those consumers who were willing to respond to Morrison and Company's survey questions.

## **SECTION 2: STATUTORY REQUIREMENTS**

### **A. NATIONAL**

**Magnuson-Moss Act and Rule 703 § 703.7 Audits and § 703.2 Duties of warrantors; for the full text of the Rules [See the appendices for the complete text of this law]**

### **B. FLORIDA**

**Florida Lemon Law: Florida Statute § 681.103(2)(3) [See the appendices for the complete text of the statute.]**

**Florida Administrative Code: Rule 5J-11.010 [See the appendices for the complete text of the rule.]**

### **C. OHIO**

**Ohio Administrative Code: § 109:4-4-03 Duties of warrantor [See the appendices for the complete text of the rule.]**

## **SECTION 3: CONDITIONS**

With the exception of the states of Florida and Ohio, this audit does not include a detailed review of all notices required by other state statutes. As a part of the requirements for this chapter, Morrison and Company completed a telephone survey of consumers who have participated in the BBB AUTO LINE Program. Information obtained from this survey consists of 400 consumer responses out of a pool of 842 consumers. In order to determine how the manufacturers' information programs are working, Morrison and Company has reviewed separately the materials which manufacturers provide to consumers and the materials which they provide to dealers; Morrison and Company then completed an in-depth analysis using the following criteria in order to evaluate each manufacturer's materials:

- a. dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in 16 C.F.R. Part 703 Informal Dispute Settlement Procedures, in effect, October 1, 1983.
- b. dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in 16 C.F.R. Part 703 Informal Dispute Settlement Procedures, in effect, October 1, 1983.

In the state of Ohio, three specifically mandated notices are required. The first and second are inserts which are placed in the owner's manuals; the third is a poster which must be displayed in a conspicuous location at the dealership. In the state of Florida, there are few changes, all of which will be discussed at the conclusion of the chapter. With the exception of these two states, this audit does not include a detailed review of all notices required by other state statutes.

## **SECTION 4: FINDINGS**

### **1. AM General Sales Corporation (Hummer)**

#### **a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

On Page 1, of the section under the heading "Owners Assistance, Step 3", a full paragraph of instructions is set out which explains what to do in the case of a problem with the manufacturer. At the end of the paragraph, set out in bold print, is the full name, address, phone number, fax number, and the e-mail address of the BBB AUTO LINE Program.

Farther back in the book, on Pages 254 and 255, under the section, "AM General Corporation Participation in the Better Business Bureau Mediation/Arbitration Program", there is a concise outline of AM

General's program of consumer satisfaction. It is a three step program as follows:

1. the dealer's responsibility to the consumer
2. the manufacturer's responsibility to the consumer; provides the address of the manufacturer
3. the BBB AUTO LINE Program's procedures; provides the address and how to reach the office in bold print

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The only information provided to the dealer which was made available to Morrison and Company is the manufacturer's "Policies and Procedures Manual", which explains that the company participates in the BBB AUTO LINE Program; however, it does not explain to the dealers their responsibilities to consumers with warranty problems, it does not clarify the BBB AUTO LINE Program's availability to dealers, and it does not state how to pass on the information to the consumer.

**AM General Sales Corporation (Hummer) warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**2. American Honda Motor Company (Honda/Acura)**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The 1999 warranty booklet's "Table of Contents" does not refer specifically to the BBB AUTO LINE Program; however, the Honda/Acura warranty booklets, in the section on "Customer Satisfaction", Pages 2 and 3, clearly notify the consumer how to contact the BBB AUTO LINE Program. The information is easy to access and is readily available.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information for dealers and for customer service personnel is

contained in the "Service Operations Manual", which is the primary printed source of information from corporate headquarters to the field staff and to the dealers' network. This book makes extensive references to the BBB AUTO LINE Arbitration/Mediation program in the following places:

1. Section 9.6, "Independent Arbitration Programs:"
2. Section 9.6.1, "Better Business Bureau Program"
3. Section 9.7, "Lemon Laws"

Honda/Acura also distributes several other manuals and guides for dealers, but they provided only this one, in which the BBB AUTO LINE Program is discussed in the following sections of the "DSM (District Service Manager) Operations Guide":

1. Chapter 5, "Consumer Affairs", an entire twenty page section, devoted to helping consumers with problems
- 2., Pages 5.9 through 5.11, devoted specifically to the BBB AUTO LINE Program
3. Page 5.12, devoted specifically to the "Lemon Law" and to how the dealership staff should deal with these laws.

The BBB AUTO LINE Program and its toll-free number are found throughout these pages. In all of the documents reviewed for this audit, the information provided in these publications is well presented, and, if utilized by Honda/Acura employees, will go a long way towards informing consumers. While reviewing these materials, it has also been learned that Honda/Acura has BBB AUTO LINE Program booklets and state handbooks about the "Lemon Law" available for distribution through its dealers and through its consumer relations offices.

**American Honda Motor Company (Honda/Acura) warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

### **3. American Isuzu Motors**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

Isuzu provides its consumers with two basic documents and with one supplemental document through its network of dealers, listed as

follows:

1. The "Isuzu Owner Warranty Information" contains one reference to the BBB AUTO LINE Program on Page 1. This consists of one short paragraph which gives the name, address, and toll-free telephone number of the BBB AUTO LINE Program.

2. The "Owners' Manual 1999" contains one reference to the BBB AUTO LINE Program on Page 11-2, Step 3. This consists of the basic information which gives the name, address and toll-free telephone number of the BBB AUTO LINE Program, plus a reasonably good explanation of what the BBB AUTO LINE Program is and what it does for the consumer.

3. The "Notice To Purchasers and Lessees of American Isuzu Motors Inc. Vehicles" contains the necessary information for the consumer to address grievances with Isuzu and, failing that, the information provided to access the BBB Auto Line Program. The materials consist of the basic information which gives the name, address, and toll-free telephone number of the BBB AUTO LINE Program. Also, Morrison and Company was supplied with various form letters used to address most questions presented by consumers. These letters have been well prepared and deal with the questions directly.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

There was no specific information provided to Morrison and Company which deals with information for the dealers and their staffs. If no such materials exist, Isuzu should consider the development of these materials to help the dealerships assist with consumer problems at the dealer level, thereby reducing the level of consumer anxiety before it becomes a major confrontation.

**American Isuzu Motors warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**4. Daewoo Motor America**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided to consumers consists of two publications which provide an excellent guide for those with problems. They are as follows:

1. The "Consumer Information Manual" is provided to consumers at the point of sale; it makes reference to the BBB AUTO LINE Program by providing background information on the program, and it mentions the toll-free telephone number consumers may use to contact the BBB AUTO LINE Program

2. The "Warranty and Maintenance Information" booklet is also provided to consumers at the point of sale; it makes reference to a booklet that contains references to the BBB AUTO LINE Program. This overview gives a description of the program and contains the toll-free number for consumers to contact the BBB AUTO LINE Program.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The only information that Daewoo provided to Morrison and Company for dealers is contained in the booklet, "Warranty and Maintenance Information", a consumer booklet. This booklet is well presented; however, it would appear that there are other materials which are supplied to the dealerships although these materials were not supplied to Morrison and Company.

**Daewoo Motor America warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**5. General Motors**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The primary source of information provided to General Motors consumers is in the "1999 Warranty and Owner Assistance Information Booklet". The table of contents of this booklet refers to the General Motors-sponsored, BBB AUTO LINE Program Alternative Dispute Resolution Program, which cites where the information pertaining to that program can be located. In the introductory pages, the BBB AUTO LINE Program is briefly described and information is provided about how to contact the program, including a toll-free number; this information is useful, accurate, and complete.

General Motors also utilizes form letters wherein the consumer is provided with BBB AUTO LINE Program referral information. These letters contain the BBB AUTO LINE Program toll-free telephone number.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

General Motors is constantly in communication with its dealers' network in an on-going effort to create a better atmosphere for the settlement of disputes which arise between the company and the consumer. As a part of this effort, General Motors has combined all its vehicle types into one unit in order to help to streamline and to help improve the complaint handling in the consumer assistance offices. General Motors is continuing its program of supplying manuals containing current BBB AUTO LINE Program and "Lemon Law" information to dealers and zone offices.

In states where point-of-sale notification to consumers is required by state law (e.g., California and Ohio), General Motors provides an informational insert in the "Warranty and Owner's Assistance Booklet". In the state of Ohio, three specifically mandated notices are required. The first and second are inserts in the "Warranty and Owner's Assistance Information Booklet"; the third is a display which must be posted in a conspicuous location at the dealership.

To comply with the requirements of Ohio Administrative Code, § 109:4-4-03(c), General Motors provides posters to its dealers in Ohio. The poster is identified as "Form OH-LL03", and is to be posted in either the sales or service area of the dealership. These posters contain information about the availability of the BBB AUTO LINE Program. The dealers are also provided with the "General Motors Service Policies and Procedure Manual", in which reference to the BBB AUTO LINE Program is discussed in Section 4.1.5, Page 7.

**General Motors warranty materials are IN**

**COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**6. Hyundai Motor America**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

Hyundai provides the following literature:

1. The "Owner's Manual" is a book which provides the basic information for Hyundai's various models
2. The "Owners Handbook Supplement" is a booklet which addresses the BBB AUTO LINE Program on Pages 5 and 6, giving the program's toll-free telephone number together with a brief description of the program. The opening paragraph is misleading to the consumer; the impression is given that a consumer must go through Hyundai's program before the consumer may go to arbitration. This language should be changed or eliminated.
3. The "Consumer Assistance Guide Including BBB AUTO LINE Program" is another piece of information which uses the same language. The "Alternative Dispute Resolution" portion of the pamphlet is placed on the third page of three pages; it provides the BBB AUTO LINE Program's phone number and address, but it gives no encouragement to use the program.
4. The "Owner's Handbook" is an additional booklet which apparently is delivered in conjunction with the "Owner's Manual". This smaller booklet contains the same information as the other booklets and is also potentially misleading. The phrase:

Should you desire additional assistance after going through our internal Consumer Assistance Process, you may elect to go through Alternative Dispute Resolution (arbitration), . . .

tends to cause one to believe that going through the manufacturer's program is a prerequisite to participating in the BBB AUTO LINE Program. If that is the intended purpose, it is not in



conformity with the federal law, Florida law or Ohio law.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The following information is provided to dealers:

1. "Lets Look at a Buyback" is information provided to dealers by Hyundai as training literature

2. "What is the BBB AUTO LINE Program ?" is a brochure provided to dealers which defines and explains simply how the BBB AUTO LINE Program functions.

3. The "Consumer Management Training Manual" is a document devoted to the "Lemon Law" and to the BBB AUTO LINE Program; however, nowhere in the material is there any information on how to get in touch with the BBB AUTO LINE Program. The information appears to be only basic information regarding how to avoid the BBB AUTO LINE Program.

Of the above three booklets, none provide insight into a method of handling consumer problems, other than by keeping the problem in-house and by dealing with it without outside assistance. This situation needs to be addressed by Hyundai Motor America in the future to eliminate the possibility that uninformed consumers will not derive benefit from the utilization of the services of the BBB AUTO LINE Program.

**Hyundai Motor America warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

## **7. Kia Motors America**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided to consumers consists of one publication which provides a quality guide for consumers with problems. This

publication is the “KIA Owner’s Manual”, which is provided to consumers at the point of sale; this manual makes reference to the BBB AUTO LINE Program by providing background information on the program, the toll-free telephone number consumers may use to contact the BBB AUTO LINE Program, and other helpful information about both the BBB AUTO LINE and the manufacturer.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The only information that KIA provided to Morrison and Company for dealers is contained in the booklet, “KIA Owner’s Manual”, a consumer booklet. This booklet is well presented, and meets the requirement of the regulations.

**KIA Motor America warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**8. Land Rover of North America**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided by Land Rover North America, Inc. to its consumers about the BBB AUTO LINE Program is found primarily in one leather-bound booklet, as follows:

1. The “Land Rover Passport to Service (1999)” on Page 5, provides an extensive discussion introducing the consumer to the “Lemon Law” and providing an explanation of what the “Lemon Law” is and to whom it applies. After this discussion is completed, there is a discussion explaining the separation between Land Rover [the manufacturer] and the BBB AUTO LINE Program [the program administrator]. Following that is a paragraph devoted to how to file a claim with the BBB AUTO LINE Program. Page 6 of the handbook is devoted to explaining and answering the most commonly asked questions about the BBB AUTO LINE Program.

2. Also found in the “Land Rover Passport to Service” is the “Warranty and Service Supplement”, which repeats much of the

material presented earlier, as well as a state-by-state explanation of the applicable state “Lemon Laws” and other helpful materials which will help consumers with warranty problems.

This consumer publication is very well developed and provides the information consumers need in a succinct, accurate, and helpful manner.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The materials supplied to the consumer are also made available to the Dealer network and serve as a very useful basis to establish a good working relationship between the Dealership and the consumer before a problem arises.

**Land Rover of North America warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**9. Lexus Division of Toyota Motor Sales, U.S.A.**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided by Lexus to its consumers about the BBB AUTO LINE Program is found in two booklets, as follows:

1. The “Owners Manual Supplement Lemon Law Information (1999)” on Page 3 provides the first piece of information about all “Lemon Laws” in a state-by-state brochure form.

2. “Question? Problems? We Want To Help” contains additional information about the BBB AUTO LINE Program and sets out the three step plan of Lexus to solve vehicular problems with Lexus consumers.

Both of the consumer publications are very well developed and provide the information consumers need in a succinct, accurate, and helpful manner, with an explanation of the arbitration process.

**b. Dissemination of information, quality of content of materials, and**

**ease of use of materials for regarding the BBB AUTO LINE Program as stated in Rule 703.**

“Arbitration Overview” is the booklet provided to Lexus dealers which provides an excellent explanation of the arbitration process. The booklet for dealers does not contain details, but is an excellent overview of the process.

**Lexus Division of Toyota Motor Sales, U.S.A. warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

**10. Nissan North America (Infiniti/Nissan)**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided by Nissan North America to its consumers about the BBB AUTO LINE Program is found in two booklets, as follows:

1. The “1999 Nissan Warranty Information and Maintenance Log Booklet” on Pages 2 and 3, provides the introductory information about “Lemon Laws” and the procedures to follow when a problem arises with the new vehicle. The format is clear and easily understood with the important information in bold print for ease of reading.

2. “1999 Infiniti Warranty Information” contains specific information about the BBB AUTO LINE Program, and sets out the three step plan of Infiniti to solve vehicular problems with Infiniti consumers. On Pages 2 and 3, basically the same information is provided that is contained in the “1999 Nissan Warranty Information and Maintenance Log Booklet” discussed above.

Both of the consumer publications are well developed explanations of the arbitration process and provide the information consumers need in a clear and helpful manner.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for regarding the BBB AUTO LINE Program**

**as stated in Rule 703.**

“BBB AUTO LINE & LEMON LAWS” is the new employee training booklet provided to all Nissan and Infiniti dealers and new employees which provides an excellent explanation of the arbitration process. This booklet, along with the provided warranty denial letters, contains an excellent overview of the process.

**Nissan North America (Nissan / Infiniti) warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

## **11. Porsche Cars of North America**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided to consumers consists primarily of one publication which provides an excellent guide for those with problems. It is the “Porsche Warranty and Customer Information”. This manual is provided to consumers at the point of sale and it makes reference to the BBB AUTO LINE Program by providing background information on the program; it also mentions the toll-free telephone number consumers may use to contact the BBB AUTO LINE Program. The manual provides a straight-forward description of the program and the toll-free numbers of both Porsche and the BBB Auto Line Program.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The only information that Porsche provided to Morrison and Company for dealers is contained in the booklet, “Warranty and Customer Information”, a consumer booklet. This booklet is well presented.

**Porsche Cars of North America warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

## 12. Saturn Corporation

### **a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information provided to consumers at the time of purchase is Saturn Corporation's "1999 Warranty and Owner Assistance Information Booklet" with a special insert for each individual state which explains in detail that state's "Lemon Law". This booklet outlines the role of the BBB AUTO LINE Program in assisting the consumer. Also in the booklet is a form found on Page 39, which is used to request arbitration before the BBB AUTO LINE Program.

This information is accurate, complete, and well presented. After the purchase, if a problem occurs with the vehicle, Saturn has a complete set of forms and materials to supply to the consumer. These materials are very inclusive and explain the consumer's rights, particularly information disclosing the BBB AUTO LINE Program's role in providing a procedure to settle the dispute, and if not that, to provide a forum for the consumer to be heard.

### **b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The information which Saturn provides to its dealers about participation in the BBB AUTO LINE Program is the "Saturn Service and Procedures Manual". This manual provides dealers with the address and phone number of the program.

Last year Saturn made a change to its program by requiring all dealers to post a sign in the service department of the dealership, which includes a toll-free telephone number for reaching the BBB AUTO LINE Program. This year Saturn produced a seven page pamphlet entitled "BBB AUTO LINE Program". The pamphlet contains information on how to reach the BBB AUTO LINE Program, provides a program summary, and gives general information about the BBB AUTO LINE Program, including how to act at a hearing.

This pamphlet and the posting of the signs last year shows a company committed to consumer service and a company making changes; this represents a significant improvement. Saturn should be commended for its efforts.

The form contained in the owner's manual which constitutes the majority of the information presented to the consumer at the time of purchase of the vehicle serves the function it was designed to accomplish, but it may have some unintended consequences; in the state of Florida, the form could be confused with the "Motor Vehicle Defect Notification Form", which is the document that commences "Lemon Law" activity in Florida. This situation should be reviewed by Saturn to see if a conflict may exist.

**Saturn Corporation warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

### **13. Volkswagen of America (Audi/Volkswagen)**

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

Volkswagen of America provides two booklets filled with information, as follows:

1. The "1999 USA Model Warranty Booklet" (Volkswagen and Audi) has three specific places which refer the consumer to the BBB AUTO LINE Program as follows:
  - a. The first reference to the BBB AUTO LINE Program appears on the inside cover of the booklet where it provides an introduction to the BBB AUTO LINE Program and a toll-free telephone number for consumers who may want to file a claim.
  - b. The second reference appears on Page 3, where it provides additional information about the BBB AUTO LINE Program, again including the toll-free telephone number.
  - c. The third reference appears on Pages 26 and 27, where it provides an outline of the manufacturer program in very specific detail. Pages 28-29 are entitled "Better Business Bureau AUTO LINE Program". These pages provide a succinct outline of the BBB AUTO LINE Program with toll-free number in bold print.

2. The “Owner Information about Consumer Protection Laws”, “Booklet 4.1” contains all notices and requirements mandated by state statute and appears to be complete and accurate. It is part of the warranty information packets provided to all consumers upon purchase or lease of a new vehicle.

These booklets have complete and accurate information; they are very consumer friendly and helpful to the reader. By utilizing a system of distribution at the point of delivery, Volkswagen informs consumers about the program before a warranty dispute occurs. Volkswagen of America appears to have established a consistency which ensures that all consumers are made aware of the availability of the BBB AUTO LINE Program and how it works.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

In “Florida Volkswagen of America, Inc.”, the booklet instructs its dealers in Florida to distribute the booklet to all new motor vehicle purchasers, the Florida booklet “Preserving Your Rights Under Florida’s Lemon Law” is required to be distributed.

**Volkswagen of America (Audi/Volkswagen) warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

#### **14. Workhorse Custom Chassis**

Workhorse is a chassis builder, as opposed to a builder of a complete vehicle. Its warranties apply only to those parts of the vehicle produced by it.

**a. Dissemination of information, quality of content of materials, and ease of use of materials for CONSUMERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

Workhorse’s warranty material is primarily contained in the booklet entitled, “Warranty and Owner Assistance Information”; this booklet explains the three step warranty policy. The third step of this policy includes the information about the BBB AUTO LINE Program. It begins on Page 1 of the booklet; a more extensive explanation can be found on



Pages 30 and 31. In both of these references, the BBB AUTO LINE Program is clearly identified with the full address and the toll-free telephone number printed in bold type.

**b. Dissemination of information, quality of content of materials, and ease of use of materials for DEALERS, regarding the BBB AUTO LINE Program as stated in Rule 703.**

The materials supplied by Workhorse Custom Chassis are in conformity with the requirements. This is especially true because this company does not have direct contact with the consumer, so its information is supplied only to the builders of the auto body, which, in turn, have their own materials.

Also provided to Morrison and Company for review is a hard copy of the "State of Ohio Notice to Consumers", which is provided to the dealer network. This document meets all the requirements of the state of Ohio.

Workhorse has done a very good job of preparing its materials to meet the requirements of both state and federal regulations.

**Workhorse Custom Chassis warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

## **SECTION 5: RECOMMENDATIONS**

One of the primary functions of the Magnuson-Moss Act and Rule 703, in the opinion of Morrison and Company, is to involve manufacturers in the process of informing consumers of the dispute resolution process. From an overview of the entire law, the regulation's drafters were able to accomplish this function in only a very few places, one of which is 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.2(d), which states: "The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes". This language is not the most forceful nor the most strongly worded mandate in the law, but it is very clear that the drafters definitely wanted to involve the manufacturer in the function of informing consumers of appropriate recourse if the vehicle fails to perform as represented.

### **A. NATIONAL**

Morrison and Company recommends continuing the examination of the strategies of certain manufacturers. From Morrison and Company's observation, it is clear that manufacturers which use the BBB AUTO LINE Program should receive special credit for providing a dispute resolution program through an organization that many consumers turn to as a routine matter when faced with consumer product problems.

It is suggested that those manufacturers with more limited informational programs make greater efforts to promote the use of the BBB AUTO LINE Program since it serves consumers so well. It should be understood that the BBB AUTO LINE Program is not in a position to require manufacturers to follow these mandates and can only encourage them to do so.

A number of the participating manufacturers should develop plans to improve their education programs for consumers about the availability of the BBB AUTO LINE Program. This means more than just putting the BBB AUTO LINE Program's address and phone number in a warranty book. The manufacturer needs to explain what types of disputes the BBB AUTO LINE Program is designed to resolve and how the BBB AUTO LINE Program functions. It is not enough merely to show how to contact the BBB AUTO LINE Program; the manufacturer needs to assist the consumer in this process as well.

Information about the BBB AUTO LINE Program needs to be prominently displayed in strategic locations throughout dealerships. These areas might include: the service area, the wall near the cashier, or the consumer lounge areas of all dealerships. The Federal Trade Commission chose not to impose many costly requirements on the manufacturers and dealers; however, this does not mean that the Federal Trade Commission was not concerned that consumers be provided the information to properly pursue their rights under the Magnuson-Moss Act. This responsibility was placed squarely with manufacturers and dealers.

It is obvious from the changes made in the last few years by a number of manufacturers which participate in the BBB AUTO LINE Program that they take very seriously the need to improve their service to the consumer. The warrantor is required to take steps reasonably calculated to make consumers aware of the BBB AUTO LINE Program at the time the consumer experiences warranty disputes. This language is designed to protect the consumer; any manufacturer failing to perform this service would be in violation of this provision of 16 C.F.R. Part 703.

## **B. FLORIDA**

In Florida, the requirements are very similar to those set out in 16 C.F.R. § 703.2. The Florida requirements are contained in the Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law]. The manufacturer is required to give consumers conspicuous notice of how to contact the manufacturer. They also require the manufacturer to provide, by January 1st of each year, copies of its owner's manuals and any written warranty information for each make and model of motor vehicle that is to be sold in the state of Florida in the following year.

More inclusively, a directive in the Florida Lemon Law § 681.103(3), has a section which mandates the manufacturer to inform all Florida consumers clearly, conspicuously, and in writing, explaining when, where, and how the consumer can contact the certified BBB AUTO LINE Program.

This notice, which is required at the point of sale, is coupled with a requirement that the selling dealer also provide a copy of the "Florida Lemon Law Handbook", which is published by the Florida Attorney General's office. Florida's notice requirements are unique in that Florida requires the manufacturer to supply, along with the above information, the toll-free number of the Informal Dispute Resolution Program which represents the manufacturer, and the toll-free number of the state of Florida's consumer hot-line. The state of Florida feels this information should be made available at the time of purchase rather than waiting until a problem arises.

In the state of Florida, a careful examination of the warranty and other materials supplied to the dealers for distribution to consumers by Morrison and Company leads to the conclusion that these materials are not only accurate and useful, but also that they meet the specific requirements of the state of Florida. Manufacturers use different means of distribution but the requirements are being met.

**The above-listed named manufacturers' warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code**

## **C. OHIO**

In the state of Ohio, the duties of the manufacturer are contained in the Ohio Revised Administrative Code § 109:4-4-03, which contains the same information found in the federal rules, as well as additional requirements for the manufacturer. When manufacturers have been certified by the state of Ohio as

being compliant with both the federal requirements and the Ohio requirements, these manufacturers are authorized by Ohio law to require a consumer to participate in the certified program as a prerequisite to filing any other form of legal action.

Ohio law requires notices which are not only accurate and useful, but which also meet the specific requirements of the state of Ohio. Saturn provided to Morrison and Company a hard copy of the "State of Ohio Notice to Consumers", which Saturn, General Motors, and Volkswagen provide to the Ohio dealer network. The document meets all the requirements of the state of Ohio. Morrison and Company visited several of the dealerships which represent the certified manufacturers in search of the required notice, and in five randomly selected dealerships, the required poster is displayed in the dealerships, and notices were found on windows of vehicles on the sales lots.

Ohio Administrative Code, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-03(C)(3)(4) outlines rights and responsibilities. Chapter 109:4-4-03(D)(1-5) states as follows:

**109:4-4-03 Duties of warrantor.**

(D) The warrantor shall include in the written warranty or in a separate section of materials accompanying the motor vehicle the following information:

- (1) Either
  - (a) a postage-paid post card addressed to the board requesting the information which a certified board may require for prompt resolution of warranty disputes; or
  - (b) a telephone number of the board which consumers may use without charge;
- (2) The name and address of the board;
- (3) A brief description of board procedures;
- (4) The time limits adhered to by the board; and
- (5) The types of information which the board may require for prompt resolution of warranty disputes.

These requirements are found in many state regulations. The warrantor is also required to take steps reasonably calculated to make consumers aware of the existence of the BBB AUTO LINE Program at the time of a warranty dispute. The remaining requirements outline other responsibilities of the warrantor.

**The above-listed named manufacturers' warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Ohio Lemon Law; Ohio Administrative Code.**

## **SECTION 6: CONCLUSIONS**

From this review, Morrison and Company has determined that, in all cases, at least some information was provided to consumers about the BBB AUTO LINE Program; however, the general overall performance of the manufacturers met the requirements. In Morrison and Company's view, several manufacturers provide information only in the owner's manual which meets the requirements of the laws but the manufacturers could demonstrate a greater commitment to the intent of 16 C.F.R. Part 703 and with the regulations of Florida and Ohio by providing other sources of information to the consumer.

As stated in the introduction of this chapter, 16 C.F.R. Part 703, § 703.2 (a) contains language that clearly permits the manufacturer, at its option, to encourage consumers to seek redress directly from the manufacturer as long as the manufacturer does not expressly require consumers to seek redress directly from the manufacturer. Each manufacturer shows a well-developed recognition of the importance of handling consumer problems as early in the process as possible. This fact was confirmed by the fact that many manufacturers use a three-step plan in written materials which they supply to the purchaser at the time of vehicle delivery.

Morrison and Company's survey results indicate that a majority of the consumers who used the BBB AUTO LINE Program knew about it before they contacted the manufacturer. Morrison and Company notes that there has been improvement in some information dissemination programs. Several of the manufacturers are using a "Lemon Law Handbook" which reports all the state "Lemon Laws" and the minimum requirements of each state. Other manufacturers made an effort to make their owner's manuals more readable and understandable. For these efforts, Morrison and Company commends these forward-looking manufacturers; they will set the standard for the industry.

In conclusion, the manufacturers are showing commitment to fully inform consumers of their full rights under these laws, and with the passage of time, this commitment will surely increase. This gives clear hope that these manufacturers have embarked upon a course of improvement which will lead to a better informed consumer. Those manufacturers which provide booklets with clearly marked consumer information are the leaders of this improvement.

On the basis of the evidence presented to Morrison and Company, credit should be given to the participating manufacturers for their individual information strategies.. There is movement in the right direction.

**CHAPTER TWO**

**INFORMAL DISPUTE SETTLEMENT  
PROCEDURES**

## **CHAPTER 2: INFORMAL DISPUTE SETTLEMENT PROCEDURES**

### **SECTION 1: INTRODUCTION**

The consumer relations programs operated by most of the manufacturers, with assistance from the BBB AUTO LINE Program, function very efficiently and with a clear commitment to fairness. The entire Informal Dispute Settlement Procedures can be divided into the following three segments and will be discussed in depth below, as follows:

- a. Conciliation
- b. Mediation
- c. Arbitration

#### **a. Conciliation**

Conciliation is a process in which initial contact information filed by the consumer is passed on to the manufacturer's representative, who then contacts the consumer and attempts to resolve the dispute. In a large segment of the cases, this process facilitates a prompt resolution of the dispute prior to the more formal process of mediation. The BBB AUTO LINE Program deals strictly with automobile warranty disputes on behalf of the automobile manufacturers which employ the services of the BBB AUTO LINE Program. All others have differing means of dispute resolution.

#### **b. Mediation**

Cases which are not resolved in a settlement through conciliation move into the mediation phase. Mediation is the interim process in handling consumer claims. The mediation function is rapidly becoming one of the most important functions of the BBB AUTO LINE Program, and is developing into an integral part of the BBB AUTO LINE Program services provided for the consumer. This form of mediation is different from ordinary mediation processes. The BBB AUTO LINE Program staff performs the function of a neutral third party which brings the parties together in an attempt to resolve a dispute. BBB AUTO LINE Program mediation is an integral part of the overall dispute resolution process and is in operation at all times, up to and including, the time of the arbitration hearing itself.

The mediation phase of handling the dispute begins as soon as there is a claim filed by a consumer. The consumer's "Claim Form" is forwarded to the manufacturer, which solicits a response from the manufacturer directly to the customer or indirectly through the BBB AUTO LINE Program staff. When an offer is made, the consumer has the option to accept, to reject, or to make a counter offer in response to the proposal.

This process then proceeds until such time as the dispute is either resolved or the parties indicate there is no likelihood of settlement. Once this point is reached, preparations are made for conducting an arbitration hearing and the mediation function becomes inactive; however, the process can be reactivated if there is a renewed interest in settlement through mediation by either of the parties.

Once the initial phase of mediation has begun, the manufacturer is required to complete the "Manufacturer's Response" form and return it to the appropriate BBB AUTO LINE Program personnel. This form contains the position of the manufacturer and other critical information to add to the case file, which will include any offer of settlement or any other appropriate agreements the manufacturer is willing to make. If agreement is reached, BBB AUTO LINE sends each party a letter describing the terms of the settlement.

The final step in settlement by mediation occurs when a BBB AUTO LINE Program "Performance Verification Form" is sent to the consumer. This form verifies that the settlement agreed upon in mediation has been completed. When the signed form is returned by the consumer, it is attached to the hard copy of the case file and is filed in the computer system as a closed case.

### **c. Arbitration**

The most important function of the BBB AUTO LINE Program is arbitration, which is at the very heart of the program from the consumer's point of view, as well as from the regulator's perspective. It is in this phase that the overall efficacy, in terms of fairness and timeliness, is generally determined. Morrison and Company's audit of this phase of the BBB AUTO LINE Program was conducted chronologically, and each aspect of the program was examined with a view toward the regulation's overall objective of fair and expeditious resolution of disputes.

In most arbitration cases heard in the BBB AUTO LINE Program, there is a single arbitrator to hear cases. So that the BBB AUTO LINE Program can have an adequate pool of trained arbitrators, a program must be in place to train arbitrators. To produce this pool of qualified arbitrators, the applicants are nominated and then are screened on the basis of education and background. Using this pool of applicants who submit their names to serve as arbitrators, the prospective arbitrators are invited to participate in arbitrator training. The training process includes participation in mock hearings, both as witnesses and as decision-makers; it includes writing mock decisions based on cases presented; and it includes analyzing case studies provided for in-depth analysis. The final approval for certifying arbitrators is based on candidate performance with the final decision made by the BBB AUTO LINE Program staff.

After the pool of arbitrators is selected and properly trained, they join the pool of available arbitrators at the hearing site bureaus. From discussions with



the local hearing site bureau staffs, Morrison and Company has found that the choice of which arbitrator will conduct any given case is made at the hearing site by the staff; however, the consumer is afforded an opportunity to reject any proposed arbitrator, even without cause. It was reported that the availability of arbitrators is an ever present concern, but the staff noted that there is a continuous attempt to ensure that there is a balanced and fair distribution of the arbitration case load.

In most cases, the staff selects an arbitrator from the list and if he/she is unable to serve, the staff continue down the list in rotation, provided the prospective arbitrators are available. Since the BBB AUTO LINE Program procedures require random selection, it may be helpful to implement a more uniform procedure by which arbitrators are selected for any particular hearing. This would help eliminate the likelihood of inadvertently overusing any one arbitrator.

The hearing process commences after the period of time when it is determined by any one of the participants of the mediation process, including the manufacturer, the consumer, and the CBBB AUTO LINE Program Central Intake Center, that neither conciliation nor mediation is any longer a viable avenue for resolution of the dispute.

In order to develop the "Arbitration" file, the BBB AUTO LINE Program staff solicits information from consumers in several different ways, which are as follows:

1. A toll-free number - which the consumer utilizes to contact the BBB AUTO LINE Program
2. Information - which the Central Intake Center staff requests directly from the consumer during the initial telephone contact. The information is recorded and becomes the "Call Record"
3. A "Claim Form" - which the Central Intake Center staff sends directly to the consumer. The Central Intake Center staff solicits information pertaining to each of the subjects listed in the above requirement. The form is appropriately comprehensive and is very helpful in promoting fair and expeditious resolution of disputes.
4. The arbitration hearing - which provides to both parties to the dispute an opportunity to present any information pertinent to the dispute. In addition, following the initial presentations, the arbitrator generally asks the parties for further information and/or clarification. The arbitrators who use the "Reasons for Decision" form as a checklist are most likely to give each party ample opportunity to present all the information appropriate to the case.

In all states except Florida and California, the Central Intake Center staff at the national offices of the BBB AUTO LINE Program begin the hearing process, which involves the following steps:

## **1. Preparation for Hearing**

- a. The Central Intake Center of the BBB AUTO LINE Program office notifies the local BBB AUTO LINE Program office in the area where the consumer resides that a dispute exists and lists the parties involved in the dispute.
- b. The local BBB AUTO LINE Program staff opens a file and completes a “Checklist”, which consists of a list of responsibilities for the following purposes:
  - i. assisting in coordination of setting up the initial arbitration process
  - ii. contributing to actual arbitration hearing efficiency
  - iii. serving as an excellent accountability tool .
- c. The local BBB AUTO LINE Program office staff locates a facility in which to hold the arbitration (virtually all BBB AUTO LINE arbitrations are held at local Better Business Bureau offices, where a hearing room is set aside).
- d. The BBB AUTO LINE Program Central Intake Center office staff sets a date for the hearing.
- e. The local BBB AUTO LINE Program office staff contacts and arranges for an arbitrator.
- f. The BBB AUTO LINE Program Central Intake Center office staff sends a “Notice of Hearing” to all involved parties.
- g. The BBB AUTO LINE Program Central Intake Center office staff acquire expert witnesses, if necessary.

## **2. Hearing**

The local office provides the staff to introduce the arbitrator to the hearing participants, makes sure the sworn oath is procured from the participants, conducts the hearing by operating the taping equipment, and by making copies of documents which may be needed. The staff also helps the arbitrator with the organization and the collection of documentation and other materials needed to draft the decision.

With several different manufacturers, a panel of three arbitrators is requested to hear cases. In those cases, the BBB AUTO LINE Program empanels a group of three arbitrators to hear and decide the case. A panel of three arbitrators is also used in some jurisdictions, and with certain manufacturers, to hear re-purchase or replacement cases.

The BBB AUTO LINE Program rules allow observers to be present during the hearing phase of the case, provided they have obtained the permission of the consumer and the arbitrator assigned to the case in advance; however, these same observers and the parties to the case are not allowed to remain in the hearing room during the deliberation and the decision-making phases of the meeting (if a panel is used).

§ 703.8 (d) requires that “meetings of the members to hear and decide disputes shall be open to observers on reasonable and nondiscriminatory terms.” BBB AUTO LINE Program guidelines provide that no observers may attend the proceedings without the agreement of both consumer and arbitrator. This question has been dealt with by the Federal Trade Commission which informed the BBB AUTO LINE Program that, in cases where the parties appear in person, the Mechanism might reasonably exclude non-party observers in the interest of confidentiality.

It is the position of the BBB AUTO LINE Program that the restriction preventing parties from hearing panel deliberations is fair and reasonable; it is very similar to the judicial system in which hearings are open to the public, but in which internal deliberations of judges and juries are not. The separation of the hearing portion of the process and the deliberation activity is a reasonable reading of the rules. In Morrison and Company’s view, it is “reasonable” to exclude non-party observers, or the parties themselves, from the phase of the hearing that involves deliberation and decision-making, including the final disposition of the case.

The hearing process also involves an inspection of the motor vehicle, which may include a test drive by the arbitrator. This is typically done after the parties have made their presentations and the arbitrator has questioned the parties. This process is very important to the arbitrator in evaluating the claim, in determining the condition of the vehicle, and in deciding whether a financial adjustment should be made. The consideration of the condition of the vehicle can be either positive or negative, based upon a comparison of the current condition of the vehicle and the normal condition of a like vehicle.

### **3. Decision**

The arbitrator prepares the “Decision” and “Reasons for Decision” forms and submits them to the BBB AUTO LINE Program office for typing and checking. The local BBB AUTO LINE Program staff types the final decision based upon the arbitrator’s written submission. After the case is heard, the staff is responsible for the processing of reimbursements, if appropriate, to the arbitrator.

The “Record of Hearing”, “Decision” and “Reasons for Decision” forms are the only documentation for General Motors cases, but with many other manufacturers a tape of the hearings is made. In all cases, following the hearing, the local office staff assists the arbitrator with the typing of the decision from the arbitrator’s draft. In the process, the staff points out to the arbitrator any information, if any, that is not included, that is incomplete, or that is missing from the document or the decision.

#### **4. Post-Decision**

A copy of the decision is mailed or faxed to the BBB AUTO LINE Program Central Intake Center office, which sends a copy to the consumer and the manufacturer. After receipt of the decision, if any party disagrees with the decision, each has ten days in which to request that the arbitrator reconsider his decision on very limited grounds.

In all cases filed with the BBB AUTO LINE Program, staff members contact all consumers following a mediated settlement or an arbitration hearing in order to determine whether the appropriate action has been accomplished. This step is to determine whether the promised action has taken place and whether the performance has been satisfactory.

After a mediated settlement or an arbitrated decision is reached, the BBB AUTO LINE Program must inquire of the parties within ten days of the date performance was specified in the settlement letter or in the “Decision” form. The consumer’s response is then logged into the consumer’s record.

If no contact can be made with the consumer, the BBB AUTO LINE Program staff mails a postcard to the consumer notifying him/her that unless he/she responds with fourteen days, the BBB AUTO LINE Program will assume that performance is satisfactory. The assumed satisfaction is recorded in the case file and/or in the case’s computer file and is counted as a case in which performance is satisfactory for index tabulation purposes.

The form used to log performance information is called the “Performance Verification Record”. In the process of reviewing the case

files, if a file calls for performance, the file is checked for a “Performance Verification Record”; if not located, the case note entries attached to the automotive case record printout would be reviewed to determine the exact action taken, and the response of the parties. In most cases, files which call for performance verification include a date when performance either was verified or was assumed to be verified; Morrison and Company’s review found there were no measurable deficiencies in the manner in which the files are handled by the BBB AUTO LINE Program.

The final act in any hearing file is the signing of the completed checklist and the returning of it to the Central Intake Center. When the signed forms are returned, they are attached to the hard copy of the case file and electronically filed. The hard copies of case files are maintained at the national office with file information provided to the states as requested.

## **A. FLORIDA**

**Better Business Bureau of West Florida  
5830 140th Avenue  
Clearwater, Florida 34620**

Morrison and Company visited the Better Business Bureau in Clearwater, Florida, which is responsible for all mediating activity in the state of Florida. In the Clearwater BBB AUTO LINE Program office, the procedure for hearings is much the same; however, the staff at the Clearwater BBB AUTO LINE Program office makes the determination whether the case is ready for arbitration. It also conducts arbitration hearings for the Clearwater and Tampa areas, which are determined by postal zip codes.

## **B. OHIO**

**Better Business Bureau of Central Ohio  
1335 Dublin Road, Suite 30A  
Columbus, Ohio 43215**

Morrison and Company visited this Bureau’s BBB AUTO LINE hearing site office, which has responsibilities for hearing all cases arising in a sixteen county area surrounding the state capital, located in central Ohio,. The precise area of coverage is determined by application of specific U.S. Postal Zip Codes.

## **C. TENNESSEE**

**Better Business Bureau  
1010 Market Street  
Suite 200  
Chattanooga, Tennessee 37402**

As part of the 1999 calendar year audit, a field inspection was performed at the BBB AUTO LINE hearing site offices in Chattanooga, Tennessee. This office has responsibilities for hearing all cases arising in an eleven county area in southeast Tennessee and in ten counties in northwest Georgia. The precise area of coverage is determined by application of U.S. Postal Zip Codes.

## **SECTION 2: STATUTORY AND REGULATORY REQUIREMENTS**

**[Please refer to appendices for the complete text of all related laws, statutes, and regulations]**

### **A. NATIONAL**

**Code of Federal Regulations; Title 16 -- Commercial Practices; Chapter I -- Federal Trade Commission Public Law 93-637: the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act, Title I - Chapter 50 - Consumer Product Warranties Subchapter G -- Rules, Regulations, Statements and Interpretations under the Magnuson-Moss Warranty Act; Part 703 -- Informal Dispute Settlement Procedures.**

### **B. FLORIDA**

**Florida Statutes Title 39 Chapter 681 Motor Vehicle Sales Warranties, Motor Vehicle Warranty Enforcement Act**

### **C. OHIO**

**Ohio Revised Code Annotated, § 1345.71-78**

### **D. TENNESSEE**

Tennessee has no unusual statutory requirements which modify the application of 16 C.F.R., part 703, in effect, October 1, 1983.

## **SECTION 3: CONDITIONS**

Audits of arbitration hearings have been conducted by Morrison and Company in the spring of the calendar year, 2000. These hearings represent cases which were still

current at the time of the hearing. Morrison and Company's staff has completed field audits at the following hearing sites:

1. the BBB AUTO LINE Program arbitration/mediation site in Clearwater, Florida, on May 25th and 26th, 2000
2. the BBB AUTO LINE Program hearing site, located in Columbus, Ohio, on April 27th, 2000
3. the BBB AUTO LINE Program hearing site, located in Chattanooga, Tennessee, on June 27th, 2000

Each location will be discussed on an intensive, individual basis in the following segments. It should be remembered that, since Florida and Ohio have unique requirements, those two audits will reflect the statutes and laws pertaining to those two states, as well as what is required by Magnuson-Moss and 16 C.F.R., part 703, in effect, October 1, 1983.

This section has been divided into two segments for clarification purposes; one deals with the hearing site itself, and the other deals with the process involved in a hearing, as follows:

1. Hearing Site
  - a. Facilities
  - b. Personnel
2. Hearing Process
  - a. Openness of hearing
  - b. Effectiveness of hearing
  - c. Decision
  - d. Post-decision

In evaluating the decisions of the arbitrators, it should be noted that it is not Morrison and Company's purpose to determine whether the decision in itself was right or wrong. Morrison and Company's purpose is to evaluate the process which the arbitrator applies to the facts presented to him by the parties to the dispute.

## **SECTION 4: FINDINGS**

### **A. FLORIDA**

#### **1. Hearing Site**

##### **a. Facilities**

A centralized conference room, which functions as the hearing room, is very spacious, nicely furnished, and sufficiently large enough to accommodate almost any hearing. It provides sufficient space and seating

for the arbitrator and for the parties to the dispute with ample room for any observers.

BBB AUTO LINE Program offices are located conveniently throughout the state for consumers who reside in other regions of Florida. Morrison and Company has visited every one of these offices at some point in the past, and can state with confidence that all Florida offices function with exceedingly high standards of operation.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code.**

#### **b. Personnel**

While in the Clearwater, Florida, office, Morrison and Company met with the following people:

1. Mr. Todd M. Eikenberry, Mediation/Arbitration Specialist, (since Ms. Karen Nalven, Vice-President, was out of the office)
2. Mr. Bryan Oglesby, Mediation Specialist
3. Ms. Rhonda Eakins, Mediation Specialist

The staff are very well trained and perform their assigned duties in an efficacious and very competent manner. From Morrison and Company's observations, the staff members have been assigned appropriate duties based upon their own unique personalities and skills.

The office equipment used by the staff fits the jobs being performed and the individual needs of each staff person. Files are logically arranged which makes them readily accessible.

As a whole, the entire BBB AUTO LINE Program staff demonstrated an outstanding knowledge of the Federal Trade Commission regulatory requirements and the rules and regulations of the state of Florida which are required to administer the program; they performed their duties consistent with these requirements.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific**



**requirements of Magnuson-Moss Act; Rule 703;  
Florida Lemon Law; Florida Administrative Code.**

## **2. Hearing Process**

### **a. Openness of Hearing**

From observation of the hearings audited in the Clearwater office, it is clear that the hearings generally proceed without event or problem. The audited hearings were carried out completely in accord with BBB AUTO LINE Program policies regarding outside observers.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code.**

### **b. Effectiveness of Hearing**

The specific hearing which Morrison and Company observed for this audit was facilitated by the Arbitration/Mediation Specialist, Mr. Todd Eikenberry, who is generally in charge of arbitration. Because the regularly participating staff members have greater experience in the process of the hearing than the typical arbitrator who conducts hearings only occasionally, the control of the hearing's administrative procedures creates a smoother process. In Morrison and Company's view, this procedure is very helpful in maintaining decorum and efficiency in processing cases.

In this hearing, the manufacturer elected to participate by telephone, and at this point, Mr. Eikenberry dialed the manufacturer and established voice contact. The phone remained open and active until the consumer and the arbitrator went for a test drive with the vehicle in question.

Mr. Eikenberry introduced everyone and then read aloud the agreement to arbitrate. He opened the hearing and explained the process to the parties. Once the preliminaries were complete, Mr. Eikenberry administered the oath to the parties, after which he presented it to the parties to sign. He explained that the hearing was being taped, and that copies were available upon request for a nominal charge.

The presentation of evidence and the testimony of the parties were

both handled in a very professional manner by the arbitrator. Each side was given ample opportunity to present his/her evidence and testimony and the freedom to question and challenge the other side. All necessary information for this case could be found in the file.

After testimony was presented, the tape recorder was turned off and the telephone connection with the manufacturer was disconnected. The arbitrator and the consumer left the hearing room to inspect and to test drive the vehicle. Upon return to the hearing room, the tape recorder was turned on again and contact was re-established with the manufacturer. The manufacturer's and consumer's concluding remarks were made and the arbitrator closed the hearing.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code.**

#### **c. Decision-Making**

In the case of the BBB AUTO LINE Program Mediation/ Arbitration Office hearing in Clearwater, Florida, and in the case files which Morrison and Company reviewed, it is very clear that this office staff is familiar with Rule 703; the Florida Lemon Law; and the Florida Administrative Code. Decisions appear to have been made according to guidelines.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code.**

## **B. OHIO**

### **1. Hearing Site**

#### **a. Facilities**

The hearing room consists of an exceptionally nice, large room just off the main entrance waiting room, which has outstanding amenities and doesn't interfere with other activities in the main office area. The hearing room itself has telephone facilities and a conference table of sufficient size to accommodate ten to twelve people. The main office area is nicely

laid out and doesn't interfere in the arbitration program.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Ohio Lemon Law; Ohio Administrative Code.**

**b. Personnel**

Ms. Mary Lou Seymour, Director of Arbitration, was not present due to jury duty; thus, Morrison and Company met with the following people:

1. Ms. Kathy Giere, Trade Practice Consultant, who rearranged her responsibilities to give complete coverage for the visit
2. Ms. Kristi Ferguson, Director of Operations, and the person directly responsible to the President
3. Mr. Ronald D. Miller, President and General Manager

The staff of this office is a highly integrated team with cross-trained employees. As stated above, the President and General Manager is Mr. Ronald D. Miller, who appears to be personally involved in all the activities of the office, including the BBB AUTO LINE function. Ms. Kristi Ferguson holds the position of the Director of Operations, the position directly responsible to the President for the BBB AUTO LINE section. Under Ms. Ferguson is the Director of Arbitration, Ms. Mary Lou Seymour, who is the single individual primarily responsible for communications with the Central Intake Center office in Arlington, Virginia.

Not only is Ms. Seymour responsible for communications with the BBB AUTO LINE Program Central Intake Center, she is also responsible for arranging hearings, for notifying consumers of their hearing dates and times, and for arranging for arbitrators to be present at the hearings and on time. Another staff person, Ms. Kathy Giere, is Ms. Seymour's assistant, as well as Trade Practice Consultant; it is she who handled the hearing when Morrison and Company visited.

Morrison and Company discussed the duties of all the staff members; it is very clear that they are well-trained and very knowledgeable of their primary as well as of their secondary duties. This group is well led and is organized to perform all duties in compliance with all regulatory requirements.

During the interview process, Morrison and Company discussed the voluntary arbitrator program and was pleased to learn that the program has a large pool of very active and very competent arbitrators. The pool consists primarily of successful business professionals who are performing a community service. When the arbitrator is called for a case it is unusual to find a situation when the arbitrator will not serve, even on short notice. The pool of arbitrators is one of the most positive observed in a BBB AUTO LINE Program office.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Ohio Lemon Law; Ohio Administrative Code.**

## **2. Hearing Process**

### **a. Openness of Hearing**

The hearing which Morrison and Company attended was open to certain observers, such as BBB AUTO LINE Program staff and government observers; however, there were no other observers in attendance. It was learned from discussions with staff that no person, unless a party to the case, may attend a hearing without agreement of the consumer and arbitrator. This position has been ruled upon in a Federal Trade Commission staff opinion.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Ohio Lemon Law; Ohio Administrative Code.**

### **b. Effectiveness of Hearing**

To determine the efficiency of the hearing process, Morrison and Company observed the re-hearing of a case due to the consumer's dissatisfaction with performance of repairs initially ordered by the hearing officer. After everyone was seated the Dispute Resolution Specialist obtained the consumer's signature on the agreement to arbitrate and announced that the agreement had already been signed by the manufacturer and the manufacturer's representative presenting that side of the case by telephone, even though this is not normal operating

procedure. The actual hearing itself was very well administered. Utilizing the many valuable forms and pre-hearing procedures, the arbitrator ensured that the parties were well advised of the procedures and rules. Testimony was given by both parties, with each party given ample opportunity to challenge and question each other. The arbitrator then recessed the hearing by terminating the telephone connection with the manufacturer, left the other party in the hearing room, and departed for an inspection and test drive of the consumer's vehicle.

After the test drive was completed by the arbitrator, he returned to the hearing room, the manufacturer's representative was reconnected on the telephone, and the remainder of the testimony was received by the arbitrator who asked questions of each of the parties, and then concluded the hearing.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Ohio Lemon Law; Ohio Administrative Code.**

### **c. Decision-Making**

The hearing was conducted in full compliance with the BBB AUTO LINE Program procedures; the arbitrator's commitment to fair and expeditious resolution of the dispute was clearly apparent. The arbitrator ensured that all parties had an opportunity to present any testimony or information they wished in support of their positions. It was apparent that the hearing was fair and that it was handled in a manner which meets or exceeds all regulatory requirements and the BBB AUTO LINE Program requirements.

As stated in the previous section, Morrison and Company does not attempt to second guess arbitration decisions; however, in evaluating a decision, Morrison and Company does make an attempt to determine whether the decisions are fact-based and whether this results in a reasonable, consistent decision. Morrison and Company discussed the case with the arbitrator after the conclusion; he courteously supplied Morrison and Company with the law upon which he was relying, the logic he applied to the facts, and the conclusion he reached. This information and these conversations lead Morrison and Company to the conclusion that the requirements of this section are being met.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the**

**specific requirements of Magnuson-Moss Act; Rule 703; Ohio Lemon Law; Ohio Administrative Code.**

## **C. TENNESSEE**

### **1. Hearing Site**

#### **a. Facilities**

The facilities of the BBB AUTO LINE Program are located in Suite 200, 1010 Market Street, Chattanooga, Tennessee 37402. This location is in the heart of the city of Chattanooga, in a medium-sized office building, with adequate parking in a public parking facility across the street. The office is on the second floor directly across from the elevator entrance.

The office itself is very large and spread out, with a very spacious, well appointed conference room where all hearings are conducted. The access to the conference room is through a relatively long corridor which is locked after leaving the waiting room to go toward the hearing site.

The office is well-equipped, with needed electronic equipment to supply the entire staff; there are adequate materials to accomplish the required tasks.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act and Rule 703.**

#### **b. Personnel**

The staff at this office are very well trained for the jobs they perform, and they appear to enjoy their work. The *esprit de corps* in this office is very high, and the level of knowledge is commensurate with job responsibilities. The President/CEO of the office is Ms. Kathryn (Katy) M. Conklin, who appears to be personally involved in all of the activities in the office, including the BBB AUTO LINE function; from all appearances she has the skills and the talents to run a successful organization. Ms. Gidget M. Knight, the Director of Operations and Dispute Resolutions, is directly responsible to the President for the BBB AUTO LINE section.

Due to the case load requirements, Ms. Knight is the primary person who handles all of the activity pertaining to the operations of the

BBB AUTO LINE section. Morrison and Company also met with Ms. Evelyn Turney Vice President/ Chief Operations Officer of the BBB AUTO LINE Program, with whom there was a discussion of the personnel and staffing of the office. She, as well as everyone else in the office, expressed the need for arbitrator training and “hands-on” staff training in order to better handle the BBB AUTO LINE Program functions.

Ms. Gidget Knight, Director of Arbitrations, is the individual primarily responsible for communications with the Central Intake office in Arlington, Virginia. Not only is she responsible for communications with the BBB AUTO LINE Program office, but she is also responsible for arranging hearings, notifying consumers of their hearing dates and times, and arranging for the arbitrators to be present at the hearings and on time. When Morrison and Company visited their offices, Ms. Knight handled the hearing Morrison and Company observed.

When Morrison and Company discussed the duties of the staff members, it became very clear that they are well-trained and extremely knowledgeable of their primary duties, as well as of their secondary duties. During the interview process, Morrison and Company learned that the program has only a very small pool of trained active arbitrators. The office personnel are very concerned about the fact that there are a total of approximately twenty arbitrators with only five or six persons who are able to handle cases on a dependable basis. The pool of arbitrators is the situation which causes the greatest concern to Morrison and Company in this BBB AUTO LINE Program office.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act and Rule 703.**

## **2. Hearing Process**

### **a. Openness of Hearing**

16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703. 8(d) requires the decision making process to be open to observers on a reasonable and non-discriminatory basis. The hearing which Morrison and Company attended was open to observers, such as BBB AUTO LINE Program staff and government observers; however, no other observers were in attendance.

**This segment of the BBB AUTO LINE**

**Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act and Rule 703.**

**b. Effectiveness of Hearing**

In order to determine the efficiency of the hearing process Morrison and Company observed the hearing of a case. After everyone was seated, the Dispute Resolution Specialist accepted a phone call and introduced the voice on the line as the manufacturer representative. The arbitrator was sworn in by the Dispute Resolution Specialist, and the signature of the consumer was obtained on the Agreement to Arbitrate. The arbitrator asked the representative whether he could sign for the manufacturer; the representative agreed.

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act and Rule 703.**

**c. Decision making**

The arbitrator is exclusively responsible for the entire process of decision-making. The BBB AUTO LINE staff makes itself available to the arbitrator by providing assistance if questions arise pertaining to forms regarding the decision, for clerical assistance, or for other aid the arbitrator may need. This help does not impair the independence of the decision-making process. Morrison and Company did not observe any situations where the integrity of the decision-making process was compromised by the BBB AUTO LINE Program or by any of its employees.

**SECTION 5: RECOMMENDATIONS AND CONCLUSIONS**

**A. FLORIDA**

No recommendations.

The CBBB AUTO LINE Program in Arlington Virginia and the BBB AUTO LINE Program in Clearwater, Florida, as well as the other BBB AUTO LINE Program offices throughout the state of Florida work well with each other and with regulating agencies in the state of Florida. This unique relationship has resulted in both the state agencies of Florida and the BBB AUTO LINE Program functioning in harmony.



The Clearwater Arbitration/Mediation Site is a well-organized and professionally operated program. The decisions and the stated reasons for the decisions are well thought-out, thorough, and consistent with the facts presented. The Clearwater office operates, as in the past, in an exemplary fashion. This program continues to be an excellent model of one type of program, as it was envisioned by the writers of the regulations. Morrison and Company's review of the activities of this office indicates that the BBB AUTO LINE Program staff in Clearwater performs all required tasks and goes well beyond by working expeditiously as a highly proficient group whose performance is outstanding.

## **B. OHIO**

No recommendations.

The state has a very detailed "Lemon Law" which works very well within the state of Ohio. From the observations of Morrison and Company, there are no noticeable areas of deficiency. The BBB AUTO LINE Program is handling its responsibilities and the Ohio Attorney General's Office is very vigilant in regulating the programs operating there as mandated by the "lemon law". Both the Ohio BBB AUTO LINE Program and the Ohio Attorney General's Office are doing the jobs envisioned by the drafters of the state and federal laws. Morrison and Company has found the Columbus office staff to be an extremely well-trained and committed group of professionals dedicated to providing fair and expedient resolution of dispute programs for the citizens of the state of Ohio.

## **C. TENNESSEE**

It is recommended that the BBB AUTO LINE Program consider having a training session in the Chattanooga area, so that the staff can enlarge its pool of active arbitrators. This office needs several trained arbitrators to replenish the current pool. These arbitrators are needed to handle the present case load and to provide alternative resourcing. Another idea mentioned to Morrison and Company in Chattanooga, is the possibility of having meetings, or other types of personal contact for arbitrators in different areas of the United States, so that they might discuss cases as well as ways of improving their skills and knowledge base as arbitrators. Also, professional training for staff members in the Chattanooga BBB AUTO LINE Program would be helpful so that staff can be cross-trained in several job descriptions. This would improve the value of each person in the BBB AUTO LINE Program and in the general functions of the office.

The Chattanooga, Tennessee BBB AUTO LINE Program operates with a dedicated group of professionals who are dedicated enough to their work to

request further training; they provide excellent service for the residents of the area.

**CHAPTER THREE**

**OFFICE PRACTICES  
AND  
RECORD-KEEPING  
PROCEDURES**

## **CHAPTER 3: OFFICE PRACTICES AND RECORD-KEEPING PROCEDURES**

### **SECTION 1: INTRODUCTION**

An audit of the BBB AUTO LINE Program is required by Magnuson-Moss Act under the rules of 16 C.F.R. Part 703, Informal Dispute Settlement Procedures. This audit is needed to verify that the records kept by the BBB AUTO LINE Program are accurate and properly filed.

The audit locations have been selected to afford differing types of offices, locations, and information. As stated previously, Florida and Ohio have regulations which require individual state audits, and local operations in those states must be audited each year. The Chattanooga Better Business Bureau was chosen since it has not been audited in the recent past.

Each section of the record-keeping statutes must be audited individually to assure that all requirements of that section are being met; thus, this chapter is divided into segments based upon individual segments of 16 C.F.R., § 703.6(a)(1-12), § 703.6(b-f), and § 703.7(b)(3)(i); Florida Lemon Law § 681.108(3); Florida Administrative Code § 5J-11.006; and Ohio Administrative Code § 109:4-4-04(D) and (E) as follows:

Segment 1: Name, address, telephone number of the consumer

Segment 2: Name, address, telephone number, and contact person of the warrantor

Segment 3: Brand name and model number of the product involved

Segment 4: The date of receipt of the dispute and the date of disclosure to the consumer of the decision

Segment 5: All letters or other written documents submitted by either party

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

Segment 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

Segment 9: A copy of the disclosure to the parties of the decision

Segment 10: Statement of the warrantor's intended action(s)

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

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

Segment 13: The mechanism shall maintain an index of each warrantor's disputes grouped under brand name and sub grouped under product model

Segment 14: The mechanism shall maintain an index for each warrantor showing failure to comply with performance of settlements or decisions

Segment 15: The mechanism shall maintain an index as will show all disputes

delayed beyond 40 days

Segment 16: The Mechanism shall compile semi-annually and maintain statistics which show the number and percent of disputes in each of several categories: . . .

Segment 17: The Mechanism shall retain all specified records for at least 4 years after final disposition of the dispute

Segment 18: Adequacy of the Mechanism's complaint and other forms, investigation, mediation, and follow-up efforts, and other aspects of complaint handling

## **SECTION 2: STATUTORY REQUIREMENTS**

**[Please refer to appendices for the complete text of all related laws, statutes, and regulations]**

### **A. NATIONAL**

**Code of Federal Regulations; Title 16 -- Commercial Practices; Chapter I -- Federal Trade Commission Public Law 93-637: the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act, Title I - Chapter 50 - Consumer Product Warranties Subchapter G -- Rules, Regulations, Statements and Interpretations under the Magnuson-Moss Warranty Act; Part 703 -- Informal Dispute Settlement Procedures.**

### **B. FLORIDA**

**Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law]**

**Florida Administrative Code Annotated, Title 5 Department of Agriculture and Consumer Services Division of Consumer Services, Chapter 5J-11 Dispute-Settlement Procedure Certification**

### **C. OHIO**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4**

## **SECTION 3: CONDITIONS**

As previously noted in the introduction, audits have been conducted in the spring of the calendar year, 2000, with the understanding that the activities of the BBB AUTO LINE Program will be reflective of the calendar year, 1999. A minimum of fifty randomly selected files representing case activity of each of the audited hearing sites have been thoroughly audited and reviewed for information as shown in each section

below.

In each segment listed below, Morrison and Company will review the record-keeping procedures of the BBB AUTO LINE Program and the local BBB AUTO LINE Programs. To meet the specific requirements of the Florida laws and of the Ohio laws, Morrison and Company has made separate notations under the findings section of this chapter discussing how the specific requirements pertaining to each of these two states differ from the national requirements.

## **SECTION 4: FINDINGS**

### **Segment 1**

#### **A. NATIONAL**

##### **a. Statutes**

###### **1. 16 C.F.R. Part 703, § 703.6(a)(1)**

Name, address, telephone number of the consumer

##### **b. Discussion**

The information required in this section can be found easily in the case files in one or more of the following documents:

a. the "Consumer Claim" form, an intake form which is completed during the consumer's initial contact with the CBBB AUTO LINE Program's Central Intake Center.

b. the "Call Records" (the computer entries and log), a form which contains the exact date of the initial contact with the CBBB AUTO LINE Program, which is the date the dispute is opened, with the exception of the states of Florida and California, in which the opening date of the file is the date the first contact is made to the CBBB AUTO LINE Program by the consumer.

With respect to the notification to the parties of the dispute, after the first contact has been made and the "Call Record" form has been completed and entered into the computer, it is forwarded to the warrantor's contact person to initiate conciliation. Conciliation is a pre-mediation informal dispute settlement process. This process serves as notification to the parties; the arbitrated case files contain notification of the proceedings after a reasonable time.

c. the “Arbitration Record”, a form which documents all activity performed by the consumer, manufacturer, and the BBB AUTO LINE Program in each particular case. The decisions Morrison and Company reviewed are very detailed and are written consistently with the Operations Manual’s instructions. The “Decision” forms are supplemented by “Reasons for Decisions” forms. These forms and other related forms are maintained as part of each case file.

All this information can be found easily in these documents and there were no cases found where the file did not contain the required information. The decisions are in sufficient detail that anyone could easily understand the decision and how it was reached.

The most confusing area relates to vehicle mileage and the off-set to which the manufacturer is entitled upon re-purchase of the vehicle. In the cases Morrison and Company reviewed, when a re-purchase is ordered, the computation of the off-set is properly accomplished, even though many of the states use different formulas to arrive at the proper amount of the off-set. The information concerning mileage off-sets and the deductions for damage beyond normal, are handled in detail, and the decisions have been appropriate, based upon the facts in the case.

## **B. FLORIDA**

### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] , § 681.108(3)(a)**

(3) A certified procedure or a procedure of an applicant seeking certification shall submit to the division a copy of each settlement approved by the procedure or decision made by a decision-maker within 30 days after the settlement is reached or the decision is rendered. The decision or settlement must contain at a minimum the:

(a) Name and address of the consumer;

#### **b. Discussion**

In Florida, this requirement is contained in Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108(3)(a) where only the name and address of the consumer is required.

The information required in this section can easily be found in the case files in one or more of the following documents:

a. the “Consumer Claim Form” (which functions as an intake form completed during the consumer’s initial contact with the

- Central Intake Center,
- b. the “Call Records (“computer entries and log),
- c. the “Automotive Case Record” and
- d. the “Automotive Arbitration Record”.

## **C. OHIO**

### **a. Statutes**

#### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D(1)(a)**

- (a) Name, address and telephone number of the consumer;

### **b. Discussion**

The information required in this section can easily be found in the case files in one or more of the following documents:

- a. the “Consumer Claim Form” (which functions as an intake form completed during the consumer’s initial contact with the Central Intake Center),
- b. the “Call Records” (computer entries and log),
- c. the “Automotive Case Record” and
- d. the “Automotive Arbitration Record”.

## **Segment 2**

## **A. NATIONAL**

### **a. Statutes**

#### **1. 16 C.F.R. Part 703, § 703.6(a)(2)**

- 2. Name, address, telephone number, and contact person of the warrantor

### **b. Discussion**

In every file reviewed at each field audit site, Morrison and Company found that each case file contains the name of at least one warrantor representative who interacts with the program’s staff prior to arbitration. When the case goes to arbitration, the case file also contains the name of the warrantor’s representative who is participating at the hearing. This information is available in the “Case File Notes” form and also from the BBB AUTO LINE Program “Call Record”, which is part of the



computer entry of the activity of the case.

## **B. FLORIDA**

### **a. Statutes**

**Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties  
[Florida Lemon Law], § 681.108(3)(b)**

(b) Name of the manufacturer and address of the dealership from which the motor vehicle was purchased;

### **b. Discussion**

This requirement has several features which are not contained in 16 C.F.R., part 703, in effect, October 1, 1983, listed below as follows:

1. The name of the manufacturer
2. The address of the dealership from which the vehicle was purchased.

From the review of the Florida files in the Clearwater arbitration/mediation office of the BBB AUTO LINE Program, it has been found that all of the randomly audited files contain the required information.

## **C. OHIO**

### **a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(b)**

(b) Name, address, and telephone number of the contact person designated by the warrantor under paragraph (F)(1) of rule 109:4-4-03 of the Administrative Code;

### **b. Discussion**

The review of randomly selected Ohio cases found the information in each of the files. The information is not always in the same position, mainly due to the manner in which each case develops. The telephone log from the CBBB AUTO LINE Program Central Intake Center usually contains this information, but if not, it can be found in the case file or on the "Decision" or "Reason for Decision" forms. Each of the case files has been found to be complete and each has been found to contain all

required documents.

### **Segment 3**

#### **A. NATIONAL**

##### **a. Statutes**

###### **1. 16 C.F.R. Part 703, § 703.6(a)(3)**

3. Brand name and model number of the product involved

##### **b. Discussion**

Morrison and Company found brand names and model numbers of each vehicle clearly reported in every file. It is very apparent that this requirement has been established as the base of performance for the handling of files.

#### **B. FLORIDA**

##### **a. Statutes**

###### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(1)**

This particular requirement is not contained in the Florida statute; however, the obligation still exists for the BBB AUTO LINE Program to have that information in light of the fact that Florida has a provision in Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108(1) which states in part, as follows:

(1). The decision-makers for a certified procedure shall, in rendering decisions, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances. Decision-makers and staff of a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983.

##### **b. Discussion**

By reason of this provision, the requirements and other

responsibilities under 16 C.F.R., part 703, in effect, October 1, 1983 are an integral part of the Florida Law. An examination of the records and a random review of files has found the required information in each of the files reviewed, which meets the requirement of 16 C.F.R., part 703, in effect, October 1, 1983 and the rules of the state of Florida.

## **C. OHIO**

### **a. Statutes**

#### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(c)**

(c) Makes, models and vehicle identification numbers of the motor vehicles;

### **b. Discussion**

Morrison and Company found brand names and model numbers of each vehicle clearly reported in every file. In Ohio, the review of random files shows that this requirement is being met.

An examination of the records and a random review of files found the required information in each of the files reviewed, which meets the requirement of 16 C.F.R., part 703, in effect, October 1, 1983, and of the rules of the state of Ohio.

## **Segment 4**

## **A. NATIONAL**

### **a. Statutes**

#### **1. 16 C.F.R. Part 703, § 703.6(a)(4)**

4. The date of receipt of the dispute and the date of disclosure to the consumer of the decision

### **b. Discussion**

The BBB AUTO LINE Program considers “the date of receipt of the dispute” to be the date it receives a “Consumer Claim” form from the consumer. The date of disclosure of a decision is the same date that the decision is signed by the arbitrator and mailed to the consumer and to the warrantor. This date is different in the states of California and Florida, both of which recognize the “date of receipt” as the date of first contact,

which is usually the first phone call the consumer makes to the CBBB AUTO LINE Program office.

## **B. FLORIDA**

### **a. Statutes**

#### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(3)(c)**

(c) Date the claim was received and the location of the procedure office that handled the claim;

### **b. Discussion**

In Florida, Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(3)(c) requires that the file contain the following:

1. the date the claim was received
2. the name and address of the office which handled the claim.

This information is found in the case record file and also in those cases which went to arbitration; the arbitration file contains this information and no discrepancies have been found.

## **C. OHIO**

### **a. Statutes**

#### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(d)**

(d) The date of receipt of the dispute and the date of disclosure to the consumer of the decision;

### **b. Discussion**

In Ohio, the requirement is contained in Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(d), which is almost identical to 16 C.F.R. Part 703, § 703.6(a)(4). In reviewing the Ohio files, there were no discrepancies found and the records meet the requirements of this section of both laws.

## Segment 5

### A. NATIONAL

#### a. Statutes

##### 1. 16 C.F.R. Part 703, § 703.6(a)(5)

5. All letters or other written documents submitted by either party

#### b. Discussion

Morrison and Company found that the files contain the information referred to in this section; however, there are no absolute standards by which to measure this information, thus there can be no certain conclusions reached. Morrison and Company can, however, make note of the fact that these materials are present in every file reviewed. This information appears to be in the same order in each reviewed file, and the similarity of materials leads to the conclusion that a concerted effort is being made to comply with these requirements. Nothing of note seems to be out of order. It appears that this requirement has been met.

### B. FLORIDA

#### a. Statutes

##### Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(3)(d)

None

#### b. Discussion

Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108(d) does not have a requirement as noted above, which requires the state to rely upon the language of 16 C.F.R., part 703, in effect, October 1, 1983.

### C. OHIO

#### a. Statutes

##### Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(e)

(e) All letters or other written documents submitted by either party;

## **b. Discussion**

In Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(e) of the Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes, the identical requirements are contained in 16 C.F.R., part 703, in effect, October 1, 1983, and the results in the Ohio portion are the same as in the general national audit. As noted above, there is no absolute way to verify the precise information without direct interview. Morrison and Company's opinion is based upon the conclusion that the typical types of documents are present in the reviewed files and no discrepancies appeared.

## **Segment 6**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 703.6(a)(6)**

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 persons (including consultants described in § 703.4 [b])

#### **b. Discussion**

In reviewing the case files conducted at each of the hearing sites, Morrison and Company found that many files contain the type of information referred to in Segment 6, which deals with other evidence collected in the process of hearing the disputes. Voluminous materials were found in the reviewed files, but there is no way to prove there were no other records.

Since there are no objective standards against which to measure such information, Morrison and Company can draw no absolute conclusions. Rather, the existence of the materials is noted, and the suggestion is made that these requirements are not applicable to standard auditing methods. The reviewed files and the similarity of materials lead Morrison and Company to the conclusion that a concerted effort is being made to comply with these requirements. Nothing of note appears to be out of order.

## **B. FLORIDA**

### **a. Statutes**

**Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties  
[Florida Lemon Law], § 681.108(3)**

None

### **b. Discussion**

Florida statutes do not contain a similar provision to the one quoted above, but that is not necessary in the state of Florida, since it relies upon rule 703.

## **C. OHIO**

### **a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute  
Resolution Programs for Settlement of New Motor Vehicle  
Warranty Disputes § 109:4-4-04(D)(1)(f)**

(f) All other evidence collected by the board relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the board and any other person (including neutral consultants described in paragraph (B)(4) or (C)(4) of this rule);

### **b. Discussion**

Since there are no objective standards against which to measure such information, Morrison and Company can draw no absolute conclusions. Rather, the existence of the materials is noted, and the suggestion is made that these requirements are not applicable to standard auditing methods.

In Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(f), the identical requirements are contained in 16 C.F.R., part 703, in effect, October 1, 1983, and the results in the Ohio portion are the same as in the general national audit. As noted above, there is no absolute way to verify the precise information without direct interview. Morrison and Company's opinion is based upon the conclusion that the typical types of documents are present in the reviewed files and

no discrepancies have been found.

## **Segment 7**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 703.6(a)(7)**

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

#### **b. Discussion**

Every case which results in an arbitration is audio-taped during the hearing, with the exception of General Motors hearings; either the tapes or a "Record of Hearing" form is stored for the required four years. The CBBB's comprehensive "Record of Hearing" form is completed and stored in the case file. In those cases where audio-tapes of hearings are kept, they do not remain with the stored case files. Even though the tapes are not maintained as part of the physical case file and at the same location, their existence is well known to the parties, regulators, and auditors, which makes them readily accessible for review, if requested or needed.

Additionally, some of the required information can be found in the "Arbitration" file, which is maintained for the required four years, also. Using this procedure meets the requirement of maintaining a record of the hearing for four years.

### **B. FLORIDA**

#### **a. Statutes**

##### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(3)**

None

#### **b. Discussion**

The state of Florida does not have a similar provision in Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] and relies on 16 C.F.R., part 703, in effect, October 1, 1983 which is incorporated by reference into the state statute.

### **C. OHIO**



**a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(g)**

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

**b. Discussion**

The Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109: 4-4-04(D)(g), is identical to the above 16 C.F.R. Part 703, § 703.6(7) and as in the federal rule, the Ohio review reached the same result. The records and tapes of the cases are stored in different locations, but in every case file reviewed there was a “Reasons for Decision” form and a “Decision” form with supporting tape recordings.

The change by General Motors has resulted in cases not being recorded, but the “Reason for Decision” form and the “Decision” form are present in these files which meet the requirements of the state of Ohio, and no discrepancies were noted.

**Segment 8**

**A. NATIONAL**

**a. Statutes**

**1. 16 C.F.R. Part 703, § 703.6(a)(8)**

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

**b. Discussion**

This information is maintained in the “Decision” form and in the “Reasons for Decision” form, or if not there, as part of the “Record of Hearing” form, which is maintained as part of the case file. In those cases where the meeting is audio-taped and the tape is retained as the record of the proceedings, the tape-recording is kept separately from the files but it is kept in storage for the required four years, as well.

**B. FLORIDA**

**a. Statutes**

**Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(3)(d)(e)**

(d) Relief requested by the consumer;

(e) Name of each decision-maker rendering the decision or person approving the settlement;

**b. Discussion**

In the Florida statutes, the language is not in conformity with 16 C.F.R., part 703, in effect, October 1, 1983, but there are several sections of the Florida Law which deal with various aspects of this rule. Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108(3)(d) calls for the relief requested by the consumer and Section (3)(e) requires the name of each decision-maker rendering the decision or person approving the settlement.

This information may be found in the “Decision” form and/or the “Reasons for Decision” form. Parts of this information may also be found in the “Record of Hearings” form or even the actual audio recording of the hearings in all cases except General Motors cases which are no longer recorded.

When Morrison and Company reviewed files, this information was found in one or more locations. Based upon the results of this review, Florida exceeds the requirements of the state of Florida.

**C. OHIO**

**a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D(1)(h)**

(h) The decision of the arbitrators, including information as to date, time and place of meeting and the identity of arbitrators voting, or information on any other resolution;

**b. Discussion**

The requirements of the state of Ohio are the same as those in 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, in effect,

October 1, 1983. In the Ohio Revised Code, the requirement is contained in Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109-4-4-04(D)(h).

## **Segment 9**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 703.6(a)(9)**

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

#### **b. Discussion**

In reviewing files to determine compliance with 16 C.F.R. Part 703, § 703.6(a)(9), the “Completed Decision” form meets the “disclosure to the parties” requirement in that the final draft of the decision utilizes a form that serves as the decision disclosure. The case file’s copy of the decision is identical to the decision mailed to each party and includes the arbitrator’s decision, along with the arbitrator’s reasons for the decision.

### **B. FLORIDA**

#### **a. Statutes**

##### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108 (3)**

None

#### **b. Discussion**

This requirement is not dealt with specifically in the Florida statute nor in the rules, but the requirements are included in both the Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], and the Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification, in part. They do not directly contradict the language of 16 C.F.R., part 703, in effect, October 1, 1983.

### **C. OHIO**

#### **a. Statutes**

##### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute**

**Resolution Programs for Settlement of New Motor Vehicle  
Warranty Disputes § 109:4-4-04(D)(1)(i)**

(i) A copy of the disclosure to the parties of the decision;

**b. Discussion**

The language of 16 C.F.R., part 703, in effect, October 1, 1983 is repeated in Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-(04)(D)(i), and the same information applies as that above in reference to compliance in the national audit.

It has been determined that the disclosure is contained in the file which clearly shows the “Decision” form of the arbitrator and the “Reasons for the Decision” form. These are attached to the “Decision” form with the “Records of Mailing” form to the consumer.

**Segment 10**

**A. NATIONAL**

**a. Statutes**

**1. 16 C.F.R. Part 703, § 703.6(a)(10)**

10. Statement of the warrantor’s intended action(s)

**b. Discussion**

By participating in the BBB AUTO LINE Program, all manufacturers agree in advance to abide by the arbitration decision, as long as the decision falls within the scope of the “Agreement to Arbitrate” and the “Program Summary”. These agreements are entered into between the company and the BBB AUTO LINE Program; they contain the terms of the manufacturer’s participation in the program, as well as its responsibility to abide by, and to be bound to, a decision of the arbitrator of the BBB AUTO LINE Program.

In the randomly reviewed cases, it is very clear that compliance with BBB AUTO LINE Program decisions is the primary response, and any exception is rare; the resulting paperwork explaining the manufacturer’s reasons for refusing to abide by the decision must be extensive, and must be able to show how the arbitrator failed to properly handle the case. This paperwork is maintained as a part of the permanent case file.

Because of the extensive paper trail created by the manufacturer in explaining the refusal to comply with the decision, there is no reason for a special form to explain the manufacturer's refusal to comply with the BBB AUTO LINE Program's arbitration decision. The reason for this procedure has been confirmed by the BBB AUTO LINE Program attorney.

## **B. FLORIDA**

### **a. Statutes**

#### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.101 - Legislative Intent**

This specific language does not appear in Florida statutes, but in reading the entire Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], there are numerous references to the duty of the manufacturer to carry out its responsibilities to the consumers of its products. In Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.101, reference is made to the following:

. . . .the intent of the Legislature that a good faith motor vehicle warranty complaint by a consumer be resolved by the manufacturer within a specified period of time.

### **b. Discussion**

In the files reviewed, there are very few case files where the manufacturer failed to perform its responsibilities as outlined in the case decision. Where any confusion with the decision existed, it was usually worked out between the parties and well-documented in the case file.

## **C. OHIO**

### **a. Statutes**

#### **2. Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D(1))**

None

## **b. Discussion**

Based upon Morrison and Company's discussions with the BBB AUTO LINE Program staff in Columbus, Ohio, and in reviewing the files and procedures instituted in the Columbus program, it is clear that BBB AUTO LINE Program staff understand the requirements of the Ohio Revised Code and are making serious efforts to follow, not only the rule of law, but also the intent of the law.

## **Segment 11**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 703.6(a)(11)**

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

#### **b. Discussion**

This section requires follow-up letters, summaries, telephone calls, and the responses thereto; again, these are not appropriate for standard auditing methods since there is no objective standard by which to measure. Morrison and Company's review of case files revealed the existence of the referenced materials in many of the case files reviewed. Although there is no known method to discover if all required information has been included, Morrison and Company found nothing to suggest a discrepancy with this requirement.

### **B. FLORIDA**

#### **a. Statutes**

##### **Rule 5J-11.006 Decision of Dispute Resolution Mechanism**

(1) All decisions rendered pursuant to a certified dispute-settlement procedure shall be signed by a decision-maker and shall disclose how each decision-maker voted.

(2) All decisions, final or otherwise, provided to consumers shall contain the following information, if applicable:

(a) A statement setting forth the issue presented by the parties to the decision-makers;

(b) A statement setting forth the specific terms of the decision and a reasonable time for performance;

(c) A list of the materials and documents submitted by the parties for consideration;

(d) A statement setting forth the basis upon which the decision-makers made their determination, and indicating the specific documents relied upon;

(e) The following statement in bold print:

The consumer may reject this decision and, if eligible, may pursue arbitration with the Florida New Motor Vehicle Arbitration Board administered by the Office of the Attorney General. To obtain information about eligibility for the state-run arbitration program, the consumer should contact the Division of Consumer Services' Lemon Law Hotline at 1-800-321-5366. PLEASE BE ADVISED that Section 681.109(4), F.S., provides that the consumer must file the Request for Arbitration within 6 months after the expiration of the Lemon Laws rights period, or within 30 days after the final action of a certified dispute-settlement procedure, whichever date occurs later.

(f) The address of the Division of Consumer Services, Lemon Law Section.

(g) If it is determined that the certified dispute-settlement procedure has no jurisdiction to decide the consumer's dispute, a statement setting forth the basis for such determination.

## **b. Discussion**

In Florida, as in many other jurisdictions, the precise language contained in this section is not used, but the mandated language is covered in other areas of the Florida law. In Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification; § 5J-11.006, the rule specifically sets forth the procedures the decision-maker is to follow and what the decisions are to include. Based upon Morrison and Company's observations, and in reading the case files, it is very clear that every effort is made to comply with this rule; there was no evidence to conclude otherwise. The reviewed files disclose that the procedures followed in Florida meet the requirements of both the national law and the Florida laws and regulations.

## **C. OHIO**

**a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(j)**

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

**b. Discussion**

In Ohio, Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(11) outlines the requirements for copies of the follow-up letters and other materials. This and the Federal requirements are exactly the same and the problem is the same.

The language of this rule is too vague for Morrison and Company to certify compliance. But from the review of case files and the arbitration files, the records are complete and have been processed properly.

**Segment 12**

**A. NATIONAL**

**a. Statutes**

**1. 16 C.F.R. Part 703, § 703.6(a)(12)**

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

**b. Discussion**

As with the above requirements, this section requires any other documents and all communications relating to the dispute to be on file. This type of requirement, again, is not subject to standard auditing methods since there is no objective standard by which to measure the materials.

Morrison and Company's review of the randomly selected case files revealed the existence of these materials in the cases reviewed. Although there is no means by which to discover if all required information has been included, the review has not found anything to suggest that a discrepancy exists.



## B. FLORIDA

### a. Statutes

#### **Rule 5J-11.006 Decision of Dispute Resolution Mechanism**

(1) All decisions rendered pursuant to a certified dispute-settlement procedure shall be signed by a decision-maker and shall disclose how each decision-maker voted.

(2) All decisions, final or otherwise, provided to consumers shall contain the following information, if applicable:

(a) A statement setting forth the issue presented by the parties to the decision-makers;

(b) A statement setting forth the specific terms of the decision and a reasonable time for performance;

(c) A list of the materials and documents submitted by the parties for consideration;

(d) A statement setting forth the basis upon which the decision-makers made their determination, and indicating the specific documents relied upon;

(e) The following statement in bold print:

The consumer may reject this decision and, if eligible, may pursue arbitration with the Florida New Motor Vehicle Arbitration Board administered by the Office of the Attorney General. To obtain information about eligibility for the state-run arbitration program, the consumer should contact the Division of Consumer Services' Lemon Law Hotline at 1-800-321-5366. **PLEASE BE ADVISED** that Section 681.109(4), F.S., provides that the consumer must file the Request for Arbitration within 6 months after the expiration of the Lemon Laws rights period, or within 30 days after the final action of a certified dispute-settlement procedure, whichever date occurs later.

(f) The address of the Division of Consumer Services, Lemon Law Section.

(g) If it is determined that the certified dispute-settlement procedure has no jurisdiction to decide the consumer's dispute, a statement setting forth the basis for such determination.

## **b. Discussion**

As with the above requirements, this section calls for any other documents and all communications relating to the dispute to be kept on file. This type of requirement is not subject to standard auditing methods, since there is no objective standard by which to measure the materials.

In Florida, as in many other jurisdictions, the precise language contained in this section is not used; however, the mandated language is covered in other areas of Florida law. In Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification; § 5J-11.006, the rule specifically sets forth the procedures the decision-maker is to follow and what the decisions are to include, which can be construed to mean whether the specific requirements of the law are being met.

The reviewed files disclose that the procedures followed in Florida meet the requirements of both the national law and the Florida laws and regulations.

## **C. OHIO**

### **a. Statutes**

#### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(1)(k)**

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

### **b. Discussion**

In Ohio, the Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(11) outlines the requirements for copies of the follow-up letters and other materials. This rule and the federal requirements are exactly the same; therefore, the problem is, again, the same.

The language is too vague to certify compliance,<sup>66</sup> but from the review of the case files and the arbitration files, the records appear to be complete and they appear to have been processed properly.

## **Segment 13**

## **A. NATIONAL**

### **a. Statutes**

#### **1. 16 C.F.R. Part 703, § 703.6(b)**

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

### **b. Discussion**

Morrison and Company's review of the index supplied by the CBBB AUTO LINE Program, containing the information required by this section, has been found to be both complete and consistent with the regulatory requirements. This semi-annual documentation provides an avenue with which to compare the periods of documentation in order to get an idea of the difference in each semi-annual period as compared with the entire annual period as a whole. The data required by this section will be relied upon heavily in later parts of this report.

## **B. FLORIDA**

### **a. Statutes**

#### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(4)(5)**

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

(5) The division shall review each certified procedure at least annually, prepare an annual report evaluating the operation of certified procedures established by motor vehicle manufacturers and procedures of applicants seeking certification, and, for a period not to exceed 1 year, shall grant certification to, or renew certification for, those manufacturers whose procedures substantially comply with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and rules adopted under this chapter. If certification is revoked or

denied, the division shall state the reasons for such action. The reports and records of actions taken with respect to certification shall be public records.

#### **b. Discussion**

The language of 16 C.F.R. Part 703, § 703.6(b) is not specifically contained in the Florida Law, but the intent is found in Florida statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108(4) which requires an audit in compliance with C.F.R. part 703, in effect October 1, 1983, and requires that the report show the number of refunds and replacements made during the audit period. The state of Florida requires any program which wishes to be certified or desires to be re-certified in the state of Florida to show substantial compliance with 16 C.F.R., part 703, in effect, October 1, 1983, Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], and Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification.

### **C. OHIO**

#### **a. Statutes**

##### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(3)**

(3) The board shall maintain an index for each warrantor which will show:

- (a) All disputes in which the warrantor has agreed to perform any obligations as part of a settlement reached after notification of the dispute or has been ordered to perform any obligations as the result of a decision under paragraph (C)(5) of this rule and has failed to comply; and
- (b) All disputes in which the warrantor has refused to abide by an arbitration decision.

#### **b. Discussion**

The focus of the requirements of 16 C.F.R. Part 703, § 703.6(b) is different from the prior sections in that the requirements of this section shift from the general to the specific. From this point on, the rule makes specific requirements and mandates that the auditor shall maintain certain indexes and that the form of the indexes is clear.

In Ohio, the requirement is the same as in 16 C.F.R. Part 703, § 703.6. The specific requirement is contained in Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-(D)(3) where the requirements mandate that the BBB AUTO LINE Program maintain an index of each manufacturer's disputes grouped under make, and sub-grouped under model. This is being accomplished by the CBBB AUTO LINE Program office in Arlington, Virginia. In the process of this audit, a copy of the national audit and the Ohio audit was provided to Morrison and Company for review and evaluation. The materials Morrison and Company reviewed are in compliance with both the Ohio Law and 16 C.F.R., part 703, in effect, October 1, 1983.

## **Segment 14**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 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;
2. All disputes in which the warrantor has refused to abide by a Mechanism decision.

#### **b. Discussion**

Morrison and Company's evaluation of the CBBB AUTO LINE Program records has disclosed that the required index is maintained as required, and that the program reports no instances in which a warrantor refused to abide by a decision without justification; in these cases the warrantor supplied evidence to support the contentions. The files in these cases are well documented.

### **B. FLORIDA**

#### **a. Statutes**

**Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties**

## **[Florida Lemon Law], § 681.108**

This section of the Florida statutes is the heart of Informal Dispute Settlement Procedures. It contains all of the requirements and directions for a manufacturer to become certified in the state of Florida to allow the manufacturer to compel prior resort. This section is printed in full in the appendices of this audit and if you are interested in certification in Florida this section is must reading in very fine detail.

### **b. Discussion**

These statistics are one of the sets of data needed in order to determine to what degree the manufacturers are performing. These statistics explain a great deal about each manufacturer and their commitment to excellence. In the case of this audit, there appear to be very few cases of this type in the state of Florida.

This is most likely due to quality work performed by the Florida Department of Agriculture, Division of Consumer Services, in aiding consumers when a problem develops in the relationship with the manufacturer. The BBB AUTO LINE Program, with the aid of the Department of Agriculture and Consumer Services, have made sure this type of case is corrected.

## **C. OHIO**

### **a. Statutes**

#### **2. Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(3)**

(3) The board shall maintain an index for each warrantor which will show:

- (a) All disputes in which the warrantor has agreed to perform any obligations as part of a settlement reached after notification of the dispute or has been ordered to perform any obligations as the result of a decision under paragraph (C)(5) of this rule and has failed to comply; and
- (b) All disputes in which the warrantor has refused to abide by an arbitration decision.

### **b. Discussion**

Morrison and Company's evaluation of this section included files of the CBBB AUTO LINE Program in Columbus, Ohio, and in Arlington Virginia, where the indexes are maintained as required; the program has reported no instances in which a manufacturer refused to abide by a BBB AUTO LINE Program decision without justification. In these cases, the manufacturer supplied evidence to support its contentions and the files in these cases are well documented.

## **Segment 15**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 703.6 (d)**

The mechanism shall maintain an index as will show all disputes delayed beyond 40 days.

#### **b. Discussion**

Without a request from Morrison and Company, the CBBB provided a comprehensive statistical index showing each case delayed beyond forty days for each participating manufacturer. It is maintained as required.

### **B. FLORIDA**

#### **a. Statutes**

##### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108(4)(5)**

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

(5) The division shall review each certified procedure at least annually, prepare an annual report evaluating the operation of certified procedures established by motor vehicle manufacturers and procedures of applicants seeking

certification, and, for a period not to exceed 1 year, shall grant certification to, or renew certification for, those manufacturers whose procedures substantially comply with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and rules adopted under this chapter. If certification is revoked or denied, the division shall state the reasons for such action. The reports and records of actions taken with respect to certification shall be public records.

**b. Discussion**

The language above is very clear and important to the operations of Certified Mechanisms in the state of Florida. This language is critical if a manufacturer is a Certified Mechanism in Florida or if a manufacturer wishes to be certified.

**C. OHIO**

**a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(4)**

(4) The board shall maintain an index that will show all disputes delayed beyond forty days.

**b. Discussion**

The requirement is basically the same in Ohio as it is nationally; it requires maintaining indexes showing disputes not resolved in forty days and the justification thereof. The indexes are maintained by the CBBB AUTO LINE Program and are provided to all states which require them, both semi-annually and annually. The ability to provide these indexes on demand shows that the requirement has been met.

**Segment 16**

**A. NATIONAL**

**a. Statutes**

**1. 16 C.F.R. Part 703, § 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, 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.

#### **b. Discussion**

The requirements of 16 C.F.R. Part 703, § 703.6 (e) have the language that places upon the Mechanism the responsibility to compile semi-annual reports which contain specific information about the operation of the Mechanism. This report is very valuable and important in determining the performance level of the BBB AUTO LINE Program.

The CBBB AUTO LINE Program has provided Morrison and Company with all the statistics called for in this section for the 1999 year. These statistics address completely all of the questions raised by the subsections, and thereby meet all of the requirements of the full section. The report filed by the CBBB AUTO LINE Program is well done and divides the data into four columns, with appropriate data in each of the columns, as follows:

1. total cases
2. percentage of all mediations
3. percentage of all arbitrations
4. percentage of all disputes.

## B. FLORIDA

### a. Statutes

#### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law]**

##### **[a] § 681.108(4)**

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

##### **[b] Rule 5J-11.010 Required Annual Audit of Dispute Resolution Mechanisms**

(1) Each manufacturer establishing a certified dispute-settlement procedure shall file with the Division an annual report relating to Florida consumers for the period ending December 31 of each year. The report shall be filed with the Division on or before July 1 of the following year.

(2) The annual report shall contain the following information relative to Florida consumers for the period audited:

(a) The information required under the provisions of 16 CFR § 703.7, relating to an annual audit;

(b) The number of disputes filed by consumers with the administrator of a certified dispute-settlement procedure, including the number of disputes dismissed or withdrawn by the consumer;

(c) The total number of decisions rendered under the certified dispute-settlement procedure broken down to specifically reference the number of decisions: ordering refunds; ordering additional repair attempts; ordering or recognizing trade assists; ordering partial refunds; concluding that the certified dispute-settlement procedure has no jurisdiction to decide the dispute; dismissing the dispute filed by the consumer; ordering a

replacement of the consumer's motor vehicle;  
ordering any other relief not specifically listed  
in this rule.

## **b. Discussion**

The Florida law is most inclusive in that it requires everything that 16 C.F.R., part 703, in effect, October 1, 1983 requires, plus all of the materials mentioned in Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108 (4) and Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification; § 11.010. In these sections there is a duplication of the information requested; however, the information provided to Morrison and Company covers the specific requirements. The information in which Florida shows a special interest is “the number of refunds and replacements made in this state”. In § 5J-11.010, the language is much more extensive.

The information sought by Florida is contained in numerous areas of this report; however, most of the statistical data requested will be covered extensively in a later section. At this point, from the perspective of Morrison and Company, the information sought by the state of Florida is in this report. The detailed coverage is complete and the information provided by the BBB AUTO LINE Program exceeds the requirements of the state of Florida.

## **C. OHIO**

### **a. Statutes**

#### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(5)(6)**

(5) The board shall compile semiannually and, maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of warranty disputes received in each of the following categories (which shall total one hundred per cent of the total number of warranty disputes received):

- (a) Resolved by staff of the board without arbitration and the warrantor has complied;
- (b) Resolved by staff of the board, without arbitration, time for compliance has expired, and the warrantor has not complied;
- (c) Resolved by staff of the board without arbitration,

- and time for compliance has not yet expired;
- (d) Decided by arbitration and the party required to perform has complied, specifying whether the party required to perform is the consumer or the warrantor or both;
- (e) Decided by arbitration, time for compliance has expired, and the party required to perform has not complied, specifying whether the party required to perform is the consumer or the warrantor or both;
- (f) Decided by arbitration and time for compliance has not yet expired;
- (g) Decided by arbitration in which neither party was awarded anything;
- (h) No jurisdiction;
- (i) Decision delayed beyond forty days under paragraph (C)(8)(a) of this rule;
- (j) Decision delayed beyond forty days under paragraph (C)(8)(b) of this rule;
- (k) Decision delayed beyond forty days under paragraph (C)(8)(c) of this rule;
- (l) Decision delayed beyond forty days under paragraph (C)(8)(d) of this rule;
- (m) Decision delayed beyond forty days for any other reason; and
- (n) Decision is pending and the forty-day limit has not expired.

In addition, the board shall compile semiannually and maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of disputes received (which need not add up to one hundred per cent of all disputes received) in which:

- (o) Consumer requested a refund or replacement for a motor vehicle within the first year or eighteen thousand miles of operation;
- (p) Vehicle refund or replacement was awarded, specifying whether the award was made by arbitration or through settlement;
- (q) Vehicle refund or replacement decisions complied with by the manufacturer, specifying whether the decision was made by arbitration or through settlement;
- (r) Decisions in which additional repairs were the most prominent remedy, specifying whether the

decision was made by arbitration or through settlement;

(s) Decisions in which a warranty extension was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;

(t) Decisions in which reimbursement for expenses or compensation for losses was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;

(u) Vehicle refund or replacement arbitration awards accepted by the consumer; and

(v) Non-repurchase or replacement arbitration decisions accepted by the consumer.

6) The board shall compile semiannually and maintain and file with the attorney general a listing of all vehicle identification numbers of all vehicles for which decisions or settlements entitled the consumer to a refund or replacement.

#### **b. Discussion**

The requirement of 16 C.F.R. Part 703, § 703.6 (e) is the language that places upon the Mechanism the responsibility to compile semi-annual reports which contain specific information about the operation of the Mechanism. This report is very valuable and important in determining the performance level of the program.

In the state of Ohio, the requirements for the indexes and for the material which should be maintained by the BBB AUTO LINE Program are contained in Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(3)(5) and (6) which require the record keeping requirements to be met, and to remain as an active Informal Dispute Resolution Program in the state of Ohio.

## Segment 17

### A. NATIONAL

#### a. Statutes

##### 1. 16 C.F.R. Part 703, § 703.6 (f)

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.

#### b. Discussion

The requirements of 16 C.F.R. Part 703, § 703.6(f) deal specifically with the retention of files and the records of the program. As a function of the audit, Morrison and Company has viewed the records referred to in this section in all the offices referenced above, and has found that all of the audited offices maintain the case files for the four years as required by this section. Morrison and Company found the files for the four years secured in boxes or in computer data for all of the preceding four years and reviewed the contents of the files on a random basis to insure that the files contain the information required by 16 C.F.R., part 703, in effect, October 1, 1983, the Florida regulations, and the Ohio regulations.

### B. FLORIDA

#### a. Statutes

##### Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law], § 681.108

None

#### b. Discussion

16 C.F.R. Part 703, § 703.6(f) clearly contains the mandate for all records to be maintained for a period of time of at least four years. In the state of Florida, there is no specific limitation in the written statute and rules, but as stated before, it is not necessary since it is contained in 16 C.F.R., part 703, in effect, October 1, 1983 which is part of the Florida law. In Morrison and Company's audit of the BBB AUTO LINE Program mediation/arbitration center in Clearwater, Florida, Morrison and Company found the hard copies of files as well as the electronic files contained in the computer. In both cases, the records were found to be in good order; they fulfill the requirements of 16 C.F.R. Part 703, § 703.6(f), which thus meets the file retention requirements.

## C. OHIO

### a. Statutes

#### **Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(D)(7)**

(7) The board shall retain all records specified in paragraphs (D)(1) to (D)(6) of this rule at least four years after final disposition of the dispute.

### b. Discussion

The requirements of 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.6(f) deal specifically with retention of files and the records of the program. As a function of the audit, Morrison and Company has viewed the records referred to in this section in all the offices referenced above, and has found that all of the audited offices maintain the case files for the four years as required by this section. Morrison and Company found the files for the four years secured in boxes or in computer data for all of the preceding four years and also reviewed the contents of the files on a random basis to insure that the files contain the information required by 16 C.F.R., part 703, in effect, October 1, 1983, and the Ohio regulations.

The Ohio requirements contained in Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109-4-4-04(D)(7) are very similar to the requirements of 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.6(f). In the Ohio audit, as in the national audit, the files and records are being maintained as required. Morrison and Company's audit of the BBB AUTO LINE Program site location in Columbus, Ohio, revealed an office with a storage room which holds files for the preceding years.

Copies of the 1996 and 1997 cases are on file, as well as copies of the 1998 and 1999 cases. The only difference is that part of the 1997-1998 cases, and the 1999 cases, are filed in the data base of the computer at the office and can be recalled by using the consumer's name or the file number assigned to the case. Morrison and Company was able to locate the required information when pulled up on the computer, plus other items which are part of the file, but which are not required. The computer program utilized by the BBB AUTO LINE Program and directly connected to the Columbus office has a very user-friendly program and is

functional with very little training, computer knowledge, or background.

## **Segment 18**

### **A. NATIONAL**

#### **a. Statutes**

##### **1. 16 C.F.R. Part 703, § 703.7(3)(b)(i)**

(i) adequacy of the Mechanism's complaint and other forms,

...

#### **b. Discussion**

At the outset, the reader should be aware that all forms utilized by the BBB AUTO LINE Program are developed by The CBBB and, as a result, are uniform throughout the program, with very few exceptions. In the process of the audit, Morrison and Company reviewed the BBB AUTO LINE Program forms and found them to be exemplary.

The forms are extremely well designed, well organized, and easy to read, which allows the forms to serve as a valuable resource for the local hearing sites. By using the same forms throughout the system (except in those jurisdictions which have special requirements and which are not covered by the national program), all of the local BBB AUTO LINE Program offices are able to function in unity with the national office in Arlington, Virginia, to form the program's national network.

This uniformity of complaint forms and other forms promotes efficiency by requiring the consumer to provide to the program the needed information in advance of the hearing, allowing the hearing process to run more smoothly. Having all the needed information available to the hearing officer results in a fair hearing with all of the needed facts disclosed in a uniform fashion.

The design of the forms is to ensure, as fully as possible, that the entire program operates in compliance with all the requirements of the federal regulations. As the field audits were conducted, it was possible to determine how well the forms work. Morrison and Company's observations are that



these forms advance the program's objectives of fair and expeditious resolution of disputes.

The backbone of the program is the BBB AUTO LINE Program's "Operations Manual", which is a constantly changing document, designed to insure that changes become a part of the document as they occur. This activity keeps the CBBB AUTO LINE Program in continuous contact with changes in the field, so that they may be brought into conformity with the many changes related to the centralization of most of the BBB AUTO LINE Program's functions. This manual organizes the forms and explains how they should be used, as well as why they are important for meeting the complex regulatory requirements of Magnuson-Moss Warranty-Federal Trade Commission Improvement Act and 16 C.F.R., part 703, in effect, October 1, 1983. This manual, like the forms, is extremely user-friendly and contributes as much to the program's success as any other component. No discrepancies have been found; in fact, quite to the contrary, this facet of the program is outstanding.

## **B. FLORIDA**

### **a. Statutes**

#### **Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law] § 681.108**

None

### **b. Discussion**

This statute has no equivalent in Florida law. The discussion located in the national section above, on forms and documents, applies equally well to the Florida program, which relies upon the Federal requirements and their proper implementation in Florida. Morrison and Company's examination of the Florida forms, including complaints, are in excellent condition and the handling of those materials is equally done.

## **C. OHIO**

### **a. Statutes**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes § 109:4-4-04(E)(1-4)**

**(E) Audits**

(1) The board shall have an audit conducted at least annually to determine whether the board and its dispute resolution processes are in compliance with this chapter. All records of the board required to be kept under paragraph (D) of this rule shall be available for audit.

(2) Each audit provided for in paragraph (E)(1) of this rule shall include at a minimum the following:

(a) Evaluation of warrantor's efforts to make consumers aware of the board's existence as required by paragraph (E) of rule 109:4-4-03 of the Administrative Code;

(b) Review of the indices maintained pursuant to paragraph (D) of this rule; and

(c) Analysis of a random sample of disputes handled to determine the following:

(i) adequacy of the board's complaint and other forms, investigation, mediation and follow-up efforts and other aspects of complaint handling; and

(ii) accuracy of the board's statistical compilations under paragraph (D) of this rule. (For purposes of this paragraph, "analysis" shall include oral or written contact with the consumers involved in each of the disputes in the random sample.)

(3) A report of each audit under paragraph (E) of this rule shall be submitted to the attorney general and shall be made available to any person at reasonable cost. The board may direct its auditor to delete names of parties to disputes from the audit report.

(4) Auditors shall be selected by the board. No auditor may be involved with the board as a warrantor, sponsor or arbitrator, or employee or agent thereof, other than for purposes of the audit.

**b. Discussion**

The requirements of 16 C.F.R. Part 703, Informal

Dispute Settlement Procedures, § 703.7 (b)(3)(i) consist of a variety of activities, but the importance of this section in the audit process requires that the activities of this section be evaluated separately and together.

## **SECTION 5: RECOMMENDATIONS AND CONCLUSIONS**

In the view of Morrison and Company,

**This entire section of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Act; Rule 703; Florida Lemon Law; Florida Administrative Code; Ohio Lemon Law; Ohio Administrative Code.**

# **CHAPTER FOUR**

## **COMPARATIVE STATISTICAL ANALYSIS**

## **CHAPTER 4: COMPARATIVE STATISTICAL ANALYSIS**

### **SECTION 1: INTRODUCTION**

#### **A. NATIONAL**

In this segment, it is mandated that Morrison and Company substantiate the veracity and accuracy of the CBBB AUTO LINE Program's record-keeping and reporting; Morrison and Company must also compare and report any discrepancies and/or disparities found between the CBBB AUTO LINE Program records and Morrison and Company's information, which is obtained from a discrete source: in this case, the telephone survey of randomly selected consumers, as follows:

#### **B. FLORIDA**

Florida Statutes, Chapter 681 requires any certified procedure to file a copy of the required national audit with the state of Florida. To be more specific, the Division of Consumer Services established the Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification, which contains more detailed requirements for the report as it relates to Florida consumers.

#### **C. OHIO**

The state of Ohio has its own requirements for this report, over and beyond those contained in 16 C.F.R. Part 703, § 703.7. In the Ohio Revised Administrative Code, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes. Chapter 109:4-4, the audit must be completed at least annually, and it must be in compliance with the Ohio Revised Code Annotated, Chapter 1345.71-78 [Ohio Lemon Law]. This chapter mandates direct random sampling of the Ohio consumers, as do both the national and the Florida requirements.

### **SECTION 2: STATUTORY REQUIREMENTS**

**[Please refer to appendices for the complete text of all related laws, statutes, and regulations]**

#### **A. NATIONAL**

**Code of Federal Regulations; Title 16 -- Commercial Practices; Chapter I -- Federal Trade Commission Public Law 93-637: the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act, Title I - Chapter 50 - Consumer Product Warranties Subchapter G -- Rules, Regulations,**

**Statements and Interpretations under the Magnuson-Moss Warranty Act;  
Part 703 -- Informal Dispute Settlement Procedures.**

**B. FLORIDA**

**Florida Statutes Title 39 Chapter 681 Motor Vehicle Sales Warranties, Motor Vehicle Warranty Enforcement Act**

**C. OHIO**

**Ohio Revised Code Annotated, § 1345.71-78 [Ohio Lemon Law]  
§ 1345.77**

**Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes  
§ 109:4-4-04 Minimum requirements of the board.  
§ (E) Audits**

**SECTION 3: CONDITIONS**

**A. NATIONAL**

In order to accomplish the requirements for the portion of this audit which requires oral or written contact with consumers, a telephone survey was chosen as the preferred method. This method has provided substantive results.

Information from consumers has been sought in a manner as candid as possible, so that the average consumer would be able to fully understand what was being asked. The consumer survey portion of this audit does not require precise consumer knowledge; rather, it attempts to garner generalized recollections of the process in order to acquire a benchmark to determine the validity of CBBB AUTO LINE Program records.

**1. Telephone Survey**

Prior to the telephone calls, all selected consumers were sent a letter in which Morrison and Company described the study and requested the recipient's participation. The letters went out weeks before the group of consumers was called; the returned mail was very light: a total of 37 letters returned out of 842 letters mailed.

This letter explained that the consumer was likely to receive a telephone call from Morrison and Company; the consumer was requested to participate in the interview when the call was received. There was also a telephone number to reach Morrison and Company, as well as one to

reach the CBBB AUTO LINE Program office. Very few consumers took advantage of the opportunity to ask questions or to schedule appointments for interviews.

The calls averaged fifteen minutes for completion and were designed to ascertain the following information:

1. General Information
2. Ineligible/Withdrawn Cases
3. Consumer Knowledge about program
4. Records Sent to Consumer
5. Resolution of Cases
6. Arbitrated Cases
7. Compliance
8. Arbitrator Performance
9. Manufacturer Obligations
10. Consumer Satisfaction

Telephone interviews were conducted by Morrison and Company between February 1, 2000 and June 1, 2000. Morrison and Company consummated 400 telephone interviews from a total of 842 cases randomly drawn from the 21,392 disputes handled by the CBBB AUTO LINE Program which were closed in 1999. Phone calls fell into the following categories:

- 1 ineligible/withdrawn
- 2 unavailable
3. refused to respond
4. consumer replied to survey questions

Of the total group of 400 national respondents, a total of 156 (39.0%) were considered ineligible, either because they withdrew their case, or because they did not meet the requirements. Consumers who were unavailable for at least 5 attempts at various times of day and over a period of several days, were excluded. If a respondent refused to participate, his/her case was reviewed and an effort was made to complete the interview; if this failed, the consumer was considered non-responsive. This situation was very infrequent and caused no problems.

## **2. Division of Cases**

The first requirement of the audit is to ascertain whether the case is valid and whether it meets the minimum requirements of the applicable law. After this determination is made, if the case is eligible for consideration, a burden is placed upon the BBB AUTO LINE Program to record statistics which show the

outcome of cases and the action[s] taken by the BBB AUTO LINE Program. The outcome of cases generally falls within four categories, each of which will be discussed in detail in the “Findings” section, as follows:

- a. Ineligible/Withdrawn
- b. Mediated
- c. Arbitrated
- d. Sent to arbitration; mediated prior to hearing

## **B. FLORIDA**

Florida is included in the national report, and an additional 194 cases were pulled for the states of Florida because its BBB AUTO LINE Program and audit are governed by state regulations which are not identical in every case. This situation requires different comparisons in order to be valid. The audit results for Florida are reported in separate sections of this report.

## **C. OHIO**

As noted directly above in regard to Florida, Ohio is included in the national report. The same situation applies to Ohio as in Florida; an additional 248 cases were pulled for Ohio.

## **SECTION 4: FINDINGS**

### **A. NATIONAL**

The major portion of this section revolves around a comparison of statistics compiled by the CBBB AUTO LINE Program office with those compiled through the telephone survey of consumers. The CBBB AUTO LINE Program does not keep, nor is it required to keep statistics for the majority of the consumer survey questions. As noted above, Morrison and Company has divided this section into the following segments:

1. General Information
2. Ineligible/Withdrawn Cases
3. Consumer Knowledge about program
4. Records Sent to Consumer
5. Resolution of Case
6. Compliance
7. Arbitrated Cases
8. Arbitrator Performance
9. Manufacturer Obligations
10. Consumer Satisfaction



## 1. General Information

For the purposes of this section, Morrison and Company is limiting its attention to those CBBB AUTO LINE Program cases which were “in jurisdiction”, and to those Morrison and Company survey consumers who reported that their “dispute had been resolved” by the CBBB AUTO LINE Program.

Morrison and Company has chosen to present each survey question in the exact form in which it is printed and as it was presented to each consume surveyed. The following material in each of the following segments consists of numerous tables which show clearly the comparison of statistics as well as the results of each question asked on the survey.

**TABLE 1 [National]  
Chapter 4**

Survey Question 1. **What is the year and model of the vehicle involved in the complaint filed with the Council of Better Business Bureaus AUTO LINE Program?**

<b>Year of Vehicle</b>	<b>Number of Vehicle</b>
1999	68
1998	178
1997	97
1996	32
1995	25
<b>TOTAL</b>	<b>400</b>

## 2. Ineligible/Withdrawn Cases

This segment presents information which shows those case which have been labeled “Ineligible” or “Withdrawn”, the categories, and the reasons thereof:

### **Ineligible/Withdrawn Cases**

1. (44) Withdrawn
  - a. (12) sold or traded the car
  - b. (12) had the vehicle repaired
  - c. (08) settled with the manufacturer
  - d. (07) warranty expired
  - e. (03) not worth going through the process
  - f. (02) satisfied with the vehicle
2. (112) Ineligible
  - a. (37) the vehicle was too old
  - b. (31) the vehicle had too many miles
  - c. (24) warranty had expired
  - d. (07) not a manufacturer's defect
  - e. (05) not covered by the "Lemon Law"
  - f. (05) the reported problem had been resolved
  - g. (03) did not know why he/she was ineligible.

**TABLE 2 [National]**  
Chapter 4

Survey Question 28. **What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?**

Vehicle Out Of Warranty	Vehicle Purchased Used	No Longer In Possession	Other	Total
45	26	53	32	156
28.8%	16.7%	33.9%	20.5%	100%

### 3. Consumer Knowledge about program

This segment presents information which shows those cases which explain how survey consumers learned about the BBB AUTO LINE Program survey consumers participants is contained in the table (below). It is very interesting to note that the major supplier of information was "Friends/Family Members", which accounted for 28.5% of the responses. When the responses of "Dealership", "Manufacturer", and "Warranty Booklet" are included, the percentage is 48.4%, less than half of the consumers. The response shows that the "Warranty Book or Owners Manual" represents only 7.2% of the total.

It may be that the reason for the poor response level concerning "Warranty Books/ Owners Manual" is that the survey consumers chose to

credit a friend, rather than attempt to recollect the actual method. Other sources of knowledge include BBB AUTO LINE Program information(15.5%), an attorney ( 8.5%), and the media (3.0%). This question may have been difficult for survey consumers to remember *ex post facto* which could account for the difference between the two sets of statistics. See table (below)for this information.

**TABLE 3 [National]  
Chapter 4**

**Survey Question 3. How did you first learn about the Council of Better Business Bureaus AUTO LINE Program ?**

<b>Method</b>	<b>Number</b>	<b>Percentage</b>
<b>Better Business Bureau</b>	46	11.5%
<b>Friend/Family</b>	114	28.5%
<b>Attorney</b>	34	8.5%
<b>TV/Radio/Newspaper</b>	12	3.0%
<b>Dealer/Information in Dealership</b>	103	26.0%
<b>Manufacturer</b>	62	15.5%
<b>Warranty Booklet/Owner's Manual</b>	29	7.0%
<b>TOTAL</b>	<b>400</b>	<b>100%</b>

Information was sought to determine how easily understood the materials provided were. A clear majority of survey consumers (62%) stated the materials were clearly understandable; 22% said they had little difficulty but that they understood what was presented; only 4.0% said they had difficulty understanding the paperwork. A group of consumers (11%) did not recall how difficult the forms were for them. In addition, questions were asked of consumers about the "Claim Form".

**TABLE 4 [National]  
Chapter 4**

Survey Question 4. **Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>TOTAL</b>
340	32	28	<b>400</b>
85.0%	0.8%	0.75%	<b>100%</b>

**TABLE 5 [National]  
Chapter 4**

Survey Question 5. **How would you describe the information in the materials you received?**

<b>Very Clear and Easy to Understand</b>	<b>A Little Difficult but Still Easy to Understand</b>	<b>Difficult to Understand</b>	<b>Don't Know/Don't Recall</b>	<b>TOTAL</b>
209	115	29	47	<b>400</b>
52.0%	29.0%	7.3%	11.7%	<b>100%</b>

**TABLE 6 [National]  
Chapter 4**

Survey Question 6. **In preparing you for what would happen, which statement best describes the information you received?**

<b>Gave Consumer A Good Understanding</b>	<b>Covered Relatively Well, But Not Completely</b>	<b>Quite Different</b>	<b>Don't Know/Don't Recall</b>	<b>TOTAL</b>
249	91	16	44	<b>400</b>
62.0%	23.0%	24.0%	11.0%	<b>100%</b>

#### 4. Records Sent to Consumer

**TABLE 7 [National]  
Chapter 4**

Survey Question 7. **Did you receive the Consumer Claim Form?**

<b>Received and Completed</b>	<b>Received but Not Completed</b>	<b>Do Not Recall Receiving Form</b>	<b>Don't Know/Don't Recall</b>	<b>TOTAL</b>
298	31	24	47	<b>400</b>
75.0%	7.0%	6.0%	12.0%	<b>100%</b>

**TABLE 8 [National]  
Chapter 4**

Survey Question 8. **How would you describe the Consumer Claim Form?**

<b>Very Clear and Easy to Understand</b>	<b>A Little Difficult but Still Easy to Understand</b>	<b>Difficult to Understand</b>	<b>Don't Know/Don't Recall</b>	<b>TOTAL</b>
201	118	30	51	<b>400</b>
50.0%	29.0%	8.0%	3.0%	<b>100%</b>

**TABLE 9 [National]  
Chapter 4**

Survey Question 9. **Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>TOTAL</b>
340	16	44	<b>400</b>
85.0%	4.0%	11.0%	<b>100%</b>

**TABLE 10 [National]  
Chapter 4**

Survey Question 14. **Did you receive written notice of the scheduled date, time and place of the hearing?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>TOTAL</b>
94	10	4	<b>108</b>
87.0%	10.0%	3.0%	<b>100%</b>

**TABLE 11 [National]  
Chapter 4**

Survey Question 15. **After the hearing, was the decision mailed to you?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
104	4	0	<b>108</b>
99.0%	1.0%	0.0%	<b>100%</b>

**TABLE 12 [National]  
Chapter 4**

Survey Question 16. **Did you receive the decision within a reasonable time frame?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>TOTAL</b>
100	4	4	<b>108</b>
92.0%	4.0%	4.0%	<b>100%</b>

**TABLE 13 [National]  
Chapter 4**

Survey Question 13. **Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?**

<b>Talked with Staff</b>	<b>Received a Letter</b>	<b>Both</b>	<b>Neither</b>	<b>Don't Know/Don't Recall</b>	<b>TOTAL</b>
12	16	72	0	8	<b>108</b>
11%	15%	67%	0%	7%	<b>100%</b>

**TABLE 14 [National]  
Chapter 4**

Survey Question 21. **Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?**

<b>Received a Letter</b>	<b>Both</b>	<b>Neither</b>	<b>Don't Know/Don't Recall</b>	<b>Talked with Staff</b>	<b>TOTAL</b>
35	44	7	0	22	<b>108</b>
32%	42%	6%	0%	20%	<b>100%</b>

**5. Resolution of Cases**

This segment presents information which shows how each case was resolved, as follows:

The following table shows that 55.7% of the cases were handled by mediation, while 44.3% went to an arbitration hearing. The CBBB AUTO LINE Program reports 74.7% of the cases were mediated and 25.3% were arbitrated. This 19 % difference between the two sets of data is significant; however, it should be remembered that the results of the Morrison and Company survey data include a total of only 400 contacts. This difference may be related to the fact that consumers, when contacted, may have had difficulty in remembering, or even in understanding, the final determination, especially when the manufacturer performed a service or paid for materials.

**TABLE 15 [National]  
Chapter 4**

**METHOD OF RESOLUTION OF CASES  
Comparison**

<b>METHOD OF RESOLUTION</b>	<b>Morrison and Company</b>			<b>Better Business Bureau AUTO LINE Program</b>		
	<b>Number of Cases in Jurisdiction</b>	<b>Percent of Cases in Jurisdiction</b>	<b>Percent of All Disputes</b>	<b>Number of All Disputes</b>	<b>Percent of All Disputes</b>	<b>Percent of All Disputes</b>
<b>Mediation</b>	136	55.7%	34.0%	7,974	74.7%	43.6%
<b>Arbitration</b>	108	44.2%	27.0%	2,699	25.2%	14.7%
<b>Sub Total</b>	<b>244</b>	<b>99.9%</b>	-	<b>10,673</b>	<b>99.9%</b>	-
<b>Withdrawn/ Ineligible Cases</b>	156	-	39.0%	7,606	-	41.6%
<b>TOTAL</b>	<b>400</b>	-	<b>100.0%</b>	<b>18,279</b>	-	<b>99.9%</b>

**6. Arbitrated Cases**

This segment presents information which shows those cases which went beyond mediation to arbitration.



**TABLE 16 [National]  
Chapter 4**

**OUTCOME OF ARBITRATED CASES  
Comparison**

Arbitration Awards	Morrison and Company		BBB AUTO LINE Program	
	Number	Percent Arbitrated	Number	Percent Arbitrated
Relief Awarded	113	83.1%	3,669	64.0%
No Award	23	16.9%	2,062	36.0%
<b>TOTAL</b>	<b>136</b>	<b>100%</b>	<b>5,731</b>	<b>100%</b>

**TABLE 17 [National]  
Chapter 4**

Survey Question 17. **Which statement best describes the decision?**

Replace Vehicle	Buy Back Vehicle	Repair Vehicle	Extend Warranty	No Award	Other	TOTAL
57	32	20	4	23	0	<b>136</b>
41%	24%	15%	3%	17%	0%	<b>100%</b>

**7. Compliance**

16 C.F.R. Part 703, § 703.6(e) 9-11 requires the following, and 16 C.F.R. Part 703, **§ 703.5(e)(1-2)** show the explanation mentioned in the prior section of law, as follows:

**§ 703.6 Record keeping.**

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

- (9) Decision delayed beyond 40 days under § 703.5(e)(1) of this part;

(10) Decision delayed beyond 40 days under § 703.5(e)(2) of this part;

(11) Decision delayed beyond 40 days for any other reason;

**§ 703.5 Operation of the Mechanism.**

(e) The Mechanism may delay the performance of its duties under paragraph (d) of this section beyond the 40 day time limit:

(1) Where the period of delay is due solely to failure of a consumer to provide promptly his or her name and address, brand name and model number of the product involved, and a statement as to the nature of the defect or other complaint;  
or

(2) For a 7 day period in those cases where the consumer has made no attempt to seek redress directly from the warrantor.

16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.6 (above) relates to record-keeping practices of the BBB AUTO LINE Program and the information provided in the semiannual reports. The reports supplied to Morrison and Company contain the following information:

1. § 703.6(e)(9) Decisions delayed beyond forty days under § 703.5(e)(1) of this part: BBB AUTO LINE Program cases will not be delayed for this reason.
2. § 703.6(e)(10) Decisions delayed beyond forty days under § 703.5(e)(2): 72 cases or less than 1% of cases
3. § 703.6(e)(11) Decisions delayed beyond forty days for any other reason: 1,761 cases or 8% of cases.

In 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, § 703.5 has two delay provisions; the first is in § 703.5(e)(1) which refers to delays caused by the consumer who fails to provide adequate information to the program. Morrison and Company was informed by the BBB AUTO LINE Program staff that cases which are not delayed as a result of missing information; the staff proceed with the process based upon what information is provided by the consumer.

§ 703.5 (e)(2) concerns cases that are delayed seven days when the consumer makes no attempt to seek redress directly from the manufacturer. There are 72 cases which were delayed as a result of consumer inaction at this point in the process.

Surveyed consumers were questioned about which party in their warranty case was responsible for the delays. Consumers believed that the majority of delays was caused by the manufacturer or by the dealer

(40.0% ). Other survey consumers felt everyone involved in the case (4.4%) was responsible and that the delay was caused by a general lack of communication among all parties (8.9% ). Seven respondents were unsure of the cause of the delays.

Using the categories specified by 16 C.F.R. Part 703, § 703.6(e) 9-11, BBB AUTO LINE Program statistics disclose that none of the delayed cases were due to “consumers failing to submit required information in a timely manner”, less than 1% were due to “not seeking redress directly from the warrantor first”. Decisions were delayed for an unspecified “other” reason in 8% of cases.

### 8. Arbitrator Performance

In analyzing the data provided to Morrison and Company, it is obvious that the survey consumers were very pleased with the overall performance of their arbitrators. In the two categories which address the qualifications of the arbitrator, 136 consumers gave “A’s”. This correlation may well be explained by the fact that some of the decisions rendered by these same arbitrators were adverse to the position of the consumers answering these surveys.

**TABLE 18 [National]  
Chapter 4**

#### ARBITRATOR GRADE

How would you grade your arbitrator on the following?	A	B	C	D	F	?	T
Understanding the Facts	87	16	03	02	00	00	<b>108</b>
	80.0%	14.8%	2.7%	1.9%	0.0%	0.0%	<b>100%</b>
Objectivity and Fairness	90	16	00	00	02	00	<b>108</b>
	83.4%	14.8%	0%	0%	1.8%	0%	<b>100%</b>
Rendering Impartial Decision	70	18	12	03	03	02	<b>108</b>
	64.9%	16.7%	11.1%	2.7%	2.7%	1.9%	<b>100%</b>
Rendering Reasonable and well thought-out Decision	72	17	09	04	03	01	<b>108</b>
	66.7%	15.7%	8.3%	3.6%	2.8%	0.9%	<b>100%</b>

**Key: ? = Don't Know; T = Total Number of Responses**

**TABLE 19 [National]  
Chapter 4**

Survey Question 18. **Was the decision accepted or rejected?**

<b>Accepted</b>	<b>Rejected</b>	<b>Neither</b>	<b>Don't Know</b>	<b>TOTAL</b>
104	32	0	0	<b>136</b>
76%	24%	0%	0%	100%

### **9. Manufacturer Obligations**

This segment discusses how the manufacturers completed their obligations to the consumer. 16 C.F.R. Part 703, § 703.6(e) 4-7 mandates the following:

#### **§ 703.6 Record keeping.**

(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, 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;

The statistics obtained from the BBB AUTO LINE Program are shown in comparison with the statistics of Morrison and Company in the table below. This table shows that the manufacturer performed satisfactorily in 73.8% of the mediated settlements. The BBB AUTO LINE Program statistics include settlements in which the consumer reported "dissatisfaction with performance" under the category "settlements in which the warrantor had not complied". The same procedure was followed by Morrison and Company; satisfaction rate with the compliance level of the manufacturer reached 88.2%.

There is a 14.4% difference between the BBB AUTO LINE Program statistics (73.8%) and the Morrison and Company statistics (88.2%). This

difference may be the result of faulty consumer memory of a past event. Because Morrison and Company shows a higher percentage of cases in compliance, the difference does not create concern for this audit.

**TABLE 20 [National]  
Chapter 4**

**OUTCOME OF MEDIATED CASES IN TERMS OF COMPLIANCE  
Comparison**

<b>OUTCOME OF MEDIATED CASES</b>	<b>Morrison and Company</b>		<b>BBB AUTO LINE Program</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Resolved: Compliance</b>	120	88.2%	5930	74.35%
<b>Resolved: Non-Compliance</b>	11	8.1%	0	0.05%
<b>Non-Performance: Consumer</b>	05	3.7%	2044	25.6%
<b>Consumer Uncertain</b>	00	0.0%	0	0.0%
<b>TOTAL CASES MEDIATED</b>	<b>136</b>	<b>100.0%</b>	<b>7974</b>	<b>99.9%</b>

The BBB AUTO LINE Program statistics show 2,502 arbitrated cases in which the decision was accepted by the consumer and in which the performance was satisfactory to the consumer. There were 197 arbitrated decisions in which the consumer accepted the award but felt that the performance was unsatisfactory. Of these 197 consumers who accepted the decision, but who were unhappy with the performance by the manufacturer, 110 consumers continued the case with the BBB AUTO LINE Program. The remaining 83 consumers did not elect to continue pursuit of their claim. In another 28 cases, non-performance was caused by the consumer. There were 3 cases in which the BBB AUTO LINE Program reports time for compliance had occurred, but the records do not contain verification of that performance. Also, there were 48 cases in which the decision had been rendered, but the time for compliance had not arrived by the end of the year. There were also 891 cases in which the consumer rejected the award. The final group of arbitrated cases is the 2,062 cases in which the decision granted no award to the consumer.

**TABLE 21 [National]  
Chapter 4**

Survey Question 23. Which of the following did you do?

<b>Worked Out Solution with Dealer/Manu.</b>	<b>Contacted Legal Representation</b>	<b>Contacted State or Other Government Agency</b>	<b>Did Not Pursue</b>	<b>TOTAL</b>
10	2	27	97	<b>136</b>

**10. Consumer Satisfaction**

Morrison and Company surveyed the participating consumers in an effort to gain insight into what consumers think about the performance of the CBBB AUTO LINE Program staff in the handling of their dispute, as follows:

**TABLE 22 [National]  
Chapter 4**

Survey Question 29. How would you grade the Council of Better Business Bureaus AUTO LINE Program Staff on OBJECTIVITY and fairness?

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>TOTAL</b>
168	104	60	48	20	0	<b>400</b>
42%	26%	15%	12%	5%	0%	<b>100%</b>

**TABLE 23 [National]  
Chapter 4**

Survey Question 30. How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>TOTAL</b>
147	130	62	43	18	0	<b>400</b>
37%	33%	15%	11%	4%	0%	<b>100%</b>

**TABLE 24 [National]  
Chapter 4**

Survey Question 31. **Overall, what grade would you give to the Council of Better Business Bureaus AUTO LINE Program ?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>TOTAL</b>
152	124	64	45	15	0	<b>400</b>
38%	31%	16%	11%	4%	0%	<b>100%</b>

**TABLE 25 [National]  
Chapter 4**

Survey Question 32. **Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>TOTAL</b>
327	67	6	<b>400</b>
82%	16%	2%	<b>100%</b>

These tabulated results show an exceptionally strong feeling of positive feeling toward the manner in which cases have been handled. In consideration of the fact that these survey consumers were drawn randomly and were interviewed by telephone, it would seem that this signifies an overwhelming statement that the CBBB AUTO LINE Program is doing an outstanding job in its role of consumer service!

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Warranty–Federal Trade Commission Improvement Act; 16 C.F.R. part 703, in effect, October 1, 1983.**

**B. FLORIDA**

As noted in the national segment, this segment is devoted to the statistical data provided to Morrison and Company by the CBBB AUTO LINE Program in the statistical compilations as required by 16C.F.R. Part 703.6(e) for the state of Florida. It is required that one hundred consumers be surveyed in addition to those drawn for the national survey. To complete a detailed analysis

of the statistics would be redundant; these tables provide solid evidence and speak for themselves. Morrison and Company will present final conclusions at the end of this chapter.

**1. General Information**

This segment presents sets of statistics which identify the year and model of the vehicles in the survey, as follows:

**TABLE 26 [Florida]  
Chapter 4**

Survey Question 1. **Starting with the year, what is the year and model of the vehicle involved in the complaint filed with the Better Business Bureau AUTO LINE Program ?**

<b>Year</b>	<b>Number of Vehicles</b>
<b>1999</b>	16
<b>1998</b>	46
<b>1997</b>	27
<b>1996</b>	7
<b>1995</b>	4
<b>Total</b>	<b>100</b>

**2. Ineligible/Withdrawn Cases**

This segment presents information which shows those cases which have been labeled “Ineligible” or “Withdrawn”:

**TABLE 27 [Florida]  
Chapter 4**

Survey Question 28 **What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?**

<b>Vehicle Out Of Warranty</b>	<b>Vehicle Purchased Used</b>	<b>No Longer In Possession</b>	<b>Other</b>	<b>Total</b>
3	19	7	8	



**3. Consumer Knowledge about program**

This segment presents information which shows those cases which explains how survey consumers learned about the BBB AUTO LINE Program . The response of the participants in the survey is contained in the table (below).

**TABLE 28 [Florida]  
Chapter 4**

Survey Question 2. **How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted the Better Business Bureau AUTO LINE Program?**

0	1 time	2 times	3 times	4 times	More than 4 times	Don't know	Total
0	0	2	6	36	56	0	<b>100</b>
0%	0%	2%	6%	36%	56%	0%	<b>100%</b>

**TABLE 29 [Florida]  
Chapter 4**

Survey Question 3. **How did you first learn about the Better Business Bureau AUTO LINE Program ?**

Method	Number
<b>Better Business Bureau</b>	11
<b>Friend/Family</b>	29
<b>Attorney</b>	8
<b>TV/Radio/Newspaper</b>	4
<b>Dealer/Information in Dealership</b>	24
<b>Manufacturer</b>	16
<b>Warranty Booklet/Owner's Manual</b>	8

<b>Total</b>	<b>100</b>
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**TABLE 30 [Florida]  
Chapter 4**

Survey Question 4. **Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
84	8	8	<b>100</b>

**TABLE 31 [Florida]  
Chapter 4**

Survey Question 5. **How would you describe the information in the materials you received?**

<b>Very Clear and Easy to Understand</b>	<b>A Little Difficult but Still Easy to Understand</b>	<b>Difficult to Understand</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
52	28	9	11	<b>100</b>
52%	28%	9%	11%	<b>100%</b>

**TABLE 32 [Florida]  
Chapter 4**

Survey Question 6. **In preparing you for what would happen, which statement best describes the information you received?**

<b>Gave Consumer A Good Understanding</b>	<b>Covered Relatively Well, But Not Completely</b>	<b>Quite Different</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
62	21	5	12	<b>100</b>
62%	21%	5%	12%	<b>100%</b>

#### 4. Records Sent to Consumer

**TABLE 33 [Florida]  
Chapter 4**

Survey Question 7. **Did you receive the Customer Claim Form?**

<b>Received and Completed</b>	<b>Received but Not Completed</b>	<b>Do Not Recall Receiving Form</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
74	8	5	13	<b>100</b>
74%	8%	5%	13%	<b>100%</b>

**TABLE 34 [Florida]  
Chapter 4**

Survey Question 8. **How would you describe the Customer Claim Form?**

<b>Very Clear and Easy to Understand</b>	<b>A Little Difficult but Still Easy to Understand</b>	<b>Difficult to Understand</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
47	25	11	17	<b>100</b>
47%	25%	11%	17%	<b>100%</b>

**TABLE 35 [Florida]  
Chapter 4**

Survey Question 9. **Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
85	4	11	<b>100</b>
85%	4%	11%	<b>100%</b>

**TABLE 36 [Florida]  
Chapter 4**

Survey Question 14. **Did you receive written notice of the scheduled date, time and place of the hearing?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
31	4	0	<b>35</b>
89%	11%	0%	<b>100%</b>

**TABLE 37 [Florida]  
Chapter 4**

Survey Question 15. **After the hearing, was the decision mailed to you?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
35	0	0	<b>35</b>
100%	0%	0%	<b>100%</b>

**TABLE 38 [Florida]  
Chapter 4**

Survey Question 16. **Did you receive the decision within a reasonable time frame?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
27	4	4	<b>35</b>
78%	11%	11%	<b>100%</b>

**TABLE 39 [Florida]  
Chapter 4**

Survey Question 13. **Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?**

<b>Talked with Staff</b>	<b>Received a Letter</b>	<b>Both</b>	<b>Neither</b>	<b>Don't Know/ Don't Recall</b>	<b>Total</b>
6	2	18	0	2	<b>28</b>

21.4%	7.1%	64.4%	0%	7.1%	<b>100%</b>
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**TABLE 40 [Florida]  
Chapter 4**

Survey Question 21. **Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?**

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
2	15	18	0	0	<b>35</b>
6%	43%	51%	0%	0%	<b>100%</b>

### 5. Resolution of Case

This segment presents information which shows how each case was resolved, as follows:

**TABLE 41 [Florida]  
Chapter 4**

### METHOD OF RESOLUTION OF CASES Comparison

Method	Morrison and Company			BBB AUTO LINE Program		
	Number	Percent of Survey Cases	Percent of All Cases	Number	Percent of Survey Cases	Percent of All cases
<b>Mediation</b>	28	44.4%	28%	1485	61.8%	44.3%
<b>Arbitration</b>	35	55.6%	35%	917	38.1%	27.3%
<b>Sub Total</b>	63	100.0%	-	2402	99.9%	-
<b>Cases Withdrawn/ Ineligible</b>	37	-	37%	946	-	28.2%
<b>TOTAL</b>	<b>100</b>		<b>100%</b>	<b>3348</b>		<b>99.8%</b>



**TABLE 42 [Florida]  
Chapter 4**

Survey Question 23. Which of the following did you do?

<b>Worked Out Solution with Dealer/Manu.</b>	<b>Contacted Legal Representation</b>	<b>Contacted State or Other Government Agency</b>	<b>Did Not Pursue</b>	<b>Total</b>
0	0	3	32	<b>35</b>
0%	0%	8.6%	91.4%	<b>100%</b>

**6. Arbitrated Cases**

This segment presents information which shows those case which went beyond mediation to arbitration.

**TABLE 43 [Florida]  
Chapter 4  
OUTCOME OF ARBITRATED CASES  
Comparison**

<b>ARBITRATION AWARDS</b>	<b>Morrison and Company</b>		<b>BBB AUTO LINE</b>	
	<b>Number Arbitrated</b>	<b>Percent Arbitrated</b>	<b>Number Arbitrated</b>	<b>Percent Arbitrated</b>
<b>Full Refund</b>	8	22.8%	278	30.3
<b>Partial Refund</b>	0	0.0%	28	3.0%
<b>Replacement</b>	15	42.8%	27	2.9%
<b>Additional Repair Attempt</b>	5	14.2%	190	20.7%
<b>Reimbursement for Expenses</b>	0	0.0%	1	0.1%
<b>Trade Assists</b>	0	0.0%	0	0.0%
<b>Other</b>	1	2.8%	5	0.5%
<b>No Award</b>	6	17.1%	388	42.3%
<b>TOTAL</b>	<b>35</b>	<b>99.7%</b>	<b>917</b>	<b>99.8%</b>

**TABLE 44 [Florida]  
Chapter 4**

Survey Question 18. **Was the decision accepted or rejected?**

<b>Accepted</b>	<b>Rejected</b>	<b>Neither</b>	<b>Don't Know</b>	<b>Total</b>
29	6	0	0	<b>35</b>
82%	18%	0%	0%	<b>100%</b>

**7. Compliance**

The audit by Morrison and Company of the case files of the BBB AUTO LINE Program disclose that there was compliance with the requirements of the Florida statute in that the decisions reviewed were handled within the forty day limit; those cases which did not meet the forty day requirement were generally caused by consumer failure to respond in a timely manner.

**8. Arbitrator Performance**

**TABLE 45 [Florida]  
Chapter 4**

Survey Question 24. **How would you grade the arbitrator on understanding the facts?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
19	12	2	2	0	0	<b>35</b>
54%	34%	6%	6%	0%	0%	<b>100%</b>

**TABLE 46 [Florida]  
Chapter 4**

Survey Question 25. **How would you grade the arbitrator on objectivity and fairness?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
17	10	3	3	2	0	<b>35</b>
49%	29%	8%	8%	6%	0%	<b>100%</b>





**TABLE 47 [Florida]  
Chapter 4**

Survey Question 26. **How would you grade the arbitrator on rendering an impartial decision?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
19	8	2	2	4	0	<b>35</b>
54%	23%	6%	6%	11%	0%	<b>100%</b>

**TABLE 48 [Florida]  
Chapter 4**

Survey Question 27. **How would you grade the arbitrator on coming to a reasoned and well thought out decision?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
18	9	4	2	2	0	<b>35</b>
51%	26%	11%	6%	6%	0%	<b>100%</b>

**9. Manufacturer Obligations**

**TABLE 49 [Florida]  
Chapter 4**

**OUTCOME OF MEDIATED CASES  
Comparison**

<b>Mediated Cases</b>	<b>Morrison and Company</b>	<b>Morrison and Company</b>	<b>BBB AUTO LINE Program</b>	<b>BBB AUTO LINE Program</b>
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Satisfied with Settlement</b>	22	78.5%	1,002	68.12%
<b>Originally Dissatisfied but later Satisfied</b>	4	14.3%	Not Available	Not Available
<b>Dissatisfied with Settlement</b>	2	7.1%	467	31.75%
<b>Don't Know/Don't Recall</b>	0	0.0%	02	.13%
<b>TOTAL</b>	<b>28</b>	<b>100.0%</b>	<b>1,471</b>	<b>100%</b>

## 10. Consumer Satisfaction

Morrison and Company surveyed the participating consumers in an effort to gain insight into what consumers think about the performance of the CBBB AUTO LINE Program staff in the handling of their dispute, as follows:

**TABLE 50 [Florida]  
Chapter 4**

Survey Question 29. **How would you grade the Better Business Bureau AUTO LINE Program Staff on objectivity and fairness?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
41	29	15	9	6	0	<b>100</b>
41%	29%	15%	9%	6%	0%	<b>100%</b>

**TABLE 51 [Florida]  
Chapter 4**

Survey Question 30. **How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
45	27	13	10	5	0	<b>100</b>
45%	27%	13%	10%	5%	0%	<b>100%</b>

**TABLE 52 [Florida]  
Chapter 4**

Survey Question 31. **Overall, what grade would you give to the Better Business Bureau AUTO LINE Program ?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
44	25	18	9	4	0	<b>100</b>
44%	25%	18%	9%	4%	0%	<b>100%</b>

**TABLE 53 [Florida]  
Chapter 4**

Survey Question 32. **Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
85	15	0	<b>100</b>
85%	15%	0%	<b>100%</b>

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Warranty–Federal Trade Commission Improvement Act; 16 C.F.R. part 703, in effect, October 1, 1983; Florida Statutes 681 [Florida Lemon Law]; Florida Administrative Code.**

**C. OHIO**

Morrison and Company was provided the semi-annual reports and a yearly compilation of the statistics for the state of Ohio. As stated above in the segment pertaining to Florida, to do a detailed analysis would be redundant and unnecessary, because the tables present the best evidence. The results to all thirty-two survey questions asked of the one hundred Ohio consumers should be studied carefully. Morrison and Company has drawn conclusions from the facts presented and will present them at the end of this segment.

**1. General Information**

This segment presents sets of statistics which identify the year and model of the vehicles in the survey, as follows:

**TABLE 54 [Ohio]  
Chapter 4**

Survey Question 1. **Starting with the year, what is the year and model of the vehicle involved in the complaint filed with the Better Business Bureau AUTO LINE Program ?**

<b>Year</b>	<b>Number of Vehicles</b>
1999	18
1998	52
1997	25
1996	4
1995	1
<b>Total</b>	<b>100</b>

**2. Ineligible/Withdrawn Cases**

This segment presents information which shows those cases which have been labeled “Ineligible” or “Withdrawn”:

**TABLE 55 [Ohio]  
Chapter 4**

Survey Question 28. **What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?**

<b>Vehicle Out Of Warranty</b>	<b>Vehicle Purchased Used</b>	<b>No Longer In Possession</b>	<b>Other</b>	<b>Total</b>
2	10	9	6	<b>27</b>
8%	37%	33%	22%	<b>100%</b>

**3. Consumer Knowledge about program**

This segment presents information which shows those case which explains how survey consumers learned about “the BBB AUTO LINE Program”. The response of the participants in the survey is contained in the table (below).

**TABLE 56 [Ohio]  
Chapter 4**

Survey Question 2. **How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted the Better Business Bureau AUTO LINE Program?**

<b>0</b>	<b>1 time</b>	<b>2 times</b>	<b>3 times</b>	<b>4 times</b>	<b>More than 4 times</b>	<b>Don't Know</b>	<b>Total</b>
0	1	1	7	30	61	0	<b>100</b>
0.0%	1.0%	1.0%	7.0%	30.0%	<b>61.0%</b>	0.0%	<b>100%</b>

**TABLE 57 [Ohio]  
Chapter 4**

Survey Question 3. **How did you first learn about the Better Business Bureau AUTO LINE Program ?**

<b>Method</b>	<b>Number</b>
<b>Better Business Bureau</b>	6
<b>Friend/Family</b>	21
<b>Attorney</b>	11
<b>TV/Radio/Newspaper</b>	2
<b>Dealer/Information in Dealership</b>	24
<b>Manufacturer</b>	21
<b>Warranty Booklet/Owner's Manual</b>	15
<b>Total</b>	<b>100</b>

**TABLE 58 [Ohio]  
Chapter 4**

Survey Question 4. **Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
89	7	4	<b>100</b>

89%	7%	4%	100%
-----	----	----	------

**TABLE 59 [Ohio]  
Chapter 4**

Survey Question 5. **How would you describe the information in the materials you received?**

<b>Very Clear and Easy to Understand</b>	<b>A Little Difficult but Still Easy to Understand</b>	<b>Difficult to Understand</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
58	30	7	5	<b>100</b>
58%	30%	7%	5%	<b>100%</b>

**TABLE 60 [Ohio]  
Chapter 4**

Survey Question 6. **In preparing you for what would happen, which statement best describes the information you received?**

<b>Gave Consumer A Good Understanding</b>	<b>Covered Relatively Well, But Not Completely</b>	<b>Quite Different</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
67	18	11	4	<b>100</b>
67%	18%	11%	4%	<b>100%</b>

**4. Records Sent to Consumer**

**TABLE 61 [Ohio]  
Chapter 4**

Survey Question 7. **Did you receive the Customer Claim Form?**

<b>Received and Completed</b>	<b>Received but Not Completed</b>	<b>Do Not Recall Receiving Form</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
75	17	4	4	<b>100</b>
75%	17%	4%	4%	<b>100%</b>

**TABLE 62 [Ohio]  
Chapter 4**

Survey Question 8. **How would you describe the Customer Claim Form?**

<b>Very Clear and Easy to Understand</b>	<b>A Little Difficult but Still Easy to Understand</b>	<b>Difficult to Understand</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
56	29	11	4	<b>100</b>
56%	29%	11%	4%	<b>100%</b>

**TABLE 63 [Ohio]  
Chapter 4**

Survey Question 9. **Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
94	2	4	<b>100</b>
94%	2%	4%	<b>100%</b>

**TABLE 64 [Ohio]  
Chapter 4**

Survey Question 14. **Did you receive written notice of the scheduled date, time and place of the hearing?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
26	0	0	<b>26</b>
100%	0%	0%	<b>100%</b>

**TABLE 65 [Ohio]  
Chapter 4**

Survey Question 15. **After the hearing, was the decision mailed to you?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
26	0	0	<b>26</b>
100%	0%	0%	<b>100%</b>



**TABLE 66 [Ohio]  
Chapter 4**

Survey Question 16. **Did you receive the decision within a reasonable time frame?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
18	5	3	<b>26</b>
70%	19%	11%	<b>100%</b>

**TABLE 67 [Ohio]  
Chapter 4**

Survey Question 13. **Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?**

<b>Talked with Staff</b>	<b>Received a Letter</b>	<b>Both</b>	<b>Neither</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
2	3	42	0	0	<b>47</b>
4.3%	6.4%	89.3%	0%	0%	<b>100%</b>

**TABLE 68 [Ohio]  
Chapter 4**

Survey Question 21. **Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?**

<b>Talked with Staff</b>	<b>Received a Letter</b>	<b>Both</b>	<b>Neither</b>	<b>Don't Know/Don't Recall</b>	<b>Total</b>
3	5	18	0	0	<b>26</b>
11.5%	19.2%	69.3%	0%	0%	<b>100%</b>

**5. Resolution of Case**

This segment presents information which shows how each case was resolved, as follows:

**TABLE 69 [Ohio]  
Chapter 4**

Survey Question 10. Which statement best reflects the resolution in your case?

<b>Claim Settled Prior to Arbitration</b>	<b>Arbitrated, Hearing Conducted</b>	<b>Ineligible</b>	<b>Withdrawn</b>	<b>Total</b>
47	26	12	15	<b>100</b>
47%	26%	12%	15%	<b>100%</b>

**6. Arbitrated Cases**

This segment presents information which shows those cases which went beyond mediation to arbitration.

**TABLE 70 [Ohio]  
Chapter 4  
OUTCOME OF ARBITRATED CASES  
Comparison**

<b>ARBITRATION AWARDS</b>	<b>Morrison and Company</b>		<b>BBB AUTO LINE Program</b>	
	<b>Number Arbitrated</b>	<b>Percent Arbitrated</b>	<b>Number Arbitrated</b>	<b>Percent Arbitrated</b>
<b>Full Refund</b>	8	30.7%	85	21.0%
<b>Partial Refund</b>	0	0.0%	0	0.0%
<b>Replacement</b>	5	19.2%	79	19.6%
<b>Additional Repair Attempt</b>	4	15.3%	73	18.1%
<b>Reimbursement for Expenses</b>	0	0.0%	3	0.7%
<b>Trade Assists</b>	0	0.0%	0	0.0%
<b>Other</b>	0	0.0%	0	0.0%
<b>No Award</b>	9	34.6%	163	40.4%
<b>TOTAL</b>	<b>26</b>	<b>99.8%</b>	<b>403</b>	<b>99.8%</b>

**TABLE 71 [Ohio]  
Chapter 4**

Survey Question 18. **Was the decision accepted or rejected?**

<b>Accepted</b>	<b>Rejected</b>	<b>Neither</b>	<b>Don't Know</b>	<b>Total</b>
15	11	0	0	<b>26</b>
57.7%	42.3%	0%	0%	<b>100%</b>

**7. Compliance**

The audit by Morrison and Company of the case files of the BBB AUTO LINE Program disclose that there was compliance with the requirements of the Ohio statute in that the decisions reviewed were handled within the forty day limit; those cases which did not meet the forty day requirement were generally caused by consumer failure to respond in a timely manner.

**8. Arbitrator Performance**

**TABLE 72 [Ohio]  
Chapter 4**

Survey Question 24. **How would you grade the arbitrator on understanding the facts?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
10	8	4	3	1	0	<b>26</b>
38.5%	30.8%	15.4%	11.5%	3.8%	0%	<b>100%</b>

**TABLE 73 [Ohio]  
Chapter 4**

Survey Question 25. **How would you grade the arbitrator on objectivity and fairness?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
9	9	5	2	1	0	<b>26</b>
34.6%	34.6%	19.2%	7.7%	3.9%	0%	<b>100%</b>

**TABLE 74 [Ohio]  
Chapter 4**

Survey Question 26. **How would you grade the arbitrator on rendering an impartial decision?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
11	7	6	1	1	0	<b>26</b>
42.3%	26.9%	23.1%	3.9%	3.9%	0%	<b>100%</b>

**TABLE 75 [Ohio]  
Chapter 4**

Survey Question 27. **How would you grade the arbitrator on coming to a reasoned and well thought out decision?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
9	8	4	4	1	0	<b>26</b>
34.6%	30.8%	15.4%	15.4%	3.8%	0.0%	<b>100%</b>

**9. Manufacturer Obligations**

**TABLE 76 [Ohio]  
Chapter 4**

**OUTCOME OF MEDIATED CASES  
Comparison**

<b>MEDIATED CASES</b>	<b>Morrison and Company</b>		<b>BBB AUTO LINE Program</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Satisfied with Settlement</b>	39	82.9%	487	72.7%
<b>Dissatisfied but Later Satisfied</b>	6	12.7%	0	0.0%
<b>Dissatisfied with Settlement</b>	2	4.2%	180	26.9%
<b>Don't Know</b>	0	0.0%	2	0.2%

<b>TOTAL MEDIATION</b>	<b>47</b>	<b>99.8%</b>	<b>669</b>	<b>99.8%</b>
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**TABLE 77 [Ohio]  
Chapter 4**

**Survey Question 23. Which of the following did you do?**

<b>Worked Out Solution with Dealer/Manu.</b>	<b>Contacted Legal Representation</b>	<b>Contacted State or Other Government Agency</b>	<b>Did Not Pursue</b>	<b>Total</b>
1	6	4	15	<b>26</b>
3.9%	23%	15.4%	57.7	<b>100%</b>

**10. Consumer Satisfaction**

Morrison and Company surveyed the participating consumers in an effort to gain insight into what consumers think about the performance of the CBBB AUTO LINE Program staff in the handling of their disputes, as follows:

**TABLE 78 [Ohio]  
Chapter 4**

**Survey Question 29. How would you grade the Better Business Bureau AUTO LINE Program Staff on objectivity and fairness?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
42	26	15	12	5	0	<b>100</b>
42%	26%	15%	12%	5%	0%	<b>100%</b>

**TABLE 79 [Ohio]  
Chapter 4**

**Survey Question 30. How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
44	23	18	11	4	0	<b>100</b>
44%	23%	18%	11%	4%	0%	<b>100%</b>



**TABLE 80 [Ohio]  
Chapter 4**

**Survey Question 31. Overall, what grade would you give to the Better Business Bureau AUTO LINE Program ?**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>Don't Know</b>	<b>Total</b>
41	26	17	12	4	0	<b>100</b>
41%	26%	17%	12%	4%	0%	<b>100%</b>

**TABLE 81 [Ohio]  
Chapter 4**

**Survey Question 32. Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?**

<b>Yes</b>	<b>No</b>	<b>Don't Know</b>	<b>Total</b>
88	12	0	<b>100</b>
88%	12%	0%	<b>100%</b>

**This segment of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Warranty–Federal Trade Commission Improvement Act; 16 C.F.R. part 703, in effect, October 1, 1983 Ohio Revised Code Annotated, Chapter 1345.71-78 [Ohio Lemon Law]; Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes.**

**SECTION 5: RECOMMENDATIONS**

The method of record-keeping implemented by the CBBB AUTO LINE Program is a very modern utilization of “state of the art” computer system which has been programmed to provide the data needed for all the states, while, at the same time, keeping each state separately. It is Morrison and Company’s recommendation that the CBBB AUTO LINE Program continue to constantly improve the program, and attempt to provide hardware and the software to every BBB AUTO LINE Program; with this implementation, all offices could standardize record-keeping.

**SECTION 6: CONCLUSIONS**

The test of the accuracy of the BBB AUTO LINE Program's statistics is first, in the evaluation of the method of compilation of the statistics and the quality of the sources of the statistics. In the case of this audit, Morrison and Company was able to spend a day in the offices of the CBBB AUTO LINE Program in Arlington, Virginia, where Morrison and Company met with several of the staff who explained how their computer system works. They explained how the software functions with those other BBB AUTO LINE Program offices throughout the United States which are connected to the system. As noted previously, the equipment is very user-friendly and the system security is very impressive. During the visit, several pieces of work were ordered and were produced without delay. Another part of this system is an elaborate high-speed scanning system which allows for all of the materials sent into the office by parties with cases pending, to be scanned directly into the system with a high degree of accuracy.

With this type of system in place, and by utilizing the well-trained staff at the CBBB AUTO LINE Program office, the statistics received from the BBB AUTO LINE Program should definitely be accurate.

The statistics gained from the telephone survey of consumers correlate well with the statistics provided by the CBBB AUTO LINE Program. In those cases where there is a substantial difference, explanations for such an occurrence have been presented. The CBBB AUTO LINE Program is to be commended for its thorough record-keeping procedures.

**This section of the CBBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss Warranty–Federal Trade Commission Improvement Act; 16 C.F.R. part 703, in effect, October 1, 1983; Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law]; Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification; and especially; Ohio Revised Code Annotated [Ohio Lemon Law]; Ohio Revised Administrative Code, Chapter 109:4-4.**



# **CHAPTER FIVE**

## **SUMMARY**

## **CHAPTER 5: SUMMARY**

### **SECTION 1: INTRODUCTION**

As stated throughout this document, this audit is mandated on an annual basis by the requirements of the Magnuson-Moss Warranty–Federal Trade Commission Improvement Act; 16 C.F.R. Part 703, Informal Dispute Settlement Procedures, in effect, October 1, 1983; Florida Statutes, Chapter 681, Motor Vehicle Sales Warranties [Florida Lemon Law]; the Florida Administrative Code Annotated, Chapter 5J-11 Dispute-Settlement Procedure Certification; the Ohio Revised Code Annotated, Chapter 1345.71-78 [Ohio Lemon Law]; and the Ohio Revised Administrative Code, Chapter 109:4-4, Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes. This audit covers cases which were closed during the 1999 calendar year.

### **SECTION 2: STATUTORY REQUIREMENTS**

None necessary for this chapter. All requirements have been quoted in each chapter as appropriate; they can also be found in the appendices.

### **SECTION 3: CONDITIONS**

All audit requirements have been observed by Morrison and Company as closely as humanly possible. Morrison and Company has proceeded with integrity, veracity, and accuracy inasmuch as possible. Information has been thoroughly researched, and the document has been made as complete and as thorough as possible.

### **SECTION 4: FINDINGS**

Morrison and Company can only repeat, once again, that all BBB AUTO LINE Program offices visited have been found to be staffed with personnel who are professional in demeanor and in training, and who complete their tasks with commitment and dedication. The processes and record-keeping observed, have, for the most part, been flawless.

### **SECTION 5: RECOMMENDATIONS**

There are three recommendation which Morrison and Company will make as the Council of Better Business Bureaus AUTO LINE Program strives to continue to improve an already excellent program. They are as follows:

1. It is strongly recommended that the CBBB AUTO LINE Program devote the necessary time and effort to introduce the needed security measures for computer security, thus insuring that the system is not subject to contamination by a mistake or a lax employee. There is no question that the last five years of

hard work on the computer system by the CBBB AUTO LINE Program have been an excellent investment in time, money, and labor. This endeavor has allowed the CBBB AUTO LINE Program to make great strides in controlling information and data. Should a problem arise with the computer data, the original case files are retained in a safe, secure condition for the four years required by 16 C.F.R., part 703, in effect, October 1, 1983, and should not be a problem.

2. It is recommended the CBBB AUTO LINE Program provide all BBB AUTO LINE Program offices nation-wide with the opportunity to be connected to the CBBB AUTO LINE Program office through a computer network in order to facilitate the transfer of the prodigious amount of paperwork involved in this program.

3. It is recommended that the CBBB AUTO LINE Program continue efforts to work with the local Better Business Bureau AUTO LINE Program offices to ensure better compliance time on hearings as mandated by the federal requirements. Since there continue to be a growing number of cases which do not meet the forty day limit, it would be helpful to provide training and assistance to amend this situation.

4. It is recommended that the CBBB AUTO LINE Program provide training to allow the BBB AUTO LINE Program office in Chattanooga, Tennessee, to increase its pool of qualified and willing arbitrators and to provide staff training in diverse job descriptions. This action would improve the morale of the staff and would allow them to be able to implement this facet of the process and it would allow the employees more versatility.

## **SECTION 6: CONCLUSIONS**

In conclusion, let it be noted that in every aspect of the CBBB AUTO LINE Programs, only minor inconsistencies and irregularities have been found. In those cases, they have been explained in this audit. Having said this, it is Morrison and Company's pleasure to state with confidence that the following programs:

1. Council of Better Business Bureaus, Inc.  
BBB AUTO LINE  
Arlington, Virginia
2. Better Business Bureau Mediation/Arbitration Program  
Clearwater, Florida
3. Better Business Bureau AUTO LINE Program  
Columbus, Ohio
4. Better Business Bureau AUTO LINE Program  
Chattanooga, Tennessee

**ARE IN COMPLIANCE  
WITH ALL RELATED REQUIREMENTS  
FOR THE PURPOSES OF  
THE 1999  
CBBB  
AUTO LINE PROGRAM  
AUDIT**

# Appendix

## A

## Appendix A

**Magnuson-Moss Warranty Act  
Public Law 93-637  
93<sup>rd</sup> Congress, S. 356  
January 4, 1975  
An Act**

To provide minimum disclosure standards for written consumer product warranties; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the “Magnuson-Moss Warranty–Federal Trade Commission Improvement Act”*

### **TITLE I - CHAPTER 50 - CONSUMER PRODUCT WARRANTIES DEFINITIONS**

**Sec.**

**§ 2301. Definitions.**

**§ 2302. Rules governing contents of warranties.**

(a) Full and conspicuous disclosure of terms and conditions; additional requirements for contents.

(b) Availability of terms to consumer; manner and form for presentation and display of information; duration; extension of period for written warranty or service contract.

(c) Prohibition on conditions for written or implied warranty; waiver by Commission.

(d) Incorporation by reference of detailed substantive warranty provisions.

(e) Applicability to consumer products costing more than \$5.

**§ 2303. Designation of written warranties.**

(a) Full( statement of duration) or limited warranty.

(b) Applicability of requirements, standards, etc., to representations or statements of customer satisfaction.

(c) Exemptions by Commission.

(d) Applicability to consumer products costing more than \$10 and not designated as full warranties.

**§ 2304. Federal minimum standards for warranties.**

(a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement.

- ( b) Duties and conditions imposed on consumer by warrantor.
- ( c) Waiver of standards.
- ( d) Remedy without charge.
- ( e) Incorporation of standards to products designated with full warranty for purposes of judicial actions.

**§ 2305. Full and limited warranting of a consumer product.**

**§ 2306. Service contracts; rules for full, clear and conspicuous disclosure of terms and**

**conditions; addition to or in lieu of written warranty.**

**§ 2307. Designation of representatives by warrantor to perform duties under written or**

**implied warranty.**

**§ 2308. Implied warranties.**

- ( a) Restrictions on disclaimers or modifications.
- ( b) Limitation on duration.
- ( c) Effectiveness of disclaimers, modifications, or limitations.

**§ 2309. Procedures applicable to promulgation of rules by Commission.**

- ( a) Oral presentation.
- ( b) Warranties and warranty practices involved in sale of used motor vehicles.

**§ 2310. Remedies in consumer disputes.**

( a) Informal dispute settlement procedures; establishment; rules setting forth minimum requirements; effect of compliance by warrantor; review of informal procedures or implementation by Commission; application to existing informal procedures.

( b) Prohibited acts.

( c) Injunction proceedings by Attorney General or Commission for deceptive warranty, noncompliance with requirements, or violating prohibitions; procedures; definitions.

( d) Civil action by consumer for damages, etc.; jurisdiction; recovery of costs and expenses; cognizable claims.

( e) Class actions; conditions; procedures applicable.

( f) Warrantors subject to enforcement of remedies.

**§ 2311. Applicability to other laws.**

( a) Federal Trade Commission Act and Federal Seed Act.

( b) Rights, remedies, and liabilities.

( c) State warranty laws.

( d) Other Federal warranty laws.

**§ 2312. Effective dates.**

( a) Effective date of chapter.

( b) Effective date of section 2302(a).

( c) Promulgation of rules.

**Sec. 2301. Definitions**

**For the purposes of this chapter:**

- ( 1) The term "consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes( including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).**
- ( 2) The term "Commission" means the Federal Trade Commission.**
- ( 3) The term "consumer" means a buyer( other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty( or service contract) applicable to the product, and any other person who is entitled by the terms of such warranty (or service contract) or under applicable State law to enforce against the warrantor (or service contractor) the obligations of the warranty (or service contract).**
- ( 4) The term "supplier" means any person engaged in the business of making a consumer product directly or indirectly available to consumers.**
- ( 5) The term "warrantor" means any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty.**
- ( 6) The term "written warranty" means -**
  - ( A) any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or**
  - ( B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.**
- ( 7) The term "implied warranty" means an implied warranty arising under State law( as modified by sections 2308 and 2304(a) of this title) in connection with the sale by a supplier of a consumer product.**
- ( 8) The term "service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair( or both) of a**



consumer product.

( 9) The term "reasonable and necessary maintenance" consists of those operations

( A) which the consumer reasonably can be expected to perform or have performed and(

B) which are necessary to keep any consumer product performing its intended function and operating at a reasonable level of performance.

( 10) The term "remedy" means whichever of the following actions the warrantor elects:

( A) repair,

( B) replacement, or

( C) refund;

except that the warrantor may not elect refund unless

(i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made, or

(ii) the consumer is willing to accept such refund.

( 11) The term "replacement" means furnishing a new consumer product which is identical or reasonably equivalent to the warranted consumer product.

( 12) The term "refund" means refunding the actual purchase price( less reasonable depreciation based on actual use where permitted by rules of the Commission).

( 13) The term "distributed in commerce" means sold in commerce, introduced or delivered for introduction into commerce, or held for sale or distribution after introduction into commerce.

( 14) The term "commerce" means trade, traffic, commerce, or transportation -

( A) between a place in a State and any place outside thereof, or

( B) which affects trade, traffic, commerce, or transportation described in subparagraph ( A).

( 15) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, or American Samoa. The term "State law" includes a law of the United States applicable only to the District of Columbia or only to a territory or possession of the United States; and the term "Federal law" excludes any State law.

#### **Sec. 2302. Rules governing contents of warranties**

( a) Full and conspicuous disclosure of terms and conditions; additional requirements for contents In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the

marketing of consumer products, any warrantor warranting a consumer product to a consumer by means of a written warranty shall, to the extent required by rules of the Commission, fully and conspicuously disclose in simple and readily understood language the terms and conditions of such warranty. Such rules may require inclusion in the written warranty of any of the following items among others:

- ( 1) The clear identification of the names and addresses of the warrantors.
- ( 2) The identity of the party or parties to whom the warranty is extended.
- ( 3) The products or parts covered.
- ( 4) A statement of what the warrantor will do in the event of a defect, malfunction, or failure to conform with such written warranty - at whose expense - and for what period of time.
- ( 5) A statement of what the consumer must do and expenses he must bear.
- ( 6) Exceptions and exclusions from the terms of the warranty.
- ( 7) The step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty, including the identification of any person or class of persons authorized to perform the obligations set forth in the warranty.
- ( 8) Information respecting the availability of any informal dispute settlement procedure offered by the warrantor and a recital, where the warranty so provides, that the purchaser may be required to resort to such procedure before pursuing any legal remedies in the courts.
- ( 9) A brief, general description of the legal remedies available to the consumer.
- ( 10) The time at which the warrantor will perform any obligations under the warranty.
- ( 11) The period of time within which, after notice of a defect, malfunction, or failure to conform with the warranty, the warrantor will perform any obligations under the warranty.
- ( 12) The characteristics or properties of the products, or parts thereof, that are not covered by the warranty.
- ( 13) The elements of the warranty in words or phrases which would not mislead a reasonable, average consumer as to the nature or scope of the warranty.

( b) Availability of terms to consumer; manner and form for presentation and display of information; duration; extension of period for written warranty or service contract

- ( 1)
  - ( A) The Commission shall prescribe rules requiring that the

terms of any written warranty on a consumer product be made available to the consumer( or prospective consumer) prior to the sale of the product to him.

( B) The Commission may prescribe rules for determining the manner and form in which information with respect to any written warranty of a consumer product shall be clearly and conspicuously presented or displayed so as not to mislead the reasonable, average consumer, when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing.

( 2) Nothing in this chapter( other than paragraph ( 3) of this subsection) shall be deemed to authorize the Commission to prescribe the duration of written warranties given or to require that a consumer product or any of its components be warranted.

( 3) The Commission may prescribe rules for extending the period of time a written warranty or service contract is in effect to correspond with any period of time in excess of a reasonable period( not less than 10 days) during which the consumer is deprived of the use of such consumer product by reason of failure of the product to conform with the written warranty or by reason of the failure of the warrantor( or service contractor) to carry out such warranty( or service contract) within the period specified in the warranty( or service contract).

( c) Prohibition on conditions for written or implied warranty; waiver by Commission No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service( other than article or service provided without charge under the terms of the warranty) which is identified by brand, trade, or corporate name; except that the prohibition of this subsection may be waived by the Commission if -

( 1) the warrantor satisfies the Commission that the warranted product will function properly only if the article or service so identified is used in connection with the warranted product, and

( 2) the Commission finds that such a waiver is in the public interest. The Commission shall identify in the Federal Register, and permit public comment on, all applications for waiver of the prohibition of this subsection, and shall publish in the Federal Register its disposition of any such application, including the reasons therefor.

( d) Incorporation by reference of detailed substantive warranty provisions The Commission may by rule devise detailed substantive warranty provisions which warrantors may incorporate by reference in their warranties.

( e) Applicability to consumer products costing more than \$5 The

provisions of this section apply only to warranties which pertain to consumer products actually costing the consumer more than \$5.

**Sec. 2303. Designation of written warranties**

( a) Full( statement of duration) or limited warranty Any warrantor warranting a consumer product by means of a written warranty shall clearly and conspicuously designate such warranty in the following manner, unless exempted from doing so by the Commission pursuant to subsection( c) of this section:

( 1) If the written warranty meets the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a "full( statement of duration) warranty".

( 2) If the written warranty does not meet the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a "limited warranty".

( b) Applicability of requirements, standards, etc., to representations or statements of customer satisfaction This section and sections 2302 and 2304 of this title shall not apply to statements or representations which are similar to expressions of general policy concerning customer satisfaction and which are not subject to any specific limitations.

( c) Exemptions by Commission In addition to exercising the authority pertaining to disclosure granted in section 2302 of this title, the Commission may by rule determine when a written warranty does not have to be designated either "full( statement of duration)" or "limited" in accordance with this section.

( d) Applicability to consumer products costing more than \$10 and not designated as full warranties The provisions of subsections( a) and( c) of this section apply only to warranties which pertain to consumer products actually costing the consumer more than \$10 and which are not designated "full( statement of duration) warranties".

**Sec. 2304. Federal minimum standards for warranties**

( a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement In order for a warrantor warranting a consumer product by means of a written warranty to meet the Federal minimum standards for warranty -

( 1) such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty;

( 2) notwithstanding section 2308(b) of this title, such warrantor may not impose any limitation on the duration of any implied warranty on the product;

( 3) such warrantor may not exclude or limit consequential damages for breach of any written or implied warranty on such product,

unless such exclusion or limitation conspicuously appears on the face of the warranty; and

( 4) if the product( or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part( as the case may be). The Commission may by rule specify for purposes of this paragraph, what constitutes a reasonable number of attempts to remedy particular kinds of defects or malfunctions under different circumstances. If the warrantor replaces a component part of a consumer product, such replacement shall include installing the part in the product without charge.

( b) Duties and conditions imposed on consumer by warrantor

( 1) In fulfilling the duties under subsection( a) of this section respecting a written warranty, the warrantor shall not impose any duty other than notification upon any consumer as a condition of securing remedy of any consumer product which malfunctions, is defective, or does not conform to the written warranty, unless the warrantor has demonstrated in a rule-making proceeding, or can demonstrate in an administrative or judicial enforcement proceeding( including private enforcement), or in an informal dispute settlement proceeding, that such a duty is reasonable.

( 2) Notwithstanding paragraph( 1), a warrantor may require, as a condition to replacement of, or refund for, any consumer product under subsection( a) of this section, that such consumer product shall be made available to the warrantor free and clear of liens and other encumbrances, except as otherwise provided by rule or order of the Commission in cases in which such a requirement would not be practicable.

( 3) The Commission may, by rule define in detail the duties set forth in subsection( a) of this section and the applicability of such duties to warrantors of different categories of consumer products with "full( statement of duration)" warranties.

( 4) The duties under subsection ( a) of this section extend from the warrantor to each person who is a consumer with respect to the consumer product.

( c) Waiver of standards The performance of the duties under subsection( a) of this section shall not be required of the warrantor if he can show that the defect, malfunction, or failure of any warranted consumer product to conform with a written warranty, was caused by damage( not resulting from defect or malfunction) while in the possession of the consumer, or

unreasonable use( including failure to provide reasonable and necessary maintenance).

( d) Remedy without charge For purposes of this section and of section 2302(c) of this title, the term "without charge" means that the warrantor may not assess the consumer for any costs the warrantor or his representatives incur in connection with the required remedy of a warranted consumer product. An obligation under subsection( a)(1)(A) of this section to remedy without charge does not necessarily require the warrantor to compensate the consumer for incidental expenses; however, if any incidental expenses are incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the consumer as a condition of securing remedy, then the consumer shall be entitled to recover reasonable incidental expenses which are so incurred in any action against the warrantor.

( e) Incorporation of standards to products designated with full warranty for purposes of judicial actions If a supplier designates a warranty applicable to a consumer product as a "full( statement of duration)" warranty, then the warranty on such product shall, for purposes of any action under section 2310(d) of this title or under any State law, be deemed to incorporate at least the minimum requirements of this section and rules prescribed under this section.

**Sec. 2305. Full and limited warranting of a consumer product**

Nothing in this chapter shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

**Sec. 2306. Service contracts; rules for full, clear and conspicuous disclosure of terms and conditions; addition to or in lieu of written warranty**

( a) The Commission may prescribe by rule the manner and form in which the terms and conditions of service contracts shall be fully, clearly, and conspicuously disclosed.

( b) Nothing in this chapter shall be construed to prevent a supplier or warrantor from entering into a service contract with the consumer in addition to or in lieu of a written warranty if such contract fully, clearly, and conspicuously discloses its terms and conditions in simple and readily understood language.

**Sec. 2307. Designation of representatives by warrantor to perform duties under written or implied warranty**

Nothing in this chapter shall be construed to prevent any warrantor from designating representatives to perform duties under the written or implied warranty: Provided, That such warrantor shall make reasonable arrangements for compensation of such designated representatives, but no such designation shall relieve the warrantor of his direct responsibilities to the consumer or make the representative a co-warrantor.

**Sec. 2308. Implied warranties**

( a) **Restrictions on disclaimers or modifications** No supplier may disclaim or modify( except as provided in subsection ( b) of this section) any implied warranty to a consumer with respect to such consumer product if

( 1) such supplier makes any written warranty to the consumer with respect to such consumer Product, or

( 2) at the time of sale, or within 90 days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

( b) **Limitation on duration** For purposes of this chapter( other than section 2304(a)(2) of this title), implied warranties may be limited in duration to the duration of a written warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

( c) **Effectiveness of disclaimers, modifications, or limitations** A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this chapter and State law.

**Sec. 2309. Procedures applicable to promulgation of rules by Commission**

( a) **Oral presentation** Any rule prescribed under this chapter shall be prescribed in accordance with section 553 of title 5; except that the Commission shall give interested persons an opportunity for oral presentations of data, views, and arguments, in addition to written submissions. A transcript shall be kept of any oral presentation. Any such rule shall be subject to judicial review under section 57a(e) of this title in the same manner as rules prescribed under section 57a(a)(1)(B) of this title, except that section 57a(e)(3)(B) of this title shall not apply.

( b) **Warranties and warranty practices involved in sale of used motor vehicles** The Commission shall initiate within one year after January 4, 1975, a rule-making proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles; and, to the extent necessary to supplement the protections offered the consumer by this chapter, shall prescribe rules dealing with such warranties and practices. In prescribing rules under this subsection, the Commission may exercise any authority it may have under this chapter, or other law, and in addition it may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure.

**Sec. 2310. Remedies in consumer disputes**

( a) **Informal dispute settlement procedures; establishment; rules setting forth minimum requirements; effect of compliance by warrantor; review of informal procedures or implementation by Commission; application to existing informal procedures**

( 1) Congress hereby declares it to be its policy to encourage warrantors to establish procedures whereby consumer disputes are

fairly and expeditiously settled through informal dispute settlement mechanisms.

( 2) The Commission shall prescribe rules setting forth minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty to which any provision of this chapter applies. Such rules shall provide for participation in such procedure by independent or governmental entities.

( 3) One or more warrantors may establish an informal dispute settlement procedure which meets the requirements of the Commission's rules under paragraph( 2). If -

( A) a warrantor establishes such a procedure,

( B) such procedure, and its implementation, meets the requirements of such rules, and

( C) he incorporates in a written warranty a requirement that the consumer resort to such procedure before pursuing any legal remedy under this section respecting such warranty, then

( i) the consumer may not commence a civil action( other than a class action) under subsection (d) of this section unless he initially resorts to such procedure; and

( ii) a class of consumers may not proceed in a class action under subsection( d) of this section except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the named plaintiffs( upon notifying the defendant that they are named plaintiffs in a class action with respect to a warranty obligation) initially resort to such procedure. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure. In any civil action arising out of a warranty obligation and relating to a matter considered in such a procedure, any decision in such procedure shall be admissible in evidence.

( 4) The Commission on its own initiative may, or upon written complaint filed by any interested person shall, review the bona fide operation of any dispute settlement procedure resort to which is stated in a written warranty to be a prerequisite to pursuing a legal remedy under this section. If the Commission finds that such procedure or its implementation fails to comply with the



requirements of the rules under paragraph( 2), the Commission may take appropriate remedial action under any authority it may have under this chapter or any other provision of law.

( 5) Until rules under paragraph( 2) take effect, this subsection shall not affect the validity of any informal dispute settlement procedure respecting consumer warranties, but in any action under subsection( d) of this section, the court may invalidate any such procedure if it finds that such procedure is unfair.

( b) Prohibited acts It shall be a violation of section 45(a)(1) of this title for any person to fail to comply with any requirement imposed on such person by this chapter( or a rule thereunder) or to violate any prohibition contained in this chapter( or a rule thereunder).

( c) Injunction proceedings by Attorney General or Commission for deceptive warranty, noncompliance with requirements, or violating prohibitions; procedures; definitions

( 1) The district courts of the United States shall have jurisdiction of any action brought by the Attorney General( in his capacity as such), or by the Commission by any of its attorneys designated by it for such purpose, to restrain

( A) any warrantor from making a deceptive warranty with respect to a consumer product, or

( B) any person from failing to comply with any requirement imposed on such person by or pursuant to this chapter or from violating any prohibition contained in this chapter. Upon proper showing that, weighing the equities and considering the Commission's or Attorney General's likelihood of ultimate success, such action would be in the public interest and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond. In the case of an action brought by the Commission, if a complaint under section 45 of this title is not filed within such period( not exceeding 10 days) as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any suit shall be brought in the district in which such person resides or transacts business. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

( 2) For the purposes of this subsection, the term "deceptive warranty" means



a class action or an action respecting a warranty to which subsection( a)(3) of this section applies) may be brought under subsection( d) of this section for failure to comply with any obligation under any written or implied warranty or service contract, and a class of consumers may not proceed in a class action under such subsection with respect to such a failure except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the person obligated under the warranty or service contract is afforded a reasonable opportunity to cure such failure to comply. In the case of such a class action( other than a class action respecting a warranty to which subsection( a)(3) of this section applies) brought under subsection( d) of this section for breach of any written or implied warranty or service contract, such reasonable opportunity will be afforded by the named plaintiffs and they shall at that time notify the defendant that they are acting on behalf of the class. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure.

( f) Warrantors subject to enforcement of remedies For purposes of this section, only the warrantor actually making a written affirmation of fact, promise, or undertaking shall be deemed to have created a written warranty, and any rights arising thereunder may be enforced under this section only against such warrantor and no other person.

#### **Sec. 2311. Applicability to other laws**

##### **( a) Federal Trade Commission Act and Federal Seed Act**

( 1) Nothing contained in this chapter shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act( 15 U.S.C. 41 et seq.) or any statute defined therein as an Antitrust Act.

( 2) Nothing in this chapter shall be construed to repeal, invalidate, or supersede the Federal Seed Act( 7 U.S.C. 1551 et seq.) and nothing in this chapter shall apply to seed for planting.

##### **( b) Rights, remedies, and liabilities**

( 1) Nothing in this chapter shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law.

( 2) Nothing in this chapter( other than sections 2308 and 2304(a)(2) and( 4) of this title) shall

( A) affect the liability of, or impose liability on, any person for personal injury, or

(B) supersede any provision of State law regarding consequential damages for injury to the person or other injury.

##### **( c) State warranty laws**

( 1) Except as provided in subsection( b) of this section and in paragraph( 2) of this subsection, a State requirement -

( A ) which relates to labeling or disclosure with respect to written warranties or performance thereunder;  
( B ) which is within the scope of an applicable requirement of sections 2302, 2303, and 2304 of this title( and rules implementing such sections), and  
( C ) which is not identical to a requirement of section 2302, 2303, or 2304 of this title( or a rule thereunder), shall not be applicable to written warranties complying with such sections( or rules thereunder).

( 2 ) If, upon application of an appropriate State agency, the Commission determines( pursuant to rules issued in accordance with section 2309 of this title) that any requirement of such State covering any transaction to which this chapter applies

( A ) affords protection to consumers greater than the requirements of this chapter and

( B ) does not unduly burden interstate commerce, then such State requirement shall be applicable( notwithstanding the provisions of paragraph( 1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement.

( d ) Other Federal warranty laws This chapter( other than section 2302(c) of this title) shall be inapplicable to any written warranty the making or content of which is otherwise governed by Federal law. If only a portion of a written warranty is so governed by Federal law, the remaining portion shall be subject to this chapter.

#### **Sec. 2312. Effective dates**

( a ) Effective date of chapter Except as provided in subsection( b) of this section, this chapter shall take effect 6 months after January 4, 1975, but shall not apply to consumer products manufactured prior to such date.

( b ) Effective date of section 2302(a) Section 2302(a) of this title shall take effect 6 months after the final publication of rules respecting such section; except that the Commission, for good cause shown, may postpone the applicability of such sections until one year after such final publication in order to permit any designated classes of suppliers to bring their written warranties into compliance with rules promulgated pursuant to this chapter.

( c ) Promulgation of rules The Commission shall promulgate rules for initial implementation of this chapter as soon as possible after January 4, 1975, but in no event later than one year after such date.

# **Appendix**

## **B**

## Appendix B

**CODE OF FEDERAL REGULATIONS  
TITLE 16 -- COMMERCIAL PRACTICES  
CHAPTER I -- FEDERAL TRADE COMMISSION  
SUBCHAPTER G --RULES, REGULATIONS, STATEMENTS AND  
INTERPRETATIONS UNDER THE Magnuson-MOSS WARRANTY ACT  
16 C.F.R. Part 703  
INFORMAL DISPUTE SETTLEMENT PROCEDURES  
Part 703--INFORMAL SETTLEMENT DISPUTE PROCEDURES**

**Sec.**

**703.1 Definitions.**

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**703.3 Mechanism organization.**

**703.4.A Qualification of members.**

**703.5 Operation of the Mechanism.**

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**AUTHORITY: 15 U.S.C. 2309 and 2310.**

**SOURCE: 40 FR 60215, Dec. 31, 1975, unless otherwise noted.**

**§ 703.1 Definitions.**

**(a) "The Act" means the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act, 15 U.S.C. § 2301, et seq.**

**(b) "Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).**

**(c) "Written warranty" means:**

**(1) Any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or**

**(2) Any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking, becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.**

**(d) "Warrantor" means any person who gives or offers to give a written warranty which incorporates an informal dispute settlement mechanism.**

**(e) "Mechanism" means an informal dispute settlement procedure which is incorporated into the terms of a written warranty to which any provision of Title I of the Act applies, as provided in section 110 of the Act.**

**(f) "Members" means the person or persons within a Mechanism actually deciding disputes.**

**(g) "Consumer" means a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of a written warranty applicable to the product, and any other person who is entitled by the terms of such warranty or under applicable state law to enforce against the warrantor the obligations of the warranty.**

**(h) On the face of the warranty means:**

**(1) If the warranty is a single sheet with printing on both sides of the sheet, or if the warranty is comprised of more than one sheet, the page on which the warranty text begins;**

**(2) If the warranty is included as part of a longer document, such as a use and care manual, the page in such document on which the warranty text begins.**

#### **§ 703.2 Duties of warrantor.**

**(a) The warrantor shall not incorporate into the terms of a written warranty a Mechanism that fails to comply with the requirements contained in § 703.3 through § 703.8 of this part. This paragraph shall not prohibit a warrantor from incorporating into the terms of a written warranty the step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty as described in section 102(a) (7) of the Act and required by Part 701 of this subchapter.**

**(b) The warrantor shall disclose clearly and conspicuously at least the following information on the face of the written warranty:**

**(1) A statement of the availability of the informal dispute settlement mechanism;**

**(2) The name and address of the Mechanism, or the name and a telephone number of the Mechanism which consumers may use without charge;**

**(3) A statement of any requirement that the consumer resort to the Mechanism before exercising rights or seeking remedies created by Title I of the Act; together with the disclosure that if a consumer chooses to seek redress by pursuing rights and remedies not created by Title I of the Act, resort to the Mechanism would not be required by any provision of the Act; and**

**(4) A statement, if applicable, indicating where further information on the Mechanism can be found in materials accompanying the product, as provided in**

**§ 703.2(c) of this section.**

**(c) The warrantor shall include in the written warranty or in a separate section of materials accompanying the product, the following information:**

**(1) Either**

- (i) a form addressed to the Mechanism containing spaces requesting the information which the Mechanism may require for prompt resolution of warranty disputes; or**
- (ii) a telephone number of the Mechanism which consumers may use without charge;**

**(2) The name and address of the Mechanism;**

**(3) A brief description of Mechanism procedures;**

**(4) The time limits adhered to by the Mechanism; and**

**(5) The types of information which the Mechanism may require for prompt resolution of warranty disputes.**

**(d) The warrantor shall take steps reasonably calculated to make consumers aware of the Mechanism's existence at the time consumers experience warranty disputes. Nothing contained in paragraphs (b), (c), or (d) of this section 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.**

**(e) Whenever a dispute is submitted directly to the warrantor, the warrantor shall, within a reasonable time, decide whether, and to what extent, it will satisfy the consumer, and inform the consumer of its decision. In its notification to the consumer of its decision, the warrantor shall include the information required in § 703.2 (b) and (c) of this section.**

**(f) The warrantor shall:**

**(1) Respond fully and promptly to reasonable requests by the Mechanism for information relating to disputes;**

**(2) Upon notification of any decision of the Mechanism that would require action on the part of the warrantor, immediately notify the Mechanism whether, and to what extent, warrantor will abide by the decision; and**

**(3) Perform any obligations it has agreed to.**

**(g) The warrantor shall act in good faith in determining whether, and to what extent, it will abide by a Mechanism decision.**

**(h) The warrantor shall comply with any reasonable requirements imposed by the Mechanism to fairly and expeditiously resolve warranty disputes.**

#### **MINIMUM REQUIREMENTS OF THE MECHANISM**

**§ 703.3 Mechanism organization.**

**(a) The Mechanism shall be funded and competently staffed at a level sufficient to ensure fair and expeditious resolution of all disputes, and shall not charge consumers any fee for use of the Mechanism.**



**(b) The warrantor and the sponsor of the Mechanism (if other than the warrantor) shall take all steps necessary to ensure that the Mechanism, and its members and staff, are sufficiently insulated from the warrantor and the sponsor, so that the decisions of the members and the performance of the staff are not influenced by either the warrantor or the sponsor. Necessary steps shall include, at a minimum, committing funds in advance, basing personnel decisions solely on merit, and not assigning conflicting warrantor or sponsor duties to Mechanism staff persons.**

**(c) The Mechanism shall impose any other reasonable requirements necessary to ensure that the members and staff act fairly and expeditiously in each dispute.**

**§ 703.4 Qualification of members.**

**(a) No member deciding a dispute shall be:**

**(1) A party to the dispute, or an employee or agent of a party other than for purposes of deciding disputes; or**

**(2) A person who is or may become a party in any legal action, including but not limited to class actions, relating to the product or complaint in dispute, or an employee or agent of such person other than for purposes of deciding disputes. For purposes of this paragraph (a) a person shall not be considered a "party" solely because he or she acquires or owns an interest in a party solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment.**

**(b) When one or two members are deciding a dispute, all shall be persons having no direct involvement in the manufacture, distribution, sale or service of any product. When three or more members are deciding a dispute, at least two-thirds shall be persons having no direct involvement in the manufacture, distribution, sale or service of any product. "Direct involvement" shall not include acquiring or owning an interest solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment. Nothing contained in this section shall prevent the members from consulting with any persons knowledgeable in the technical, commercial or other areas relating to the product which is the subject of the dispute.**

**(c) Members shall be persons interested in the fair and expeditious settlement of consumer disputes.**

**§ 703.5 Operation of the Mechanism.**

**(a) The Mechanism shall establish written operating procedures which shall include at least those items specified in paragraphs (b) through (j) of this section. Copies of the written procedures shall be made available to**

any person upon request.

(b) Upon notification of a dispute, the Mechanism shall immediately inform both the warrantor and the consumer of receipt of the dispute.

(c) The Mechanism shall investigate, gather and organize all information necessary for a fair and expeditious decision in each dispute. When any evidence gathered by or submitted to the Mechanism raises issues relating to the number of repair attempts, the length of repair periods, the possibility of unreasonable use of the product, or any other issues relevant in light of Title I of the Act (or rules thereunder), including issues relating to consequential damages, or any other remedy under the Act (or rules thereunder), the Mechanism shall investigate these issues. When information which will or may be used in the decision, submitted by one party, or a consultant under § 703.4(b) of this part, or any other source tends to contradict facts submitted by the other party, the Mechanism shall clearly, accurately, and completely disclose to both parties the contradictory information (and its source) and shall provide both parties an opportunity to explain or rebut the information and to submit additional materials. The Mechanism shall not require any information not reasonably necessary to decide the dispute.

(d) If the dispute has not been settled, the Mechanism shall, as expeditiously as possible but at least within 40 days of notification of the dispute, except as provided in paragraph (e) of this section:

(1) Render a fair decision based on the information gathered as described in paragraph (c) of this section, and on any information submitted at an oral presentation which conforms to the requirements of paragraph (f) of this section (A decision shall include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, compensation for damages, and any other remedies available under the written warranty or the Act (or rules thereunder); and a decision shall state a specified reasonable time for performance);

(2) Disclose to the warrantor its decision and the reasons therefor;  
(3) If the decision would require action on the part of the warrantor, determine whether, and to what extent, warrantor will abide by its decision; and

(4) Disclose to the consumer its decision, the reasons therefor, warrantor's intended actions (if the decision would require action on the part of the warrantor), and the information described in paragraph (g) of this section. For purposes of paragraph (d) of this section a dispute shall be deemed settled when the Mechanism has ascertained from the consumer that:

(i) The dispute has been settled to the consumer's satisfaction; and

- (ii) the settlement contains a specified reasonable time for performance.
- (e) The Mechanism may delay the performance of its duties under paragraph (d) of this section beyond the 40 day time limit:
  - (1) Where the period of delay is due solely to failure of a consumer to provide promptly his or her name and address, brand name and model number of the product involved, and a statement as to the nature of the defect or other complaint; or
  - (2) For a 7 day period in those cases where the consumer has made no attempt to seek redress directly from the warrantor.
- (f) The Mechanism may allow an oral presentation by a party to a dispute (or a party's representative) only if:
  - (1) Both warrantor and consumer expressly agree to the presentation;
  - (2) Prior to agreement the Mechanism fully discloses to the consumer the following information:
    - (i) That the presentation by either party will take place only if both parties so agree, but that if they agree, and one party fails to appear at the agreed upon time and place, the presentation by the other party may still be allowed;
    - (ii) That the members will decide the dispute whether or not an oral presentation is made;
    - (iii) The proposed date, time and place for the presentation; and
    - (iv) A brief description of what will occur at the presentation including, if applicable, parties' rights to bring witnesses and/or counsel; and
  - (3) Each party has the right to be present during the other party's oral presentation. Nothing contained in this paragraph (b) of this section shall preclude the Mechanism from allowing an oral presentation by one party, if the other party fails to appear at the agreed upon time and place, as long as all of the requirements of this paragraph have been satisfied.
- (g) The Mechanism shall inform the consumer, at the time of disclosure required in paragraph (d) of this section that:
  - (1) If he or she is dissatisfied with its decision or warrantor's intended actions, or eventual performance, legal remedies, including use of small claims court, may be pursued;
  - (2) The Mechanism's decision is admissible in evidence as provided in section 110(a) (3) of the Act; and
  - (3) The consumer may obtain, at reasonable cost, copies of all Mechanism records relating to the consumer's dispute.
- (h) If the warrantor has agreed to perform any obligations, either as part of a settlement agreed to after notification to the Mechanism of the dispute or

as a result of a decision under paragraph (d) of this section, the Mechanism shall ascertain from the consumer within 10 working days of the date for performance whether performance has occurred.

(i) A requirement that a consumer resort to the Mechanism prior to commencement of an action under section 110(d) of the Act shall be satisfied 40 days after notification to the Mechanism of the dispute or when the Mechanism completes all of its duties under paragraph (d) of this section, whichever occurs sooner. Except that, if the Mechanism delays performance of its paragraph (d) of this section duties as allowed by paragraph (e) of this section, the requirement that the consumer initially resort to the Mechanism shall not be satisfied until the period of delay allowed by paragraph (e) of this section has ended.

(j) Decisions of the Mechanism shall not be legally binding on any person. However, the warrantor shall act in good faith, as provided in § 703.2(g) of this part. In any civil action arising out of a warranty obligation and relating to a matter considered by the Mechanism, any decision of the Mechanism shall be admissible in evidence, as provided in section 110(a) (3) of the Act.

#### **§ 703.6 Record keeping.**

(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, 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;
- (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) 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;
- (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.

- (b) The Mechanism shall maintain an index of each warrantor's disputes grouped under brand name and sub-grouped under product model.
- (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.
- (d) The Mechanism shall maintain an index as will show all disputes delayed beyond 40 days.
- (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, 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) of this part;
  - (10) Decision delayed beyond 40 days under § 703.5(e)(2) of this part;
  - (11) Decision delayed beyond 40 days for any other reason; and
  - (12) Pending decision.
- (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.

#### **§ 703.7 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 of this part shall be available for audit.
- (b) Each audit provided for in paragraph (a) of this section shall include at a minimum the following:
- (1) Evaluation of warrantors' efforts to make consumers aware of the Mechanism's existence as required in § 703.2(d) of this part;
  - (2) Review of the indexes maintained pursuant to § 703.6 (b), (c), and (d) of this part; and

**(3) 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) of this part. (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.)**

**(c) 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.**

**(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.**

**§ 703.8 Openness of records and proceedings.**

**(a) The statistical summaries specified in § 703.6(e) of this part shall be available to any person for inspection and copying.**

**(b) Except as provided under paragraphs (a) and (e) of this section, and paragraph (c) of § 703.7 of this part, all records of the Mechanism may be kept confidential, or made available only on such terms and conditions, or in such form, as the Mechanism shall permit.**

**(c) The policy of the Mechanism with respect to records made available at the Mechanism's option shall be set out in the procedures under § 703.5(a) of this part; the policy shall be applied uniformly to all requests for access to or copies of such records.**

**(d) Meetings of the members to hear and decide disputes shall be open to observers on reasonable and nondiscriminatory terms. The identity of the parties and products involved in disputes need not be disclosed at meetings.**

**(e) Upon request the Mechanism shall provide to either party to a dispute:**

- (1) Access to all records relating to the dispute; and**
- (2) Copies of any records relating to the dispute, at reasonable cost.**

**(f) The Mechanism shall make available to any person upon request, information relating to the qualifications of Mechanism staff and members.**

# **Appendix**

## **C**

## Appendix C

### FLORIDA STATUTES CHAPTER 681 MOTOR VEHICLE SALES WARRANTIES

- 681.10 Short title.
- 681.101 Legislative Intent.
- 681.102 Definitions.
- 681.103 Duty of manufacturer to conform a motor vehicle to the warranty.
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#### § 681.10 Short title.--

This chapter shall be known and may be cited as the "Motor Vehicle Warranty Enforcement Act."

#### § 681.101 Legislative intent.--

The Legislature recognizes that a motor vehicle is a major consumer purchase and that a defective motor vehicle undoubtedly creates a hardship for the consumer. The Legislature further recognizes that a duly franchised motor vehicle dealer is an authorized service agent of the manufacturer. It is the intent of the Legislature that a good faith motor vehicle warranty complaint by a consumer be resolved by the manufacturer within a specified period of time; however, it is not the intent of the Legislature that a consumer establish the presumption of a reasonable number of attempts as to each manufacturer that provides a warranty directly to the consumer. It is further the intent of the Legislature to provide the statutory procedures whereby a consumer may receive a replacement motor vehicle, or a full refund, for a motor vehicle which cannot be brought into conformity with the warranty provided for in this chapter. However, nothing in this chapter shall in any way limit or expand the rights or remedies which are otherwise available to a consumer under any other law.

#### § 681.102 Definitions.--

As used in this chapter, the term:



- (1) "Authorized service agent" means any person, including a franchised motor vehicle dealer, who is authorized by the manufacturer to service motor vehicles. In the case of a recreational vehicle when there are two or more manufacturers, an authorized service agent for any individual manufacturer is any person, including a franchised motor vehicle dealer, who is authorized to service the items warranted by that manufacturer. The term does not include a rental car company authorized to repair rental vehicles.
- (2) "Board" means the Florida New Motor Vehicle Arbitration Board.
- (3) "Collateral charges" means those additional charges to a consumer wholly incurred as a result of the acquisition of the motor vehicle. For the purposes of this chapter, collateral charges include, but are not limited to, manufacturer-installed or agent-installed items or service charges, earned finance charges, sales taxes, and title charges.
- (4) "Consumer" means the purchaser, other than for purposes of resale, or the lessee, of a motor vehicle primarily used for personal, family, or household purposes; any person to whom such motor vehicle is transferred for the same purposes during the duration of the Lemon Law rights period; and any other person entitled by the terms of the warranty to enforce the obligations of the warranty.
- (5) "Days" means calendar days.
- (6) "Department" means the Department of Legal Affairs.
- (7) "Division" means the Division of Consumer Services of the Department of Agriculture and Consumer Services.
- (8) "Incidental charges" means those reasonable costs to the consumer which are directly caused by the nonconformity of the motor vehicle.
- (9) "Lease price" means the aggregate of the capitalized cost, as defined in § 521.003(2), and each of the following items to the extent not included in the capitalized cost:
- (a) Lessor's earned rent charges through the date of repurchase.
  - (b) Collateral charges, if applicable.
  - (c) Any fee paid to another to obtain the lease.
  - (d) Any insurance or other costs expended by the lessor for the benefit of the lessee.
  - (e) An amount equal to state and local sales taxes, not otherwise included as collateral charges, paid by the lessor when the vehicle was initially purchased.
- (10) "Lemon Law rights period" means the period ending 24 months after the date of the original delivery of a motor vehicle to a consumer.
- (11) "Lessee" means any consumer who leases a motor vehicle for 1

year or more pursuant to a written lease agreement which provides that the lessee is responsible for repairs to such motor vehicle or any consumer who leases a motor vehicle pursuant to a lease-purchase agreement.

(12) "Lessee cost" means the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle but excludes debt from any other transaction.

(13) "Lessor" means a person who holds title to a motor vehicle that is leased to a lessee under a written lease agreement or who holds the lessor's rights under such agreement.

(14) "Manufacturer" means any person, whether a resident or nonresident of this state, who manufactures or assembles motor vehicles, or who manufactures or assembles chassis for recreational vehicles, or who manufactures or installs on previously assembled truck or recreational vehicle chassis special bodies or equipment which, when installed, forms an integral part of the motor vehicle, a distributor as defined in § 320.60(5), or an importer as defined in § 320.60(7). A dealer as defined in § 320.60(11)(a) shall not be deemed to be a manufacturer, distributor, or importer as provided in this section.

(15) "Motor vehicle" means a new vehicle, propelled by power other than muscular power, which is sold in this state to transport persons or property, and includes a recreational vehicle or a vehicle used as a demonstrator or leased vehicle if a manufacturer's warranty was issued as a condition of sale, or the lessee is responsible for repairs, but does not include vehicles run only upon tracks, off-road vehicles, trucks over 10,000 pounds gross vehicle weight, motorcycles, mopeds, or the living facilities of recreational vehicles. "Living facilities of recreational vehicles" are those portions designed, used, or maintained primarily as living quarters and include, but are not limited to, the flooring, plumbing system and fixtures, roof air conditioner, furnace, generator, electrical systems other than automotive circuits, the side entrance door, exterior compartments, and windows other than the windshield and driver and front passenger windows.

(16) "Nonconformity" means a defect or condition that substantially impairs the use, value, or safety of a motor vehicle, but does not include a defect or condition that results from an accident, abuse, neglect, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

(17) "Procedure" means an informal dispute-settlement procedure established by a manufacturer to mediate and arbitrate motor vehicle warranty disputes.

(18) "Program" means the mediation and arbitration pilot program

for recreational vehicles established in this chapter.

(19) "Purchase price" means the cash price as defined in § 520.31(2), inclusive of any allowance for a trade-in vehicle, but excludes debt from any other transaction. "Any allowance for a trade-in vehicle" means the net trade-in allowance as reflected in the purchase contract or lease agreement if acceptable to the consumer and manufacturer. If such amount is not acceptable to the consumer and manufacturer, then the trade-in allowance shall be an amount equal to 100 percent of the retail price of the trade-in vehicle as reflected in the NADA Official Used Car Guide (Southeastern Edition) or NADA Recreation Vehicle Appraisal Guide, whichever is applicable, in effect at the time of the trade-in. The manufacturer shall be responsible for providing the applicable NADA book.

(20) "Reasonable offset for use" means the number of miles attributable to a consumer up to the date of a settlement agreement or arbitration hearing, whichever occurs first, multiplied by the purchase price of the vehicle and divided by 120,000, except in the case of a recreational vehicle, in which event it shall be divided by 60,000.

(21) "Recreational vehicle" means a motor vehicle primarily designed to provide temporary living quarters for recreational, camping, or travel use, but does not include a van conversion.

(22) "Replacement motor vehicle" means a motor vehicle which is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of acquisition. "Reasonably equivalent to the motor vehicle to be replaced" means the manufacturer's suggested retail price of the replacement vehicle shall not exceed 105 percent of the manufacturer's suggested retail price of the motor vehicle to be replaced. In the case of a recreational vehicle, "reasonably equivalent to the motor vehicle to be replaced" means the retail price of the replacement vehicle shall not exceed 105 percent of the purchase price of the recreational vehicle to be replaced.

(23) "Warranty" means any written warranty issued by the manufacturer, or any affirmation of fact or promise made by the manufacturer, excluding statements made by the dealer, in connection with the sale of a motor vehicle to a consumer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is free of defects or will meet a specified level of performance.

**§ 681.103 Duty of manufacturer to conform a motor vehicle to the warranty.--**

(1) If a motor vehicle does not conform to the warranty and the consumer first reports the problem to the manufacturer or its authorized service agent during the Lemon Law rights period, the

**manufacturer or its authorized service agent shall make such repairs as are necessary to conform the vehicle to the warranty, irrespective of whether such repairs are made after the expiration of the Lemon Law rights period. Such repairs shall be at no cost to the consumer if made during the term of the manufacturer's written express warranty. Nothing in this paragraph shall be construed to grant an extension of the Lemon Law rights period or to expand the time within which a consumer must file a claim under this chapter.**

**(2) Each manufacturer shall provide to its consumers conspicuous notice of the address and phone number for its zone, district, or regional office for this state in the written warranty or owner's manual. By January 1 of each year, each manufacturer shall forward to the Department of Legal Affairs a copy of the owner's manual and any written warranty for each make and model of motor vehicle that it sells in this state.**

**(3) At the time of acquisition, the manufacturer shall inform the consumer clearly and conspicuously in writing how and where to file a claim with a certified procedure if such procedure has been established by the manufacturer pursuant to § 681.108. The manufacturer shall provide to the dealer and, at the time of acquisition, the dealer shall provide to the consumer a written statement that explains the consumer's rights under this chapter. The written statement shall be prepared by the Department of Legal Affairs and shall contain a toll-free number for the division that the consumer can contact to obtain information regarding the consumer's rights and obligations under this chapter or to commence arbitration. If the manufacturer obtains a signed receipt for timely delivery of sufficient quantities of this written statement to meet the dealer's vehicle sales requirements, it shall constitute prima facie evidence of compliance with this subsection by the manufacturer. The consumer's signed acknowledgment of receipt of materials required under this subsection shall constitute prima facie evidence of compliance by the manufacturer and dealer. The form of the acknowledgments shall be approved by the Department of Legal Affairs, and the dealer shall maintain the consumer's signed acknowledgment for 3 years.**

**(4) A manufacturer, through its authorized service agent, shall provide to the consumer, each time the consumer's motor vehicle is returned after being examined or repaired under the warranty, a fully itemized, legible statement or repair order indicating any test drive performed and the approximate length of the test drive, any diagnosis made, and all work performed on the motor vehicle including, but not limited to, a general description of the problem**

reported by the consumer or an identification of the defect or condition, parts and labor, the date and the odometer reading when the motor vehicle was submitted for examination or repair, and the date when the repair or examination was completed.

**§ 681.104 Nonconformity of motor vehicles.--**

**(1)**

**(a) After three attempts have been made to repair the same nonconformity, the consumer shall give written notification, by registered or express mail to the manufacturer, of the need to repair the nonconformity to allow the manufacturer a final attempt to cure the nonconformity. The manufacturer shall have 10 days, commencing upon receipt of such notification, to respond and give the consumer the opportunity to have the motor vehicle repaired at a reasonably accessible repair facility within a reasonable time after the consumer's receipt of the response. The manufacturer shall have 10 days, except in the case of a recreational vehicle, in which event the manufacturer shall have 45 days, commencing upon the delivery of the motor vehicle to the designated repair facility by the consumer, to conform the motor vehicle to the warranty. If the manufacturer fails to respond to the consumer and give the consumer the opportunity to have the motor vehicle repaired at a reasonably accessible repair facility or perform the repairs within the time periods prescribed in this subsection, the requirement that the manufacturer be given a final attempt to cure the nonconformity does not apply.**

**(b) If the motor vehicle is out of service by reason of repair of one or more non-conformities by the manufacturer or its authorized service agent for a cumulative total of 15 or more days, exclusive of downtime for routine maintenance prescribed by the owner's manual, the consumer shall so notify the manufacturer in writing by registered or express mail to give the manufacturer or its authorized service agent an opportunity to inspect or repair the vehicle.**

**(2)**

**(a) If the manufacturer, or its authorized service agent, cannot conform the motor vehicle to the warranty by repairing or correcting any nonconformity after a reasonable number of attempts, the manufacturer, within 40 days, shall repurchase the motor vehicle and refund the full purchase price to the consumer, less a reasonable offset for use, or, in consideration of its receipt of payment from the consumer of a reasonable offset for use, replace the motor vehicle with a replacement motor vehicle acceptable to the consumer. The**

refund or replacement must include all reasonably incurred collateral and incidental charges. However, the consumer has an unconditional right to choose a refund rather than a replacement motor vehicle. Upon receipt of such refund or replacement, the consumer, lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the motor vehicle.

(b) Refunds shall be made to the consumer and lienholder of record, if any, as their interests may appear. If applicable, refunds shall be made to the lessor and lessee as follows: The lessee shall receive the lessee cost and the lessor shall receive the lease price less the lessee cost. A penalty for early lease termination may not be assessed against a lessee who receives a replacement motor vehicle or refund under this chapter. The Department of Revenue shall refund to the manufacturer any sales tax which the manufacturer refunded to the consumer, lienholder, or lessor under this section, if the manufacturer provides to the department a written request for a refund and evidence that the sales tax was paid when the vehicle was purchased and that the manufacturer refunded the sales tax to the consumer, lienholder, or lessor.

(3) It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the warranty if, during the Lemon Law rights period, either:

(a) The same nonconformity has been subject to repair at least three times by the manufacturer or its authorized service agent, plus a final attempt by the manufacturer to repair the motor vehicle if undertaken as provided for in paragraph (1)(a), and such nonconformity continues to exist; or

(b) The motor vehicle has been out of service by reason of repair of one or more non-conformities by the manufacturer, or its authorized service agent, for a cumulative total of 30 or more days, 60 or more days in the case of a recreational vehicle, exclusive of downtime for routine maintenance prescribed by the owner's manual. The manufacturer or its authorized service agent must have had at least one opportunity to inspect or repair the vehicle following receipt of the notification as provided in paragraph (1)(b). The 30-day period, or 60-day period in the case of a recreational vehicle, may be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood, or natural disaster.

(4) It is an affirmative defense to any claim under this chapter that:

(a) The alleged nonconformity does not substantially impair

the use, value, or safety of the motor vehicle;

(b) The nonconformity is the result of an accident, abuse, neglect, or unauthorized modifications or alterations of the motor vehicle by persons other than the manufacturer or its authorized service agent; or

(c) The claim by the consumer was not filed in good faith.

Any other affirmative defense allowed by law may be raised against the claim.

**§ 681.106 Bad faith claims.--**

Any claim by a consumer which is found by the court to have been filed in bad faith or solely for the purpose of harassment, or in complete absence of a justiciable issue of either law or fact raised by the consumer, shall result in the consumer being liable for all costs and reasonable attorney's fees incurred by the manufacturer, or its agent, as a direct result of the bad faith claim.

**§ 681.108 Dispute-settlement procedures.--**

(1) If a manufacturer has established a procedure, which the division has certified as substantially complying with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and the rules adopted under this chapter, and has informed the consumer how and where to file a claim with such procedure pursuant to § 681.103(3), the provisions of § 681.104(2) apply to the consumer only if the consumer has first resorted to such procedure. The decision-makers for a certified procedure shall, in rendering decisions, take into account all legal and equitable factors germane to a fair and just decision, including, but not limited to, the warranty; the rights and remedies conferred under 16 C.F.R. part 703, in effect October 1, 1983; the provisions of this chapter; and any other equitable considerations appropriate under the circumstances. Decision-makers and staff of a procedure shall be trained in the provisions of this chapter and in 16 C.F.R. part 703, in effect October 1, 1983. In an action brought by a consumer concerning an alleged nonconformity, the decision that results from a certified procedure is admissible in evidence.

(2) A manufacturer may apply to the division for certification of its procedure. After receipt and evaluation of the application, the division shall certify the procedure or notify the manufacturer of any deficiencies in the application or the procedure.

(3) A certified procedure or a procedure of an applicant seeking certification shall submit to the division a copy of each settlement approved by the procedure or decision made by a decision-maker within 30 days after the settlement is reached or the decision is rendered. The decision or settlement must contain at a minimum the:

- (a) Name and address of the consumer;
- (b) Name of the manufacturer and address of the dealership from which the motor vehicle was purchased;
- (c) Date the claim was received and the location of the procedure office that handled the claim;
- (d) Relief requested by the consumer;
- (e) Name of each decision-maker rendering the decision or person approving the settlement;
- (f) Statement of the terms of the settlement or decision;
- (g) Date of the settlement or decision; and
- (h) Statement of whether the decision was accepted or rejected by the consumer.

(4) Any manufacturer establishing or applying to establish a certified procedure must file with the division a copy of the annual audit required under the provisions of 16 C.F.R. part 703, in effect October 1, 1983, together with any additional information required for purposes of certification, including the number of refunds and replacements made in this state pursuant to the provisions of this chapter by the manufacturer during the period audited.

(5) The division shall review each certified procedure at least annually, prepare an annual report evaluating the operation of certified procedures established by motor vehicle manufacturers and procedures of applicants seeking certification, and, for a period not to exceed 1 year, shall grant certification to, or renew certification for, those manufacturers whose procedures substantially comply with the provisions of 16 C.F.R. part 703, in effect October 1, 1983, and with the provisions of this chapter and rules adopted under this chapter. If certification is revoked or denied, the division shall state the reasons for such action. The reports and records of actions taken with respect to certification shall be public records.

(6) A manufacturer whose certification is denied or revoked is entitled to a hearing pursuant to chapter 120.

(7) If federal preemption of state authority to regulate procedures occurs, the provisions of subsection (1) concerning prior resort do not apply.

(8) The division shall adopt rules to implement this section.

**§ 681.109 Florida New Motor Vehicle Arbitration Board; dispute eligibility.--**

(1) If a manufacturer has a certified procedure, a consumer claim arising during the Lemon Law rights period must be filed with the certified procedure no later than 60 days after the expiration of the Lemon Law rights period. If a decision is not rendered by the certified procedure within 40 days of filing, the consumer may apply to the division to have the dispute removed to the board for arbitration.



**(2) If a manufacturer has a certified procedure, a consumer claim arising during the Lemon Law rights period must be filed with the certified procedure no later than 60 days after the expiration of the Lemon Law rights period. If a consumer is not satisfied with the decision or the manufacturer's compliance therewith, the consumer may apply to the division to have the dispute submitted to the board for arbitration. A manufacturer may not seek review of a decision made under its procedure.**

**(3) If a manufacturer has no certified procedure or if a certified procedure does not have jurisdiction to resolve the dispute, a consumer may apply directly to the division to have the dispute submitted to the board for arbitration.**

**(4) A consumer must request arbitration before the board with respect to a claim arising during the Lemon Law rights period no later than 60 days after the expiration of the Lemon Law rights period, or within 30 days after the final action of a certified procedure, whichever date occurs later.**

**(5) The division shall screen all requests for arbitration before the board to determine eligibility. The consumer's request for arbitration before the board shall be made on a form prescribed by the department. The division shall forward to the board all disputes that the division determines are potentially entitled to relief under this chapter.**

**(6) The division may reject a dispute that it determines to be fraudulent or outside the scope of the board's authority. Any dispute deemed by the division to be ineligible for arbitration by the board due to insufficient evidence may be reconsidered upon the submission of new information regarding the dispute. Following a second review, the division may reject a dispute if the evidence is clearly insufficient to qualify for relief. Any dispute rejected by the division shall be forwarded to the department and a copy shall be sent by registered mail to the consumer and the manufacturer, containing a brief explanation as to the reason for rejection.**

**(7) If the division rejects a dispute, the consumer may file a lawsuit to enforce the remedies provided under this chapter. In any civil action arising under this chapter and relating to a matter considered by the division, any determination made to reject a dispute is admissible in evidence.**

**(8) The department shall have the authority to adopt reasonable rules to carry out the provisions of this section.**

**§ 681.1095 Florida New Motor Vehicle Arbitration Board; creation and function.--**

**(1) There is established within the Department of Legal Affairs, the Florida New Motor Vehicle Arbitration Board, consisting of members appointed by the Attorney General for an initial term of 1 year. Board**

members may be reappointed for additional terms of 2 years. Each board member is accountable to the Attorney General for the performance of the member's duties and is exempt from civil liability for any act or omission which occurs while acting in the member's official capacity. The Department of Legal Affairs shall defend a member in any action against the member or the board which arises from any such act or omission. The Attorney General may establish as many regions of the board as necessary to carry out the provisions of this chapter.

(2) The boards shall hear cases in various locations throughout the state so any consumer whose dispute is approved for arbitration by the division may attend an arbitration hearing at a reasonably convenient location and present a dispute orally. Hearings shall be conducted by panels of three board members assigned by the department. A majority vote of the three-member board panel shall be required to render a decision. Arbitration proceedings under this section shall be open to the public on reasonable and nondiscriminatory terms.

(3) Each region of the board shall consist of up to eight members. The members of the board shall construe and apply the provisions of this chapter, and rules adopted thereunder, in making their decisions. An administrator and a secretary shall be assigned to each board by the Department of Legal Affairs. At least one member of each board must be a person with expertise in motor vehicle mechanics. A member must not be employed by a manufacturer or a franchised motor vehicle dealer or be a staff member, a decision-maker, or a consultant for a procedure. Board members shall be trained in the application of this chapter and any rules adopted under this chapter, shall be reimbursed for travel expenses pursuant to § 112.061, and shall be compensated at a rate or wage prescribed by the Attorney General.

(4) Before filing a civil action on a matter subject to § 681.104, the consumer must first submit the dispute to the division, and to the board if such dispute is deemed eligible for arbitration.

(5) Manufacturers shall submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the division pursuant to § 681.109.

(6) The board shall hear the dispute within 40 days and render a decision within 60 days after the date the request for arbitration is approved. The board may continue the hearing on its own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes waiver of the time periods set forth in this subsection. The Department of Legal Affairs, at the board's request, may investigate disputes, and may issue subpoenas

for the attendance of witnesses and for the production of records, documents, and other evidence before the board. The failure of the board to hear a dispute or render a decision within the prescribed periods does not invalidate the decision.

(7) At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The board may administer oaths or affirmations to witnesses and inspect the vehicle if requested by a party or if the board deems such inspection appropriate.

(8) The board shall grant relief, if a reasonable number of attempts have been undertaken to correct a nonconformity or non-conformities.

(9) The decision of the board shall be sent by registered mail to the consumer and the manufacturer, and shall contain written findings of fact and rationale for the decision. If the decision is in favor of the consumer, the manufacturer must, within 40 days after receipt of the decision, comply with the terms of the decision. Compliance occurs on the date the consumer receives delivery of an acceptable replacement motor vehicle or the refund specified in the arbitration award. In any civil action arising under this chapter and relating to a dispute arbitrated before the board, any decision by the board is admissible in evidence.

(10) A decision is final unless appealed by either party. A petition to the circuit court to appeal a decision must be made within 30 days after receipt of the decision. The petition shall be filed in the county where the consumer resides, or where the motor vehicle was acquired, or where the arbitration hearing was conducted. Within 7 days after the petition has been filed, the appealing party must send a copy of the petition to the department. If the department does not receive notice of such petition within 40 days after the manufacturer's receipt of a decision in favor of the consumer, and the manufacturer has neither complied with, nor has petitioned to appeal such decision, the department may apply to the circuit court to seek imposition of a fine up to \$1,000 per day against the manufacturer until the amount stands at twice the purchase price of the motor vehicle, unless the manufacturer provides clear and convincing evidence that the delay or failure was beyond its control or was acceptable to the consumer as evidenced by a written statement signed by the consumer. If the manufacturer fails to provide such evidence or fails to pay the fine, the department shall initiate proceedings against the manufacturer for failure to pay such fine. The proceeds from the fine herein imposed shall be placed in the Motor Vehicle Warranty Trust Fund in the department for

implementation and enforcement of this chapter. If the manufacturer fails to comply with the provisions of this subsection, the court shall affirm the award upon application by the consumer.

(11) All provisions in this section and § 681.109 pertaining to compulsory arbitration before the board, the dispute eligibility screening by the division, the proceedings and decisions of the board, and any appeals thereof, are exempt from the provisions of chapter 120.

(12) An appeal of a decision by the board to the circuit court by a consumer or a manufacturer shall be by trial de novo. In a written petition to appeal a decision by the board, the appealing party must state the action requested and the grounds relied upon for appeal. Within 30 days of final disposition of the appeal, the appealing party shall furnish the department with notice of such disposition and, upon request, shall furnish the department with a copy of the order or judgment of the court.

(13) If a decision of the board in favor of the consumer is upheld by the court, recovery by the consumer shall include the pecuniary value of the award, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in the amount of \$25 per day for each day beyond the 40-day period following the manufacturer's receipt of the board's decision. If a court determines that the manufacturer acted in bad faith in bringing the appeal or brought the appeal solely for the purpose of harassment or in complete absence of a justiciable issue of law or fact, the court shall double, and may triple, the amount of the total award.

(14) When a judgment affirms a decision by the board in favor of a consumer, appellate review may be conditioned upon payment by the manufacturer of the consumer's attorney's fees and giving security for costs and expenses resulting from the review period.

(15) The department shall maintain records of each dispute submitted to the board, and the program, including an index of motor vehicles by year, make, and model, and shall compile aggregate annual statistics for all disputes submitted to, and decided by, the board, as well as annual statistics for each manufacturer that include, but are not limited to, the value, if applicable, and the number and percent of:

- (a) Replacement motor vehicle requests;
- (b) Purchase price refund requests;
- (c) Replacement motor vehicles obtained in pre-hearing settlements;
- (d) Purchase price refunds obtained in pre-hearing settlements;
- (e) Replacement motor vehicles awarded in arbitration;

- (f) Purchase price refunds awarded in arbitration;**
- (g) Board decisions neither complied with in 40 days nor petitioned for appeal within 30 days;**
- (h) Board decisions appealed;**
- (i) Appeals affirmed by the court; and**
- (j) Appeals found by the court to be brought in bad faith or solely for the purpose of harassment.**

The statistics compiled under this subsection are public information.

**(16) When requested by the department, a manufacturer must verify the settlement terms for disputes that are approved for arbitration but are not decided by the board.**

**§ 681.1096 Pilot RV Mediation and Arbitration Program; creation and qualifications.--**

**(1) This section and § 681.1097 shall apply to disputes determined eligible under this chapter involving recreational vehicles acquired on or after October 1, 1997, and shall remain in effect until September 30, 2001, at which time recreational vehicle disputes shall be subject to the provisions of § 681.109 and § 681.1095. The Attorney General shall report annually to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, and appropriate legislative committees regarding the efficiency and cost-effectiveness of the pilot program.**

**(2) Each manufacturer of a recreational vehicle involved in a dispute that is determined eligible under this chapter, including chassis and component manufacturers which separately warrant the chassis and components and which otherwise meet the definition of manufacturer set forth in § 681.102(14), shall participate in a mediation and arbitration program that is deemed qualified by the department.**

**(3) In order to be deemed qualified by the department, the mediation and arbitration program must, at a minimum, meet the following requirements:**

**(a) The program must be administered by an administrator and staff that is sufficiently insulated from the manufacturer to ensure impartial mediation and arbitration services.**

**(b) Program administration fees must be paid by the manufacturer and no such fees shall be charged to a consumer.**

**(c) The program must be adequately staffed at a level sufficient to ensure the provision of fair and expeditious dispute resolution services.**

**(d) Program mediators and arbitrators must be sufficiently insulated from a manufacturer to ensure the provision of**

impartial mediation and arbitration of disputes.

(e) Program mediators and arbitrators shall not be employed by a manufacturer or a motor vehicle dealer.

(f) Program mediators must complete a Florida Supreme Court certified circuit or county mediation training program, or other mediation training program approved by the department, in addition to a minimum of one-half day of training on this chapter conducted by the department.

(g) Program mediators must comply with the Model Standards of Conduct for Mediators issued by the American Arbitration Association, the Dispute Resolution Section of the American Bar Association, and the Society of Professionals in Dispute Resolution.

(h) Program arbitrators must complete a Florida Supreme Court certified circuit or county arbitration program, or other arbitration training program approved by the department, in addition to a minimum of 1 day of training in the application of this chapter and any rules adopted thereunder conducted by the department.

(i) Program arbitrators must comply with the Code of Ethics for Arbitrators in Commercial Disputes published by the American Arbitration Association and the American Bar Association in 1977 and as amended.

(j) Program arbitrators must construe and apply the provisions of this chapter and rules adopted thereunder in making decisions.

(k) The program must complete all mediation and arbitration of an eligible consumer claim within 70 days of the program administrator's receipt of the claim from the department. Failure of the program to complete all proceedings within the prescribed period will not invalidate any settlement agreement or arbitration decision.

(l) Mediation conferences and arbitration proceedings must be held at reasonably convenient locations within the state so as to enable a consumer to attend and present a dispute orally.

(4) The department shall monitor the program for compliance with this chapter. If the program is determined not qualified or if qualification is revoked, then the involved manufacturer shall be required to submit to arbitration conducted by the board if such arbitration is requested by a consumer and the dispute is deemed eligible for arbitration by the division pursuant to § 681.109.

(5) If a program is determined not qualified or if qualification is revoked, the involved manufacturer shall be notified by the department of any deficiencies in the program and informed that it is

entitled to a hearing pursuant to chapter 120.

(6) The program administrator, mediators, and arbitrators are exempt from civil liability arising from any act or omission in connection with any mediation or arbitration conducted under this chapter.

(7) The program administrator shall maintain records of each dispute submitted to the program, including the recordings of arbitration hearings. All records maintained by the program under this chapter shall be public records and shall be available for inspection by the department upon reasonable notice. The records for disputes closed as of September 30 of each year shall be turned over to the department by the program administrator by no later than October 30 of the same year, unless a later date is specified by the department.

(8) The department shall have the authority to adopt reasonable rules to carry out the provisions of this section.

**§ 681.1097 Pilot RV Mediation and Arbitration Program; dispute eligibility and program function.--**

(1) Before filing a civil action on a matter subject to § 681.104, a consumer who acquires a recreational vehicle must first submit the dispute to the department, and to the program if the dispute is deemed eligible. Such consumer is not required to resort to a procedure certified pursuant to § 681.108, notwithstanding that one of the manufacturers of the recreational vehicle has such a procedure. Such consumer is not required to resort to arbitration conducted by the board, except as provided in § 681.1096(4) and in this section.

(2) A consumer acquiring a recreational vehicle must apply to participate in this program with respect to a claim arising during the Lemon Law rights period by filing the application in subsection (3) with the department no later than 60 days after the expiration of the Lemon Law rights period.

(3) The consumer's application for participation in the program must be on a form prescribed or approved by the department. The department shall screen all applications to participate in the program to determine eligibility. The department shall forward to the program administrator all applications the department determines are potentially entitled to relief under this chapter.

(a) If the department determines the application lacks sufficient information from which a determination of eligibility can be made, the department shall request additional information from the consumer and, upon review of such additional information, shall determine whether the application is eligible or reject the application as incomplete.

(b) The department shall reject any application it determines to be fraudulent or outside the scope of this chapter.

(c) The consumer and the manufacturer shall be notified in writing by the department if an application is rejected. Such notification of rejection shall include a brief explanation as to the reason for the rejection.

(d) If the department rejects a dispute, the consumer may file a lawsuit to enforce the remedies provided under this chapter. In any civil action arising under this chapter and relating to the matter considered by the department, any determination made to reject a dispute is admissible in evidence.

(4) Mediation shall be mandatory for both the consumer and manufacturer, unless the dispute is settled prior to the scheduled mediation conference. The mediation conference shall be confidential and inadmissible in any subsequent adversarial proceedings. Participation shall be limited to the parties directly involved in the dispute and their attorneys, if any. All manufacturers shall be represented by persons with settlement authority.

(a) Upon receipt of an eligible application from the department, the program administrator shall notify the consumer and all involved manufacturers in writing that an eligible application has been received. Such notification shall include a statement that a mediation conference will be scheduled, shall identify the assigned mediator, and provide information regarding the program's procedures. The program administrator shall provide all involved manufacturers with a copy of the completed application.

(b) The mediator shall be selected and assigned by the program administrator. The parties may factually object to a mediator based upon the mediator's past or present relationship with a party or a party's attorney, direct or indirect, whether financial, professional, social, or of any other kind. The program administrator shall consider any such objection, determine its validity, and notify the parties of any determination. If the objection is determined valid, the program administrator shall assign another mediator to the case.

(c) At the mediation conference, the mediator shall assist the parties' efforts to reach a mutually acceptable settlement of their dispute; however, the mediator shall not impose any settlement upon the parties.

(d) Upon conclusion of the mediation conference, the mediator shall notify the program administrator that the case has settled or remains at an impasse. The program administrator shall notify the department in writing of the outcome of the mediation.



**(e) If the mediation conference ends in an impasse, it shall proceed to arbitration pursuant to subsection (5). The program administrator shall immediately notify the parties in writing that the dispute will proceed to arbitration and shall identify the assigned arbitrator.**

**(f) If the parties enter into a settlement at any time after the dispute has been submitted to the program, such settlement must be reduced to writing, signed by the consumer and all involved manufacturers, and filed with the program administrator. The program administrator shall send a copy to the department. All settlements must contain, at a minimum, the following information:**

- 1. Name and address of the consumer.**
- 2. Name and address of each involved manufacturer.**
- 3. Year, make, model, and vehicle identification number of the subject recreational vehicle.**
- 4. Name and address of the dealership from which the recreational vehicle was acquired.**
- 5. Date the claim was received by the program administrator.**
- 6. Name of the mediator and/or arbitrator, if any.**
- 7. Statement of the terms of the agreement, including, but not limited to: whether the vehicle is to be reacquired by a manufacturer and the identity of the manufacturer that will reacquire the vehicle; the amount of any moneys to be paid by the consumer and/or a manufacturer; the year, make, and model of any replacement motor vehicle or motor vehicle accepted by the consumer as a trade-assist; and a time certain for performance not to exceed 40 days from the date the settlement agreement is signed by the parties.**

**(g) If a manufacturer fails to perform within the time required in any settlement agreement, the consumer must notify the program administrator of such failure in writing within 10 days of the required performance date. Within 10 days of receipt of such notice, the program administrator shall notify the department of the manufacturer's failure in compliance and shall schedule the matter for an arbitration hearing pursuant to subsection (5).**

**(5) If the mediation ends in an impasse, or if a manufacturer fails to comply with the settlement entered into between the parties, the program administrator shall schedule the dispute for an arbitration hearing. Arbitration proceedings shall be open to the public on reasonable and nondiscriminatory terms.**

**(a) The arbitration hearing shall be conducted by a single arbitrator assigned by the program administrator. The arbitrator shall not be the same person as the mediator who conducted the prior mediation conference in the dispute. The parties may factually object to an arbitrator based on the arbitrator's past or present relationship with a party or a party's attorney, direct or indirect, whether financial, professional, social, or of any other kind. The program administrator shall consider any such objection, determine its validity, and notify the parties of any determination. If the objection is determined valid, the program administrator shall assign another arbitrator to the case.**

**(b) The arbitrator may issue subpoenas for the attendance of witnesses and for the production of records, documents, and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party to the arbitration, enforced in the manner provided by law for the service and enforcement of subpoenas in civil actions. Fees for attendance as a witness shall be the same as for a witness in the circuit court.**

**(c) At all program arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths. The arbitrator may inspect the vehicle if requested by a party or if the arbitrator considers such inspection appropriate.**

**(d) The program arbitrator may continue a hearing on his or her own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes a waiver of the time period set forth in § 681.1096(3)(k) for completion of all proceedings under the program.**

**(e) Where the arbitration is the result of a manufacturer's failure to perform in accordance with a mediation agreement, any relief to the consumer granted by the arbitration will be no less than the relief agreed to by the manufacturer in the settlement agreement.**

**(f) The arbitrator shall grant relief if a reasonable number of attempts have been undertaken to correct a nonconformity or non-conformities.**

**(g) The program arbitrator shall render a decision within 10 days of the closing of the hearing. The decision shall be in writing on a form prescribed or approved by the department.**

The program administrator shall send a copy of the decision to the consumer and each involved manufacturer by registered mail. The program administrator shall also send a copy of the decision to the department within 5 days of mailing to the parties.

(h) A manufacturer shall comply with an arbitration decision within 40 days of the date the manufacturer receives the written decision. Compliance occurs on the date the consumer receives delivery of an acceptable replacement motor vehicle or the refund specified in the arbitration award. If a manufacturer fails to comply within the time required, the consumer must notify the program administrator in writing within 10 days. The program administrator shall notify the department of a manufacturer's failure to comply. The department shall have the authority to enforce compliance with arbitration decisions under this section in the same manner as is provided for enforcement of compliance with board decisions under § 681.1095(10). In any civil action arising under this chapter and relating to a dispute arbitrated pursuant to this section, the decision of the arbitrator is admissible in evidence.

(6) Except as otherwise provided, all provisions in this section pertaining to mandatory mediation and arbitration, eligibility screening, mediation proceedings, arbitration hearings and decisions, and any appeals thereof are exempt from the provisions of chapter 120.

(7) Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business or, if neither party resides or has a place of business in this state, the county where the arbitration hearing was held, for an order confirming, vacating, modifying, or correcting any award, in accordance with the provisions of this section and § 682.12, 682.13, § 682.14, § 682.15, and § 682.17. Such application must be filed within 30 days of the moving party's receipt of the written decision or the decision becomes final. Upon filing such application, the moving party shall mail a copy to the department and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the department. A review of such application by the circuit court shall be confined to the record of the proceedings before the program arbitrator. The court shall conduct a de novo review of the questions of law raised in the application. In addition to the grounds set forth in § 682.13 and § 682.14, the court shall consider questions of fact raised in the application. In reviewing questions of fact, the court shall uphold the award unless it determines that the factual

findings of the arbitrator are not supported by substantial evidence in the record and that the substantial rights of the moving party have been prejudiced. If the arbitrator fails to state findings or reasons for the stated award, or the findings or reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the award. The court shall expedite consideration of any application filed under this section on the calendar.

(a) If a decision of a program arbitrator in favor of a consumer is confirmed by the court, recovery by the consumer shall include the pecuniary value of the award, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in the amount of \$25 per day for each day beyond the 40-day period following a manufacturer's receipt of the arbitrator's decision. If a court determines the manufacturer acted in bad faith in bringing the appeal or brought the appeal solely for the purpose of harassment, or in complete absence of a justiciable issue of law or fact, the court shall double, and may triple, the amount of the total award.

(b) An appeal of a judgment or order by the court confirming, denying confirmation, modifying or correcting, or vacating the award may be taken in the manner and to the same extent as from orders or judgments in a civil action.

(8) The department shall have the authority to adopt reasonable rules to carry out the provisions of this section.

#### **§ 681.110 Compliance and disciplinary actions.--**

The Department of Legal Affairs may enforce and ensure compliance with the provisions of this chapter and rules adopted thereunder, may issue subpoenas requiring the attendance of witnesses and production of evidence, and may seek relief in the circuit court to compel compliance with such subpoenas. The Department of Legal Affairs may impose a civil penalty against a manufacturer not to exceed \$1,000 for each count or separate offense. The proceeds from the fine imposed herein shall be placed in the Motor Vehicle Warranty Trust Fund in the Department of Legal Affairs for implementation and enforcement of this chapter.

#### **§ 681.111 Unfair or deceptive trade practice.--**

A violation by a manufacturer of this chapter is an unfair or deceptive trade practice as defined in part II of chapter 501.

#### **§ 681.112 Consumer remedies.--**

(1) A consumer may file an action to recover damages caused by a violation of this chapter. The court shall award a consumer who prevails in such action the amount of any pecuniary loss, litigation costs, reasonable attorney's fees, and appropriate equitable relief.

(2) An action brought under this chapter must be commenced within 1 year after the expiration of the Lemon Law rights period, or, if a consumer resorts to an informal dispute-settlement procedure or submits a dispute to the division or board, within 1 year after the final action of the procedure, division, or board.

(3) This chapter does not prohibit a consumer from pursuing other rights or remedies under any other law.

**§ 681.113 Dealer liability.--**

Except as provided in § 681.103(3) and § 681.114(2), nothing in this chapter imposes any liability on a dealer as defined in § 320.60(11)(a) or creates a cause of action by a consumer against a dealer, except for written express warranties made by the dealer apart from the manufacturer's warranties. A dealer may not be made a party defendant in any action involving or relating to this chapter, except as provided in this section. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including, but not limited to, any refunds or vehicle replacements, incurred by the manufacturer arising out of this chapter, in the absence of evidence that the related repairs had been carried out by the dealer in a manner substantially inconsistent with the manufacturer's published instructions.

**§ 681.114 Resale of returned vehicles.--**

(1) A manufacturer who accepts the return of a motor vehicle by reason of a settlement, determination, or decision pursuant to this chapter shall notify the department and report the vehicle identification number of that motor vehicle within 10 days after such acceptance, transfer, or disposal of the vehicle, whichever occurs later.

(2) A person shall not knowingly lease, sell at wholesale or retail, or transfer a title to a motor vehicle returned by reason of a settlement, determination, or decision pursuant to this chapter or similar statute of another state unless the nature of the nonconformity is clearly and conspicuously disclosed to the prospective transferee, lessee, or buyer, and the manufacturer warrants to correct such nonconformity for a term of 1 year or 12,000 miles, whichever occurs first. The Department of Legal Affairs shall prescribe by rule the form, content, and procedure pertaining to such disclosure statement.

(3) As used in this section, the term "settlement" means an agreement entered into between a manufacturer and consumer that occurs after a dispute is submitted to a procedure or program or is approved for arbitration before the board.

**§ 681.115 Certain agreements void.--**

Any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth in this chapter is void as contrary to public policy. The rights set forth in this chapter shall extend to a subsequent

transferee of such motor vehicle.

**§ 681.116 Preemption.--**

This chapter preempts any similar county or municipal ordinance regarding consumer warranty rights resulting from the acquisition of a motor vehicle in this state.

**§ 681.117 Fee.--**

(1) A \$2 fee shall be collected by a motor vehicle dealer, or by a person engaged in the business of leasing motor vehicles, from the consumer at the consummation of the sale of a motor vehicle or at the time of entry into a lease agreement for a motor vehicle. Such fees shall be remitted to the county tax collector or private tag agency acting as agent for the Department of Revenue. All fees, less the cost of administration, shall be transferred monthly to the Department of Legal Affairs for deposit into the Motor Vehicle Warranty Trust Fund. The Department of Legal Affairs shall distribute monthly an amount not exceeding one-fourth of the fees received to the Division of Consumer Services of the Department of Agriculture and Consumer Services to carry out the provisions of § 681.108 and § 681.109. The Department of Legal Affairs shall contract with the Division of Consumer Services for payment of services performed by the division pursuant to § 681.108 and § 681.109.

(2) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the provisions of chapter 212. The fee shall not be included in the computation of estimated taxes pursuant to § 212.11(1)(a), nor shall the dealer's credit provided under § 212.12 apply to the fee. The provisions of chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent fees apply to the fee imposed by this section.

**§ 681.118 Rule-making authority.--**

The Department of Legal Affairs shall adopt rules pursuant to § 120.536(1) and § 120.54 to implement the provisions of this chapter.

# **Appendix**

## **D**

## Appendix D

### FLORIDA ADMINISTRATIVE CODE ANNOTATED TITLE 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES DIVISION OF CONSUMER SERVICES

#### CHAPTER 5J-11 DISPUTE-SETTLEMENT PROCEDURE CERTIFICATION

##### Rule 5J-11.001 Purpose of Rules Governing Dispute Resolution Mechanisms

These rules implement and make specific the provisions of § 681.108, Florida Statutes, and establish regulations, procedures and requirements for dispute settlement procedures in the state of Florida.

Enacted eff. December 6, 1993

##### Rule 5J-11.002 Definitions Pertaining to Dispute-Resolution Mechanisms

The definitions contained in Section 681.102, Florida Statutes, and the following shall apply:

- (1) Act -- means Chapter 681, Florida Statutes, the Motor Vehicle Warranty Enforcement Act.
- (2) Trade-assist -- means a motor vehicle exchange whereby the consumer receives a motor vehicle which is less in value than a replacement.
- (3) Partial refund -- means the repurchase of a consumer's motor vehicle for an amount less than a refund.
- (4) Decision -- means a determination rendered under a certified dispute-settlement procedure, including a settlement. Decision also means any interim or non-final determination.
- (5) Refund -- means the repurchase of a consumer's motor vehicle for an amount equal to the lease price and lessee cost or the purchase price, including any trade-in allowance and collateral and incidental charges, less a reasonable offset for use.
- (6) Administrator -- means the person or entity which administers, manages and executes a certified dispute-settlement procedure.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

##### Rule 5J-11.003 Certification of Dispute-Settlement Mechanisms

No dispute-settlement procedure established by a manufacturer shall hold itself out as being certified until written certification is issued by the Division.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

##### Rule 5J-11.004 Manufacturer's Obligation to Notify Buyer or Lessor Concerning Dispute Resolution

Each manufacturer which implements a certified dispute-settlement procedure shall notify each consumer, in writing, upon the acquisition of a motor vehicle:

- (1) That, if the consumer resorts to a certified dispute-settlement procedure and a decision is not rendered within 40 days from the



date the consumer files a claim with the administrator, the consumer may immediately file a Request for Arbitration with the Division of Consumer Services, Lemon Law Section.

(2) The toll-free telephone number of the Department of Agriculture and Consumer Services, Division of Consumer Services, Lemon Law Section.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

**Rule 5J-11.005 Filing of Lemon Law Claim with Dispute-Settlement Mechanism**

(1) A claim with a certified dispute-settlement procedure shall be deemed to be filed by the consumer upon notification of the following information to the administrator:

- (a) The consumer's name and address;
- (b) The brand name and vehicle identification number (VIN) of the consumer's motor vehicle; and
- (c) A statement as to the nature of the defect or other complaint.

(2) A claim will not be considered as filed if the consumer fails to provide the information required under subsection (1) above.

(3) At the time of acquisition of a motor vehicle, the manufacturer may provide to the consumer a form for filing a request to participate in a certified dispute-settlement procedure. If the manufacturer provides this form, a claim with the certified dispute-settlement procedure shall be deemed to be filed by the consumer upon receipt of one such form by the administrator. If no form is provided by the manufacturer, the consumer may file a claim with the certified dispute-settlement procedure by orally communicating to the administrator the information set forth in subsection (1) above.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

**Rule 5J-11.006 Decision of Dispute Resolution Mechanism**

(1) All decisions rendered pursuant to a certified dispute-settlement procedure shall be signed by a decision-maker and shall disclose how each decision-maker voted.

(2) All decisions, final or otherwise, provided to consumers shall contain the following information, if applicable:

- (a) A statement setting forth the issue presented by the parties to the decision-makers;
- (b) A statement setting forth the specific terms of the decision and a reasonable time for performance;
- (c) A list of the materials and documents submitted by the parties for consideration;
- (d) A statement setting forth the basis upon which the decision-makers made their determination, and indicating the specific documents relied upon;

**(e) The following statement in bold print:**

**The consumer may reject this decision and, if eligible, may pursue arbitration with the Florida New Motor Vehicle Arbitration Board administered by the Office of the Attorney General. To obtain information about eligibility for the state-run arbitration program, the consumer should contact the Division of Consumer Services' Lemon Law Hotline at 1-800-321-5366. PLEASE BE ADVISED that Section 681.109(4), F.S., provides that the consumer must file the Request for Arbitration within 6 months after the expiration of the Lemon Laws rights period, or within 30 days after the final action of a certified dispute-settlement procedure, whichever date occurs later.**

**(f) The address of the Division of Consumer Services, Lemon Law Section.**

**(g) If it is determined that the certified dispute-settlement procedure has no jurisdiction to decide the consumer's dispute, a statement setting forth the basis for such determination.**

**Enacted eff. December 6, 1993, Amended eff. March 14, 1995**

**Rule 5J-11.007 Dispute Resolution Mechanism's Obligation to Forward Decisions to Division of Consumer Services**

**All decisions rendered pursuant to a certified dispute-settlement procedure shall be submitted to the Division within 30 days of rendition, along with the following information:**

- (1) The date and manner in which the administrator was first contacted, if different from the date the claim was filed;**
- (2) The time and place of each hearing or meeting, including the names and titles of all persons who attended or testified at said hearing or meeting, and whether the hearing or meeting was conducted by phone.**

**Enacted eff. December 6, 1993, Amended eff. March 14, 1995**

**Rule 5J-11.008 Lemon Law Dispute: Inspection or Test Drive of Consumer's Vehicle.**

- (1) A decision-maker or manufacturer may request an inspection of the consumer's motor vehicle. An inspection shall be conducted at a mutually agreeable time and at a location reasonably convenient to the consumer. In the event an inspection is requested, the consumer shall be informed in writing that the inspection is voluntary. The failure of a consumer to provide the motor vehicle for inspection shall not extend the 40-day time period a certified dispute-settlement procedure has to render a decision.**
- (2) In the event a consumer rejects a request for an inspection, such**

rejection may be considered for purposes of rendering a determination pursuant to a certified dispute-settlement procedure.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

**5J-11.009 Record-keeping Requirements for Dispute Resolution Mechanisms**

There shall be a separate file maintained for each dispute filed by a Florida consumer. The files for Florida consumers shall be maintained in a manner separate from other governmental jurisdictions. The Division shall have full access at all reasonable business hours to the records maintained pursuant to the certified dispute-settlement procedure.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

**Rule 5J-11.010 Required Annual Audit of Dispute Resolution Mechanisms**

(1) Each manufacturer establishing a certified dispute-settlement procedure shall file with the Division an annual report relating to Florida consumers for the period ending December 31 of each year. The report shall be filed with the Division on or before July 1 of the following year.

(2) The annual report shall contain the following information relative to Florida consumers for the period audited:

(a) The information required under the provisions of 16 CFR § 703.7, relating to an annual audit;

(b) The number of disputes filed by consumers with the administrator of a certified dispute-settlement procedure, including the number of disputes dismissed or withdrawn by the consumer;

(c) The total number of decisions rendered under the certified dispute-settlement procedure broken down to specifically reference the number of decisions: ordering refunds; ordering additional repair attempts; ordering or recognizing trade assists; ordering partial refunds; concluding that the certified dispute-settlement procedure has no jurisdiction to decide the dispute; dismissing the dispute filed by the consumer; ordering a replacement of the consumer's motor vehicle; ordering any other relief not specifically listed in this rule.

Enacted eff. December 6, 1993, Amended eff. March 14, 1995

**Rule 5J-11.011 Hearings or Meetings of Dispute Resolution Mechanism**

(1) The administrator shall mail or provide written notification to the consumer at least 10 days prior to any hearing. The notice shall state the time, date and location of the hearing.

(2) The consumer and manufacturer shall be entitled to appear in person or by representative at any hearing or meeting held pursuant to a certified dispute-settlement procedure. The consumer and manufacturer shall be entitled to participate or offer evidence in any hearing or meeting held pursuant to a certified dispute-settlement procedure.

**(3) No hearing shall be held more than 75 miles from the consumer's residence. The administrator may file a written request with the Division to waive this requirement based upon good cause shown, or a consumer may waive the mileage requirement in writing. The filing of a written request by the administrator shall not toll the 40-day time limit for rendering a determination pursuant to a certified dispute-settlement procedure.**

**(4) If both parties agree in writing, either party may attend any hearing or meeting by phone. The other party may elect to attend in person or by phone.**

**(5) All hearings or meetings held under a certified dispute-settlement procedure shall be open to observers.**

**Enacted eff. December 6, 1993**

**Rule 5J-11.012 Impartiality of Mechanism's Employees and Decision-Makers**

**(1) No decision-maker shall be an employee of the manufacturer, a dealer or other person who distributes the manufacturer's products, other than for purposes of the certified dispute settlement procedure, except as provided in 16 CFR Sec.703.4**

**(2) No employee of an administrator shall be an agent, employee, or representative of the manufacturer, a dealer or other person who distributes the manufacturer's products, other than for purposes of the dispute settlement procedure.**

**Enacted eff. December 6, 1993**

# Appendix

## E

## Appendix E

OHIO REVISED CODE ANNOTATED  
[OHIO LEMON LAW"]  
Bill Number: Amended Sub. House Bill 21  
Effective Date: 09/15/99

### § 1345.71 Definitions

#### Text of Statute

As used in sections 1345.71 to 1345.77 of the Revised Code:

(A) "Consumer" means any of the following:

- (1) The purchaser, other than for purposes of resale, of a motor vehicle;
- (2) Any lessee of a motor vehicle in a contractual arrangement under which a charge is made for the use of the vehicle at a periodic rate for a term of thirty days or more, and title to the vehicle is in the name of a person other than the user;
- (3) Any person to whom the motor vehicle is transferred during the duration of the express warranty that is applicable to the motor vehicle;
- (4) Any other person who is entitled by the terms of the warranty to enforce the warranty.

(B) "Manufacturer" and "distributor" have the same meanings as in section 4517.01 of the Revised Code, and "manufacturer" includes a re-manufacturer as defined in that section.

(C) "Express warranty" and "warranty" mean the written warranty of the manufacturer or distributor of a new motor vehicle concerning the condition and fitness for use of the vehicle, including any terms or conditions precedent to the enforcement of obligations under that warranty.

(D) "Motor vehicle" means any passenger car or noncommercial motor vehicle or those parts of any motor home that are not part of the permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping but does not mean any mobile home or recreational vehicle, or any manufactured home as defined in section 3781.06 of the Revised Code.

(E) "Nonconformity" means any defect or condition that substantially impairs the use, value, or safety of a motor vehicle to the consumer and does not conform to the express warranty of the manufacturer or distributor.

(F) "Full purchase price" means both of the following:

- (1) In the case of a sale, the contract price for the motor vehicle, including charges for transportation, undercoating, dealer-installed

options and accessories, dealer services, dealer preparation, and delivery charges; all finance, credit insurance, warranty, and service contract charges incurred by the consumer; and all sales tax, license and registration fees, and other government charges.

(2) In the case of a lease, the capitalized cost reduction, security deposit, taxes, title fees, all monthly lease payments, the residual value of the vehicle, and all finance, credit insurance, warranty, and service contract charges incurred by the consumer.

(G) "Buyback" means a motor vehicle that has been replaced or repurchased by a manufacturer as the result of a court judgment, a determination of an informal dispute settlement mechanism, or a settlement agreed to by a consumer regardless of whether it is in the context of a court, an informal dispute settlement mechanism, or otherwise, in this or any other state, in which the consumer has asserted that the motor vehicle does not conform to the warranty, has presented documentation to establish that a nonconformity exists pursuant to section 1345.72 or 1345.73 of the Revised Code, and has requested replacement or repurchase of the vehicle.

(H) "Mobile home," "motor home," "noncommercial motor vehicle," "passenger car," and "recreational vehicle" have the same meanings as in section 4501.01 of the Revised Code.

#### **Section 1345.72**

(A) If a new motor vehicle does not conform to any applicable express warranty and the consumer reports the nonconformity to the manufacturer, its agent, or its authorized dealer during the period of one year following the date of original delivery or during the first eighteen thousand miles of operation, whichever is earlier, the manufacturer, its agent, or its authorized dealer shall make any repairs as are necessary to conform the vehicle to such express warranty, notwithstanding the fact that the repairs are made after the expiration of the appropriate time period.

(B) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any nonconformity after a reasonable number of repair attempts, the manufacturer, at the consumer's option and subject to division (D) of this section, either shall replace the motor vehicle with a new motor vehicle acceptable to the consumer or shall accept return of the vehicle from the consumer and refund each of the following:

(1) The full purchase price;

(2) All incidental damages, including, but not limited to, any fees charged by the lender or lessor for making or canceling the loan or lease, and any expenses incurred by the consumer as a result of the nonconformity, such as charges for towing, vehicle rental, meals, and lodging.

**(C) Nothing in this section imposes any liability on a new motor vehicle dealer or creates a cause of action by a buyer against a new motor vehicle dealer.**

**(D) Sections 1345.71 to 1345.78 of the Revised Code do not affect the obligation of a consumer under a loan or retail installment sales contract or the interest of any secured party, except as follows:**

**(1) If the consumer elects to take a refund, the manufacturer shall forward the total sum required under division (B) of this section by an instrument jointly payable to the consumer and any lienholder that appears on the face of the certificate of title or the lessor. Prior to disbursing the funds to the consumer, the lienholder or lessor may deduct the balance owing to it, including any fees charged for canceling the loan or the lease and refunded pursuant to division (B) of this section, and shall immediately remit the balance if any, to the consumer and cancel the lien or the lease.**

**(2) If the consumer elects to take a new motor vehicle, the manufacturer shall notify any lienholder noted on the certificate of title under section 4505.13 of the Revised Code or the lessor. If both the lienholder or the lessor and the consumer consent to finance or lease the new motor vehicle obtained through the exchange in division (B) of this section, the lienholder or the lessor shall release the lien on or surrender the title to the nonconforming motor vehicle after it has obtained a lien on or title to the new motor vehicle. If the existing lienholder or lessor does not finance or lease the new motor vehicle, it has no obligation to discharge the note or cancel the lien on or surrender the title to the nonconforming motor vehicle until the original indebtedness or the lease terms are satisfied.**

#### **Section 1345.73**

**It shall be presumed that a reasonable number of attempts have been undertaken by the manufacturer, its dealer, or its authorized agent to conform a motor vehicle to any applicable express warranty if, during the period of one year following the date of original delivery or during the first eighteen thousand miles of operation, whichever is earlier, any of the following apply:**

**(A) Substantially the same nonconformity has been subject to repair three or more times and either continues to exist or recurs;**

**(B) The vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days;**

**(C) There have been eight or more attempts to repair any nonconformity;**

**(D) There has been at least one attempt to repair a nonconformity that results in a condition that is likely to cause death or serious bodily injury if the vehicle is driven, and the nonconformity either continues to exist or recurs.**

#### **Section 1345.74**



**(A) At the time of purchase, the manufacturer, either directly or through its agent or its authorized dealer, shall provide to the consumer a written statement on a separate piece of paper, in ten-point type, all capital letters, in substantially the following form:**

**IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO A REPLACEMENT OR TO COMPENSATION.**

**In the case of a leased motor vehicle, the written statement described in this division shall be provided to the consumer by the manufacturer, either directly or through the lessor, at the time of execution of the lease agreement.**

**(B) The manufacturer or authorized dealer shall provide to the consumer, each time the motor vehicle of the consumer is returned from being serviced or repaired, a fully itemized written statement indicating all work performed on the vehicle, including, but not limited to, parts and labor as described in the rules adopted pursuant to section 1345.77 of the Revised Code.**

#### **Section 1345.75**

**(A) Any consumer may bring a civil action in a court of common pleas or other court of competent jurisdiction against any manufacturer if the manufacturer fails to comply with section 1345.72 of the Revised Code and, in addition to the relief to which the consumer is entitled under that section, shall be entitled to recover reasonable attorney's fees and all court costs.**

**(B) The remedies in sections 1345.71 to 1345.78 of the Revised Code are in addition to remedies otherwise available to consumers under law.**

**(C) Any action brought under division (A) of this section shall be commenced within five years of the date of original delivery of the motor vehicle. Any period of limitation of actions under any federal or Ohio laws with respect to any consumer shall be tolled for the period that begins on the date that a complaint is filed with an informal dispute resolution mechanism established pursuant to section 1345.77 of the Revised Code and ends on the date of the decision by the informal dispute resolution mechanism.**

**(D) It is an affirmative defense to any claim under this section that a nonconformity is the result of abuse, neglect, or the unauthorized modification or alteration of a motor vehicle by anyone other than the manufacturer, its agent, or its authorized dealer.**

#### **Section 1345.76**

**(A) A buyback may not be resold or leased in this state unless each of the following applies:**

**(1) The manufacturer provides the same express warranty that was provided to the original consumer, except that the term of the**

warranty shall be the greater of either of the following:

- (a) Twelve thousand miles or twelve months after the date of resale, whichever is earlier;
- (b) The remaining term of any manufacturer's original warranty.

(2) The manufacturer provides to the consumer, either directly or through its agent or its authorized dealer, and prior to obtaining the signature of the consumer on any document, a written statement on a separate piece of paper, in ten-point type, all capital letters, in substantially the following form:

**WARNING: THIS VEHICLE PREVIOUSLY WAS SOLD AS NEW. IT WAS RETURNED TO THE MANUFACTURER OR ITS AGENT IN EXCHANGE FOR A REPLACEMENT VEHICLE OR REFUND AS A RESULT OF THE FOLLOWING DEFECT(S) OR CONDITION(S):**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**BUYER'S SIGNATURE**

The manufacturer shall list each defect or condition on a separate line of the written statement provided to the consumer.

(B) Notwithstanding the provisions of division (A) of this section, if a new motor vehicle has been returned under the provisions of section 1345.72 of the Revised Code or a similar law of another state because of a nonconformity likely to cause death or serious bodily injury if the vehicle is driven, the motor vehicle may not be sold, leased, or operated in this state.

(C) A manufacturer that takes possession of a buyback shall obtain the certificate of title for the buyback from the consumer, lienholder, or the lessor. The manufacturer and any subsequent transferee, within thirty days and prior to transferring title to the buyback, shall deliver the certificate of title to the clerk of the court of common pleas and shall make application for a certificate of title for the buyback. The clerk shall issue a buyback certificate of title for the vehicle on a form, prescribed by the registrar of motor vehicles, that bears or is stamped on its face with the words "BUYBACK: This vehicle was returned to the manufacturer because it may not have conformed to its warranty." in black boldface letters in an appropriate location as determined by the registrar. The buyback certificate of title shall be assigned upon transfer of the buyback, for use

as evidence of ownership of the buyback and is transferable to any person. Every subsequent certificate of title, memorandum certificate of title, or duplicate copy of a certificate of title or memorandum certificate of title issued for the buyback also shall bear or be stamped on its face with the words "BUYBACK: This vehicle was returned to the manufacturer because it may not have conformed to its warranty." in black boldface letters in the appropriate location.

The clerk of the court of common pleas shall charge a fee of five dollars for each buyback certificate of title, duplicate copy of a buyback certificate of title, memorandum buyback certificate of title, and notation of any lien on a buyback certificate of title. The clerk shall retain two dollars and twenty-five cents of the fee charged for each buyback certificate of title, four dollars and seventy-five cents of the fee charged for each duplicate copy of a buyback certificate of title, all of the fees charged for each memorandum buyback certificate of title, and four dollars and twenty-five cents of the fee charged for each notation of a lien.

The remaining two dollars and seventy-five cents charged for the buyback certificate of title, the remaining twenty-five cents charged for the duplicate copy of a buyback certificate of title, and the remaining seventy-five cents charged for the notation of any lien on a buyback certificate of title shall be paid to the registrar in accordance with division (A) of section 4505.09 of the Revised Code, who shall deposit it as required by division (B) of that section.

(D) No manufacturer that applies for a certificate of title for a buyback shall fail to clearly and unequivocally inform the clerk of the court of common pleas to whom application for a buyback certificate of title for the motor vehicle is submitted that the motor vehicle for which application for a buyback certificate of title is being made is a buyback and that the manufacturer, its agent, or its authorized dealer is applying for a buyback certificate of title for the motor vehicle and not a certificate of title.

#### **Section 1345.77**

(A) The attorney general shall adopt rules for the establishment and qualification of an informal dispute resolution mechanism to provide for the resolution of warranty disputes between the consumer and the manufacturer, its agent, or its authorized dealer. The mechanism shall be under the supervision of the division of consumer protection of the office of the attorney general and shall meet or exceed the minimum requirements for an informal dispute resolution mechanism as provided by the "Magnuson-Moss Warranty Federal Trade Commission Improvement Act," 88 Stat. 2183, 15 U.S.C.A. 2301, and regulations adopted thereunder.

(B) If a qualified informal dispute resolution mechanism exists and the consumer receives timely notification, in writing, of the availability of the mechanism with a description of its operation and effect, the cause of

**action under section 1345.75 of the Revised Code may not be asserted by the consumer until after the consumer has initially resorted to the informal dispute resolution mechanism. If such a mechanism does not exist, if the consumer is dissatisfied with the decision produced by the mechanism, or if the manufacturer, its agents, or its authorized dealer fails to promptly fulfill the terms determined by the mechanism, the consumer may assert a cause of action under section 1345.75 of the Revised Code.**

**(C) Any violation of a rule adopted pursuant to division (A) of this section is an unfair and deceptive act or practice as defined by section 1345.02 of the Revised Code.**

**Section 1345.78**

**(A) Failure to comply with section 1345.76 of the Revised Code, in connection with a consumer transaction as defined in division (A) of section 1345.01 of the Revised Code, is an unfair and deceptive act or practice in violation of division (A) of section 1345.02 of the Revised Code.**

**(B) The attorney general shall investigate any alleged violation of division (D) of section 1345.76 of the Revised Code and, in an appropriate case, may bring an appropriate action in a court of competent jurisdiction, charging a manufacturer with a violation of that division.**

# Appendix

## F

## Appendix F

### OHIO ADMINISTRATIVE CODE

#### 109:4 CONSUMER FRAUD AND CRIMES

#### Chapter 109:4-4 Dispute Resolution Programs for Settlement of New Motor Vehicle Warranty Disputes

##### 109:4-4-01 Authority, construction and purposes of rules; severability; and definitions.

###### (A) Authority, rules of construction, purposes

(1) This chapter is adopted by the office of the attorney general of Ohio pursuant to division (A) of section 1345.77 and Chapter 119. of the Revised Code.

(2) Without limiting the scope of any section of the Revised Code or any other rule, this chapter shall be liberally construed and applied to promote their purposes and policies.

(3) The purposes and policies of this chapter are to:

(a) Define with reasonable specificity the qualifications for the certification of informal dispute settlement programs for the resolution of new motor vehicle warranty disputes between the consumer and the manufacturer or its agents.

(b) Encourage the establishment and qualification of dispute resolution programs for settlement of new motor vehicle warranty disputes.

###### (B) Severability

Each substantive rule and every part of each substantive rule is an independent rule and part of a rule, and the holding of any rule or part of a rule to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other rule or part of a rule, and, to this end, each and every rule, paragraph, sentence, clause, phrase, or provision of this chapter is hereby declared severable.

###### (C) Definitions

(1) For purposes of this chapter, the definitions found in section 1345.71 of the Revised Code, including any amendments, shall apply.

(2) "The act" means sections 1345.71 to 1345.77 of the Revised Code, including any amendments.

(3) "Board" means the organization, person, or entity which conducts the dispute-settlement processes, including but not limited to conciliation, mediation, or arbitration procedures by which a warrantor has agreed to be bound.

(4) "Arbitrators" means the person or persons within a board actually deciding disputes.

(5) "On the face of the warranty" means the page on which the

warranty text begins or on the first page of an alternative document issued by the warrantor for the purpose of complying with this chapter.

(6) "Warrantor" means the manufacturer or distributor of a new motor vehicle which provides a warranty for that motor vehicle.

(7) "Warranty disputes" means any unresolved complaint initiated by a consumer which alleges a nonconformity in a motor vehicle relating to a written warranty.

(8) "Attorney general" means the attorney general of Ohio, or his or her representative.

History: Enacted by 1987-88 OMR 437, eff. November 29, 1987

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-4-02 Option to establish informal dispute settlement boards.

(A) One or more warrantors may establish an informal dispute settlement board.

(B) If the board meets the requirements of this rule and the application procedures set forth in Chapter 109:4-5 of the Administrative Code, the attorney general shall qualify the board as to complying warrantors.

(C) Nothing contained in this chapter shall preclude the consumer from electing among available qualifying boards for purposes of satisfying the requirements of the act.

History: Enacted by 1987-88 OMR 437, eff. November 29, 1987.

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-4-03 Duties of warrantor.

(A) In order to qualify a board to hear its warranty disputes, a warrantor must comply with the provisions of this rule.

(B) The warrantor shall not incorporate into the terms of a written warranty a board that fails to comply with the requirements contained in this chapter. This paragraph shall not prohibit a warrantor from incorporating into the terms of a written warranty the step-by-step procedure which the consumer should follow in order to obtain performance under the warranty.

(C) The warrantor shall disclose clearly and conspicuously at least the following information on the face of the written warranty and on a sign posted in a conspicuous place within that area of the warrantor's agent's place of business to which consumers are directed by the warrantor:

(1) A statement of the availability of the board;

(2) The board's name, address, and a telephone number which consumers may use without charge;

**(3) A statement of the requirement that the consumer resort to a qualified board before initiating a legal action under the act, together with a disclosure that, if a consumer chooses to seek redress by pursuing rights and remedies not created by the act, resort to the board would not be required by any provision of the act. This statement will be deemed to be disclosed if the warrantor or the warrantor's agent either posts a sign in a conspicuous place, or gives the consumer a separate form at the time of the initial face-to-face contact, which clearly and conspicuously contains the following language in boldface ten point type:**

**NOTICE**

**OHIO LAW REQUIRES YOU TO USE A QUALIFIED ARBITRATION PROGRAM BEFORE SUING THE MANUFACTURER OVER NEW CAR WARRANTY DISPUTES. FAILURE TO ARBITRATE YOUR CLAIM MAY PRECLUDE YOU FROM MAINTAINING A LAWSUIT UNDER SECTION 1345.75 OF THE REVISED CODE.**

**(4) A statement, if applicable, indicating where further information about the board can be found in materials accompanying the motor vehicle, as provided in paragraph (D) of this rule.**

**(D) The warrantor shall include in the written warranty or in a separate section of materials accompanying the motor vehicle the following information:**

**(1) Either**

- (a) a postage-paid post card addressed to the board requesting the information which a certified board may require for prompt resolution of warranty disputes; or**
- (b) a telephone number of the board which consumers may use without charge;**

**(2) The name and address of the board;**

**(3) A brief description of board procedures;**

**(4) The time limits adhered to by the board; and**

**(5) The types of information which the board may require for prompt resolution of warranty disputes.**

**(E) The warrantor shall take steps reasonably calculated to make consumers aware of the existence of the board at the time consumers experience warranty disputes. Nothing contained in this chapter shall limit the warrantor's option to encourage consumers to seek redress directly from the warrantor. However, the warrantor cannot expressly require consumers to seek redress directly from the warrantor. The warrantor must clearly and conspicuously disclose to the consumer the following information:**

**(1) That the process of seeking redress directly from the warrantor is optional and may be terminated at any time by either the consumer**



or warrantor; and

(2) That, if the matter is submitted to a qualified board, a decision, which shall be binding on the warrantor, will be rendered within forty days from the date that the board first receives notification of the dispute.

The warrantor shall proceed fairly and expeditiously to attempt to resolve all disputes submitted directly to the warrantor.

(F) The warrantor shall:

(1) Designate a contact person to receive notices for purposes of this chapter and Chapter 109:4-5 of the Administrative Code;

(2) Respond fully and promptly to reasonable requests by the board for information relating to disputes;

(3) Upon notification of any decision of the board that would require action on the part of the warrantor, perform any obligations required by the mechanism's decision.

(G) The warrantor shall act in good faith in performing a board's decision.

(H) The warrantor shall comply with any reasonable requirements imposed by the board to fairly and expeditiously resolve warranty disputes.

History: Enacted by 1987-88 OMR 437(E), eff. November 29, 1987. Amended by 1991-92 OMR 679(A), eff. Dec. 30, 1991

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-4-04 Minimum requirements of the board.

(A) Board organization

(1) The board shall be funded and competently staffed at a level sufficient to ensure fair and expeditious resolution of all disputes, and shall not charge consumers any fee for use of the board.

(2) The warrantor, the sponsor of the board (if other than the warrantor), and the board shall take all steps necessary to ensure that the board and its arbitrators and staff are sufficiently insulated from the warrantor and the sponsor, so that the decisions of the arbitrators and the performance of the staff are not influenced by either the warrantor or the sponsor. Necessary steps shall include, at a minimum, committing funds in advance of submission of disputes, basing personnel decisions solely on merit, and not assigning conflicting warrantor or sponsor duties to board staff persons. The board shall collect and maintain detailed information relating to any interest and involvement of the arbitrators in the manufacture, distribution, sale or service of any motor vehicle.

(3) The board shall impose any other reasonable requirements necessary to ensure that the arbitrators and staff act fairly and expeditiously in each dispute.

**(B) Qualification of arbitrators**

**(1) No arbitrator shall be:**

**(a) A party to the dispute or an employee or agent of a party other than for purposes of deciding disputes; or**

**(b) A person who is or may become a party in any pending legal action, including but not limited to class actions, relating to the product or complaint in dispute or an employee or agent of such persons other than for purposes of deciding disputes. For purposes of this paragraph, a person shall not be considered a "party" solely because he or she acquires or owns an interest in a party solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment.**

**(2) The composition of the arbitration panel(s) shall be as follows:**

**(a) If a panel consists of less than three arbitrators, all shall be persons having no direct involvement in the manufacture, distribution, sale or service of any motor vehicle.**

**(b) If a panel consists of three or more arbitrators, at least two-thirds shall be persons having no direct involvement in the manufacture, distribution, sale or service of any motor vehicle.**

**(3) "Direct involvement" shall not include acquiring or owning an interest solely for investment, and the acquisition or ownership of an interest which is offered to the general public shall be prima facie evidence of its acquisition or ownership solely for investment.**

**(4) Notwithstanding paragraph (B)(2) of this rule, any arbitrator selected to hear a dispute shall, immediately upon notification of such selection, disclose to the board any investment he or she has, in any company which is involved in the manufacture, distribution, sale or service of any motor vehicle. If, during the pendency of any dispute, any arbitrator acquires such an interest, he or she shall immediately disclose such acquisition to the board. Any disclosure shall be in writing and the board shall deliver a copy to each party. Upon receipt of such disclosure, a party may elect to disqualify the arbitrator from hearing the dispute.**

**(5) Nothing contained in paragraph (B) of this rule shall prevent the arbitrators from consulting with any neutral persons knowledgeable in the technical, commercial or other area relating to motor vehicles which is the subject of the dispute.**

**(6) Arbitrators shall be persons interested in the fair and expeditious settlement of consumer disputes.**

**(C) Operation of the board**

**(1) The board shall establish written operating procedures which shall include at least those items specified in paragraphs (C)(2) to**

**(C)(12) of this rule and the information required by paragraph (F)(3) of this rule. Copies of the written procedures shall be made available to any person upon request.**

**(2) Upon written notification of a dispute, the board shall immediately inform both the warrantor and the consumer of receipt of the dispute by a written notice which includes the following disclosure which must be in bold face ten point type:**

**NOTICE**

**OHIO LAW REQUIRES YOU TO USE A  
QUALIFIED ARBITRATION PROGRAM  
BEFORE SUING THE MANUFACTURER  
OVER NEW CAR WARRANTY DISPUTES.  
FAILURE TO ARBITRATE YOUR CLAIM MAY  
PRECLUDE YOU FROM MAINTAINING A  
LAWSUIT UNDER SECTION 1345.75 OF THE  
REVISED CODE.**

**(3) The board shall investigate, gather and organize all information necessary for a fair and expeditious decision on each issue in dispute. When information submitted by any source tends to contradict facts submitted by any party, and the information will or may be used in the decision, the board shall clearly, accurately, and completely disclose to both parties the contradictory information (and its source) and shall provide both parties an opportunity to explain or rebut the information and to submit additional materials. All written documents relating to or accounts of the transaction or services in dispute shall be signed by the person who makes it. Nothing contained herein shall prevent or discourage the board from attempting to settle disputes prior to a hearing. Disputes which are settled after written notification to the board but prior to a hearing shall be reported to the attorney general on forms to be approved by the attorney general, which shall contain, at a minimum, the following information:**

- (a) The date the complaint was received;**
- (b) The relief requested by the consumer;**
- (c) The nature of the settlement; and**
- (d) The date the settlement was implemented.**

**(4) Prior to the hearing, the board shall provide the arbitrators with copies of the information collected under paragraph (C)(3) of this rule and shall further provide a conspicuous statement indicating that a neutral technician is available (if the board does not provide one at all hearings) and whom to contact should the arbitrators deem it necessary to have such consultation provided either prior to, or at, the hearing.**

**(5) If the dispute has not been settled, the board shall, as**

**expeditiously as possible but at least within forty days of notification of the dispute, except as provided in paragraph (C)(8) of this rule:**

**(a) Render a fair decision signed by all arbitrators making the decision, and conforming with paragraph (C)(6) of this rule, based on the information gathered as described in paragraph (C)(3) of this rule, and on any information submitted at an oral presentation which conforms to the requirements of paragraph (C)(9) of this rule. A decision shall include any remedies ordered by the panel, including repair, replacement, refund, reimbursement for expenses, and any other remedies available under the written warranty or the act (or rules thereunder); and a decision shall state a specified reasonable time for performance;**

**(b) Disclose to the warrantor, and the consumer, its decision, the reasons, therefor, and the information described in paragraph (C)(7) of this rule.**

**For purposes of this paragraph, a dispute shall be deemed settled when the board has ascertained from the consumer his or her acceptance of the offer and that the settlement has been fully implemented.**

**(6) The board's arbitration decision shall be disclosed to the attorney general on forms to be approved by the attorney general, which shall contain, at a minimum, the following information:**

**(a) Date the complaint was received;**

**(b) Relief requested by the consumer;**

**(c) Decision of the arbitrator(s) and reasons therefor;**

**(d) Date of the decision;**

**(e) A specific date for completion of the transactions necessary to carry out the decision of the board;**

**(f) A statement that the decision is binding upon the warrantor and not the consumer, unless the consumer elects to accept the decision;**

**(g) The time within which the consumer must respond;**

**(h) Determination of whether the decision was accepted or rejected by the consumer.**

**(7) The board shall inform the consumer at the time of disclosure required in paragraph (C)(5) of this rule that:**

**(a) If he or she is dissatisfied with its decision or if the warrantor, its agent, or its authorized dealer fails to promptly fulfill the terms of the board's decision, the consumer may seek redress by other rights and remedies, including asserting a cause of action under section 1345.75 of the Revised Code.**

**(b) The consumer may obtain, at reasonable cost, copies of all board records relating to the consumer's dispute.**

- (8) The board may delay the performance of its duties under paragraph (C)(5) of this rule beyond the forty-day time limit:**
- (a) Where the period of delay is due solely to the failure of a consumer to provide promptly his or her name and address, make, model and vehicle identification number of the motor vehicle involved, and a statement as to the nature of the defect or other complaint;**
  - (b) For a seven-day period in those cases where the consumer has made no attempt to seek redress directly from the warrantor;**
  - (c) For a fourteen-day period for delays due solely to compliance with the requirement contained in paragraph (C)(3) of this rule that the board provide the parties with an opportunity to explain or rebut contradictory information;**
  - (d) For a fourteen-day period for delays due to consumer requests for hearing postponement, consumer failure to submit adequate information which the arbitrator(s) feel(s) is needed to render a decision, arbitrator unavailability, or acts of God.**
  - (e) For a fourteen-day period at the discretion of the arbitrator(s). The reason for any such discretionary delay shall be disclosed and reported with the other information required by paragraphs (C)(5) and (C)(6) of this rule.**
  - (f) Where the dispute is settled but the settlement is not fully implemented.**
- (9) The board must allow an oral presentation at the request of the consumer. If the consumer elects an in-person oral presentation, the warrantor may make its presentation in person, by telephone conference call, or by written submission. If the consumer elects an oral presentation by telephone conference call, the warrantor may make its presentation by telephone conference call, or by written submission. If the consumer does not request an oral presentation the warrantor shall make its presentation by written submission. Upon receipt of the dispute the board shall fully disclose to the parties the following information:**
- (a) That an oral presentation either in person or by telephone conference call will take place if requested by the consumer, but that, once requested, if one party fails to appear or give an oral presentation at the agreed-upon time and place, the presentation by the other party shall be allowed; and**
  - (b) That the arbitrators will decide the dispute based upon written presentations if an oral presentation is not requested;**
  - (c) That each party is permitted to be represented by a person of his or her choice;**

- (d) That the date, time and place for the presentation will be arranged to accommodate, where possible, the geographic and time-of-day needs of the parties;
- (e) A brief description of what will occur at the presentation, including, if applicable, parties' rights to bring witnesses and/or counsel, and to ask questions of other parties, witnesses and/or counsel; and
- (f) That each party has the right to either be present during the other party's oral presentation or, in lieu of attending, to submit a written presentation.

Nothing contained in paragraph (C)(9) of this rule shall preclude the board from allowing an oral presentation by one party, if the other party fails to appear or give an oral presentation at the agreed-upon time and place, as long as all of the requirements of paragraph (C)(9) of this rule have been satisfied.

(10) If the warrantor has agreed to perform any obligations as part of a settlement agreed to after notification to the board of the dispute or has been ordered to perform any obligations as a result of a decision under paragraph (C)(5) of this rule, the board shall ascertain from the consumer within ten working days of the date for performance whether performance has occurred and the board's finding shall be noted in its records.

(11) A requirement that a consumer resort to the board prior to commencement of an action under the act shall be satisfied forty days after notification to the board of the dispute or when the board completes all of its duties under paragraph (C)(5) of this rule, whichever occurs sooner. Except that, if the board delays performance of its duties required by paragraph (C)(5) of this rule, as allowed by paragraph (C)(8) of this rule, the requirements that the consumer initially resort to the board shall not be satisfied until the period of delay allowed by paragraph (C)(8) of this rule has ended.

(12) Decisions of the board shall be legally binding on the warrantor, which must perform its obligations pursuant to any such decisions if the consumer so elects.

**(D) Record-keeping**

(1) The board shall maintain records on each dispute referred to it which shall include:

- (a) Name, address and telephone number of the consumer;
- (b) Name, address, and telephone number of the contact person designated by the warrantor under paragraph (F)(1) of rule 109:4-4-03 of the Administrative Code;
- (c) Makes, models and vehicle identification numbers of the motor vehicles;

- (d) The date of receipt of the dispute and the date of disclosure to the consumer of the decision;
- (e) All letters or other written documents submitted by either party;
- (f) All other evidence collected by the board relating to the dispute, including summaries of relevant and material portions of telephone calls and meetings between the board and any other person (including neutral consultants described in paragraph (B)(4) or (C)(4) of this rule);
- (g) A summary of any relevant and material information presented by either party at an oral presentation;
- (h) The decision of the arbitrators, including information as to date, time and place of meeting and the identity of arbitrators voting, or information on any other resolution;
- (i) A copy of the disclosure to the parties of the decision;
- (j) Copies of follow-up letters (or summaries of relevant and material portions of follow-up telephone calls) to the consumer and responses thereto; and
- (k) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.

(2) The board shall maintain an index of each warrantor's disputes grouped under make and sub-grouped under model.

(3) The board shall maintain an index for each warrantor which will show:

- (a) All disputes in which the warrantor has agreed to perform any obligations as part of a settlement reached after notification of the dispute or has been ordered to perform any obligations as the result of a decision under paragraph (C)(5) of this rule and has failed to comply; and
- (b) All disputes in which the warrantor has refused to abide by an arbitration decision.

(4) The board shall maintain an index that will show all disputes delayed beyond forty days.

(5) The board shall compile semiannually and, maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of warranty disputes received in each of the following categories (which shall total one hundred per cent of the total number of warranty disputes received):

- (a) Resolved by staff of the board without arbitration and the warrantor has complied;
- (b) Resolved by staff of the board, without arbitration, time for compliance has expired, and the warrantor has not complied;

- (c) Resolved by staff of the board without arbitration, and time for compliance has not yet expired;**
- (d) Decided by arbitration and the party required to perform has complied, specifying whether the party required to perform is the consumer or the warrantor or both;**
- (e) Decided by arbitration, time for compliance has expired, and the party required to perform has not complied, specifying whether the party required to perform is the consumer or the warrantor or both;**
- (f) Decided by arbitration and time for compliance has not yet expired;**
- (g) Decided by arbitration in which neither party was awarded anything;**
- (h) No jurisdiction;**
- (i) Decision delayed beyond forty days under paragraph (C)(8)(a) of this rule;**
- (j) Decision delayed beyond forty days under paragraph (C)(8)(b) of this rule;**
- (k) Decision delayed beyond forty days under paragraph (C)(8)(c) of this rule;**
- (l) Decision delayed beyond forty days under paragraph (C)(8)(d) of this rule;**
- (m) Decision delayed beyond forty days for any other reason;**  
**and**
- (n) Decision is pending and the forty-day limit has not expired. In addition, the board shall compile semiannually and maintain and file with the attorney general a compilation of the semiannual statistics which show the number and per cent of the total number of disputes received (which need not add up to one hundred per cent of all disputes received) in which:**
  - (o) Consumer requested a refund or replacement for a motor vehicle within the first year or eighteen thousand miles of operation;**
  - (p) Vehicle refund or replacement was awarded, specifying whether the award was made by arbitration or through settlement;**
  - (q) Vehicle refund or replacement decisions complied with by the manufacturer, specifying whether the decision was made by arbitration or through settlement;**
  - (r) Decisions in which additional repairs were the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;**
  - (s) Decisions in which a warranty extension was the most prominent remedy, specifying whether the decision was made**



by arbitration or through settlement;

(t) Decisions in which reimbursement for expenses or compensation for losses was the most prominent remedy, specifying whether the decision was made by arbitration or through settlement;

(u) Vehicle refund or replacement arbitration awards accepted by the consumer; and

(v) Non-repurchase or replacement arbitration decisions accepted by the consumer.

(6) The board shall compile semiannually and maintain and file with the attorney general a listing of all vehicle identification numbers of all vehicles for which decisions or settlements entitled the consumer to a refund or replacement.

(7) The board shall retain all records specified in paragraphs (D)(1) to (D)(6) of this rule at least four years after final disposition of the dispute.

#### **(E) Audits**

(1) The board shall have an audit conducted at least annually to determine whether the board and its dispute resolution processes are in compliance with this chapter. All records of the board required to be kept under paragraph (D) of this rule shall be available for audit.

(2) Each audit provided for in paragraph (E)(1) of this rule shall include at a minimum the following:

(a) Evaluation of warrantor's efforts to make consumers aware of the board's existence as required by paragraph (E) of rule 109:4-4-03 of the Administrative Code;

(b) Review of the indices maintained pursuant to paragraph (D) of this rule; and

(c) Analysis of a random sample of disputes handled to determine the following:

(i) adequacy of the board's complaint and other forms, investigation, mediation and follow-up efforts and other aspects of complaint handling; and

(ii) accuracy of the board's statistical compilations under paragraph (D) of this rule. (For purposes of this paragraph, "analysis" shall include oral or written contact with the consumers involved in each of the disputes in the random sample.)

(3) A report of each audit under paragraph (E) of this rule shall be submitted to the attorney general and shall be made available to any person at reasonable cost. The board may direct its auditor to delete names of parties to disputes from the audit report.

(4) Auditors shall be selected by the board. No auditor may be

involved with the board as a warrantor, sponsor or arbitrator, or employee or agent thereof, other than for purposes of the audit.

**(F) Openness of records and proceedings**

(1) The statistical summaries specified in paragraphs (D)(2), (D)(3), (D)(4), (D)(5) and (D)(6) of this rule shall be available to any person for inspection and copying.

(2) Except as provided under paragraphs (E)(3), (F)(1) and (F)(5) of this rule, all records of the board may be kept confidential or made available only on such terms and conditions, or in such form, as the board shall permit and to the extent that Ohio law will allow.

(3) The policy of the board with respect to records made available at the board's option shall be set out in the written procedures required by paragraph (C)(1) of this rule. The policy shall be applied uniformly to all requests for access to or copies of such records.

(4) Meetings of the arbitrators to hear disputes shall be open to observers on reasonable and nondiscriminatory terms, as long as the consumer does not object. The identity of the parties involved in disputes need not be disclosed at meetings.

(5) Upon request, the board shall provide to either party to a dispute: (a) access to all records relating to the dispute; and (b) copies of any records relating to the dispute at reasonable cost.

(6) The board shall make available to any person, upon request, information relating to the qualifications of board staff, arbitrators, and neutral technicians or consultants and detailed information relating to any interest and involvement of the arbitrators in the manufacture, distribution, sale, or service of any motor vehicle.

**History:** Enacted by 1987-88 OMR 438, eff. November 29, 1987. Amended by 1991-92 OMR 679, eff. Dec. 30, 1991

**RULE PROMULGATED UNDER:** RC Chapter 119.

**RULE AUTHORIZED BY:** RC 1345.77

**RULE AMPLIFIES:** RC 1345.77

**119.032 Review Date:** 7-15-03

**109:4-4-05 Repair orders for new motor vehicles services or repairs.**

(A) This rule is designed to define with reasonable specificity the information required to be provided under division (B) of section 1345.74 of the Revised Code so that consumers may be on notice of any and/or all non-conformities and receive itemized statements of repairs performed or attempted.

(B) In order to comply with the mandates of division (B) of section 1345.74 of the Revised Code, each time the motor vehicle of the consumer is returned from being serviced or repaired, the supplier shall provide the consumer with a copy of a form, completed in a clear and legible manner, whether or not any repair is performed which:

- (1) Is in full compliance with rule 109:4-3-13 of the Administrative Code; and
- (2) Lists the consumer's description of the problem or symptom he or she is experiencing, accompanied by the consumer's signature or initials acknowledging the accuracy of the description; and
- (3) Identifies the person performing or attempting the repair or service on the specific problem or symptom listed in paragraph (B)(2) of this rule; and
- (4) Specifically states the technical diagnosis and all repairs performed or attempted in regard to the problem or symptom listed in paragraph (B)(2) of this rule.

**History:** Enacted by 1987-88 OMR 440, eff. November 29, 1997. Amended by 1991-92 OMR 682, eff. Dec. 30, 1991

**RULE PROMULGATED UNDER:** RC Chapter 119.

**RULE AUTHORIZED BY:** RC 1345.74

**RULE AMPLIFIES:** RC 1345.774

**119.032 Review Date:** 7-15-03

#### **Chapter 109:4-5**

#### **Informal Dispute Resolution Mechanisms for Settlement of New Motor Vehicle Warranty Disputes**

#### **109:4-5-01 Authority, construction and purposes of rules severability; definitions.**

##### **(A) Authority, rules of construction, purposes**

(1) This chapter is adopted by the office of the attorney general of Ohio pursuant to division (A) of section 1345.77 and Chapter 119. of the Revised Code.

(2) Without limiting the scope of any section of the Revised Code or any other rule, this chapter shall be liberally construed and applied to promote their purposes and policies.

(3) The purposes and policies of this chapter are to:

(a) Define with reasonable specificity the process for the qualification of informal dispute settlement mechanisms for the resolution of new motor vehicle warranty disputes between the consumer and the manufacturer or its agents.

(b) Encourage the establishment and qualification of dispute resolution mechanisms for settlement of new motor vehicle warranty disputes.

##### **(B) Severability**

Each procedural rule and every part of each procedural rule is an independent rule and part of a rule, and the holding of any rule or part of a rule to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other rule or part of a rule, and, to this end, each and every rule, paragraph, sentence, clause, phrase, or provision of this chapter is hereby declared severable.

**(C) Definitions**

(1) The definitions found in Chapter 109:4-4 of the Administrative Code shall also apply to this chapter.

(2) "Qualified board" means an organization, person or entity which conducts a dispute settlement process which has been reviewed by the attorney general and approved as having met the qualifications specified in Chapter 109:4-4 of the Administrative Code.

(3) "Provisionally qualified board" means an organization, persons, or entity which conducts a dispute settlement process which is not able to submit a complete application under the requirements of Rules 109:4-5-02 and

109:4-5-03 of the Administrative Code, and is granted a one-year approval under the terms of rule 109:45--04 of the Administrative Code.

**History: Enacted by 1987-88 OMR 440, eff. November 29, 1987. Amended by 1991-92 OMR 682, eff. Dec. 30, 1991**

**RULE PROMULGATED UNDER: RC Chapter 119.**

**RULE AUTHORIZED BY: RC 1345.77**

**RULE AMPLIFIES: RC 1345.77**

**119.032 Review Date: 7-15-03**

**109:4-5-02 Application for qualification.**

(A) Application by a board for certification as a qualified board shall be made in writing to the attorney general.

(B) Applications shall include at least the following information unless specific exceptions are provided in this rule:

(1) Name, address, and telephone number of the board. In the event the applicant does not maintain one or more Ohio addresses and telephone numbers at the time of application, the application shall set forth the specific plans for making the board accessible to Ohio consumers.

(2) The manufacturers, vehicle makes and vehicle models for which the board is authorized to hear disputes and render decisions and copies of such authorization.

(3) Copies of all warranty documents and disclosure information used to alert consumers to the board and the warranty proffered by the manufacturer for each vehicle make and model, together with any other informational material, advertising copy or other notices used to inform consumers concerning warranties, the availability and operation of the board and any other manufacturer dispute resolution procedures.

(4) Copies of all written operating standards and procedures promulgated by the board, as required by paragraph (C)(1) of rule 109:4-4-04 of the Administrative Code.

(5) A description of the general qualifications and the duties of the arbitrators, neutral technicians or consultants, and all other persons employed by the board.

(6) A description of all training programs conducted for the board's arbitrators, and the plans for any such programs should approval be granted.

(7) Copies of the indices required by paragraphs (D)(2), (D)(3), and (D)(4) of rule 109:4-4-04 of the Administrative Code for the record year preceding the application.

(8) Copies of the semiannual statistical compilations required by paragraphs (D)(5) and (D)(6) of rule 109:4-4-04 of the Administrative Code for the preceding year.

(9) Copies of all annual audits previously compiled pursuant to paragraph (E) of rule 109:4-4-04 of the Administrative Code.

(10) Copies of ten per cent, but not in any event less than twenty-five per cent, of the written decision documents issued by the board to Ohio consumers during the preceding year, representing a randomly selected cross-section of such decisions. The attorney general may, upon notice, have these opinions selected by personnel from his office or under his direction.

(11) Statistics for the previous record year showing, for each warrantor served by the board, the number of oral presentations in person and the number of oral presentations by telephone conference call conducted under paragraph (C)(7) of rule 109:4-4-04 of the Administrative Code conducted for each warrantor served by the board, and the number of times such a presentation presentations was were requested.

(12) Such other or additional information as the attorney general might request after initial review of the application.

History: Enacted by 1987-88 OMR 441, eff. November 29, 1987. Amended by 1991-92 OMR 682), eff. Dec. 30, 1991

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

109:4-5-03 Review of application.

(A) Upon receipt of a completed application, the attorney general shall direct his staff to prepare a report reviewing the operation of the board in view of the requirements of the act and Chapter 109:4-4 of the Administrative Code, and to recommend an appropriate ruling on the application.

(B) After receipt of the staff report and independent review of the application, the attorney general shall issue a written decision to the applicant within sixty days of receipt of the application, setting forth the

basis therefor, whether the applicant will be a qualified board, a provisionally qualified board for such time and upon such conditions as may be specified, or whether the application will be denied. Such decision will be a matter of public record.

History: Enacted by 1987-88 OMR 437(E), eff. November 29, 1987.

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

**109:4-5-04 Provisionally qualified boards.**

(A) Provisional qualification shall be available only for those boards which have not conducted sufficient operations in Ohio under the terms of the act and Chapter 109:4-4 of the Administrative Code, prior to submitting an application, so as to permit the submission of a complete application.

(B) Applicants for provisional qualification shall complete as much of the application as possible, supplementing Ohio information and records with comparable documents and statistics from one or more other states, if available.

(C) All applicants for provisional qualification shall clearly so state on the face of the application.

(D) In the event provisional qualification is granted, it shall continue for a period of one year. Following nine months of operation as a provisionally qualified board, such board shall update its original application with the statistics and materials required in an application under this chapter, reflecting the nine-month operating period, to reapply for approval as a qualified board.

(E) After review of the application as provided in paragraph (A) of rule 109:4-5-03 of the Administrative Code, the attorney general shall announce a decision in the same manner as provided for in rule 109:4-5-03 of the Administrative Code.

History: Enacted by 1987-88 OMR 441, eff. November 29, 1987.

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

**109:4-5-05 Continuing obligations of qualified boards.**

(A) A qualified board shall promptly inform the attorney general of any changes in the information submitted in its application pursuant to paragraph (B) of rule 109:4-5-02 or paragraph (D) of rule 109:4-5-04 of the Administrative Code and supply copies of such changes or requisite information.

(B) A qualified board shall submit annually, to the attorney general, copies of the annual audit required by paragraph (E) of rule 109:4-4-04 of the Administrative Code, and, semiannually, the statistics required to be

compiled under paragraphs (D)(5) and (D)(6) of rule 109:4-4-04 of the Administrative Code.

(C) A qualified board shall supply for review, upon request of the attorney general, any additional statistics, records or documents which must be compiled or prepared pursuant to rule 109:4-4-04 of the Administrative Code.

History: Enacted by 1987-88 OMR 442, eff. November 29, 1987.

RULE PROMULGATED UNDER: RC Chapter 119.

RULE AUTHORIZED BY: RC 1345.77

RULE AMPLIFIES: RC 1345.77

119.032 Review Date: 7-15-03

**109:4-5-06 Revocation of qualification.**

(A) In the event that the attorney general has probable cause to believe that a qualified or a provisionally qualified board is operating in contravention of the requirements of the act, Chapter 109:4-4 of the Administrative Code or this chapter, or that such board or sponsoring manufacturer has knowingly engaged in conduct which is designed, intended, or has the effect of depriving consumers of access to fair and expeditious resolution of disputes, written notification shall be sent to the board, outlining the perceived deficiencies, fixing a time within which to respond and identifying any additional information which may be required.

(B) Upon receipt of the qualified or provisionally qualified board's reply, or expiration of the time fixed for reply, the attorney general shall determine whether the approval granted should be revoked, continued as before, or continued for a period contingent upon compliance with such conditions as may be set forth in the decision. This decision will be issued in the same manner as provided for in rule 109:4-5-03 of the Administrative Code. Failure of the board to comply with conditions so stated shall result in the automatic revocation of approval, as of the date provided in such decision.

(C) Any consumer injured by the operation of any procedure of a board which does not conform with the requirements stated in the act, Chapter 109:4-4 of the Administrative Code or this chapter, may request the attorney general to investigate the manufacturer's or board's procedure(s) to determine whether its qualification or provisional qualification shall be suspended or revoked. Such request shall not constitute an appeal of the board's decision.

(D) Either upon application for qualification or provisional qualification or upon a consumer's request for investigation, or upon reasonable cause to believe that a qualified or provisionally qualified board is operating in contravention of the requirements of the act, Chapter 109:4-4 of the Administrative Code or this chapter, the attorney general may conduct any inquiry or investigation or evaluation of a manufacturer's informal dispute settlement procedure and may hold hearings, issue subpoenas requiring the attendance of witnesses and the production of records, documents or

**other evidence in connection therewith, administer oaths, examine witnesses and receive oral and documentary evidence.**

**(E) The attorney general may suspend or revoke the qualification or provisional qualification of a manufacturer's informal dispute settlement board, upon finding that the board is being used to cause injury or create hardship to consumers, in accordance with the procedure provided for in paragraphs (A) and (B) of this rule.**

**(F) After revocation of approval, a board may reapply pursuant to the application procedures in this chapter.**

**History: Enacted by 1987-88 OMR 442, eff. November 29, 1987.**

**RULE PROMULGATED UNDER: RC Chapter 119.**

**RULE AUTHORIZED BY: RC 1345.77**

**RULE AMPLIFIES: RC 1345.77**

**119.032 Review Date: 7-15-03**



# Appendix

## G

## Appendix G

### BETTER BUSINESS BUREAU AUTO LINE PROGRAM AUDIT SURVEY National, Florida, and Ohio

1. Starting with the year, what is the year and model of the vehicle involved in the complaint filed with the Better Business Bureau AUTO LINE Program?
2. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted the Better Business Bureau AUTO LINE Program?
3. How did you first learn about the Better Business Bureau AUTO LINE Program?
4. Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?
5. How would you describe the information in the materials you received?
6. In preparing you for what would happen, which statement best describes the information you received?
7. Did you receive the Customer Claim Form?
8. How would you describe the Customer Claim Form?
9. Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?
10. Which statement best reflects the resolution in your case?
11. Did the manufacturer carry out the terms of the settlement?
12. Which statement best describes what happened?
13. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?
14. Did you receive written notice of the scheduled date, time and place of the hearing?
15. After the hearing, was the decision mailed to you?
16. Did you receive the decision within a reasonable time frame?
17. Which statement best describes the decision?
18. Was the decision accepted or rejected?
19. Did the manufacturer make any attempt to carry out the terms of the decision?
20. Which of the following statements best describe your experience?
21. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?
22. After the decision, did you pursue the dispute any further?
23. Which of the following did you do?
24. How would you grade the arbitrator on understanding the facts?
25. How would you grade the arbitrator on objectivity and fairness?
26. How would you grade the arbitrator on rendering an impartial decision?
27. How would you grade the arbitrator on coming to a reasoned and well thought out decision?
28. What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?
29. How would you grade the Better Business Bureau AUTO LINE Program Staff on objectivity and fairness?

30. How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?
31. Overall, what grade would you give to the Better Business Bureau AUTO LINE Program?
32. Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?

# Appendix

## H

Appendix H

BETTER BUSINESS BUREAU AUTO LINE PROGRAM  
AUDIT SURVEY RESULTS [National]

1. Starting with the year, what is the year and model of the vehicle involved in the complaint filed with the Better Business Bureau AUTO LINE Program?

Year	# of Vehicles
1999	68
1998	178
1997	97
1996	32
1995	25
Total	400

Model	# of Automobile	Model	# of Vehicles
Acura	4	Kia	78
GM	241	Lexus	4
Honda	17	Nissan	12
Hyundai	9	Saturn	5
Infiniti	4	Toyota	11
Isuzu	7	Volkswagen	8
	Total Vehicles		400

2. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted the Better Business Bureau AUTO LINE Program?

0	1 time	2 times	3 times	4 times	more than 4	don't know	Total
0	3	8	12	138	231	8	400

3. How did you first learn about the Better Business Bureau AUTO LINE Program?

Method	Number
Better Business Bureau AUTO LINE Program	46
Friend/Family	114
Attorney	34
TV/Radio/Newspaper	12
Dealer/Information in Dealership	103
Manufacturer	62
Warranty Booklet/Owner's Manual	29
Total	400

4. Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?

Yes	No	Don't Know	Total
340	32	28	400

5. How would you describe the information in the materials you received?

Very Clear and Easy to Understand	A Little Difficult but Still Easy to Understand	Difficult to Understand	Don't Know/Don't Recall	Total
209	115	29	47	400

6. In preparing you for what would happen, which statement best describes the information you received?

Gave Consumer A Good Understanding	Covered Relatively Well, But Not Completely	Quite Different	Don't Know/Don't Recall	Total
249	91	16	44	400

7. Did you receive the Customer Claim Form?

Received and Completed	Received but Not Completed	Do Not Recall Receiving Form	Don't Know/Don't Recall	Total
298	31	24	47	400

8. How would you describe the Customer Claim Form?

Very Clear and Easy to Understand	A Little Difficult but Still Easy to Understand	Difficult to Understand	Don't Know/Don't Recall	Total
201	118	30	51	400

9. Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?

Yes	No	Don't Know	Total
340	16	44	400

10. Which statement best reflects the resolution in your case?

Claim Settled Prior to Arbitration	Arbitrated, Hearing Conducted	Ineligible	Withdrawn	Total
136	108	62	94	400
Refer to Questions 11-13	Refer to Questions 14-27	Refer to Question 28	Refer to Question 28	

11. Did the manufacturer carry out the terms of the settlement?

Yes	No	Don't Know	Total
115	21	0	136

12. Which statement best describes what happened?

Satisfied with Settlement	Originally Dissatisfied but Later Satisfied	Dissatisfied with Settlement; Contacted BBB	Don't Know/Don't Recall	Total
120	11	5	0	136

13. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
24	32	72	0	8	136

14. Did you receive written notice of the scheduled date, time and place of the hearing?

Yes	No	Don't Know	Total
122	10	4	136

15. After the hearing, was the decision mailed to you?

Yes	No	Don't Know	Total
132	4	0	136

16. Did you receive the decision within a reasonable time frame?

Yes	No	Don't Know	Total
100	21	15	136

17. Which statement best describes the decision?

Replace Vehicle	Buy Back Vehicle	Repair Vehicle	Extend Warranty	No Award	Other	Total
57	32	20	4	23	0	136



18. Was the decision accepted or rejected?

Accepted	Rejected	Neither	Don't Know	Total
104	32	0	0	136

19. Did the manufacturer make any attempt to carry out the terms of the decision?

Yes	No	Don't Know	Total
97	7	0	104

20. Which of the following statements best describe your experience?

Satisfied with Decision	Originally Dissatisfied; now Satisfied	Dissatisfied with Decision	Don't Know/Don't Recall	Total
86	14	27	9	136

21. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
22	63	44	7	0	136

22. After the decision, did you pursue the dispute any further?

Yes	No	Don't Know	Total
39	97	0	136

23. Which of the following did you do?

Worked Out Solution with Dealer/Manu.	Contacted Legal Representation	Contacted State or Other Government Agency	Did Not Pursue	Total
10	2	27	97	136

24. How would you grade the arbitrator on understanding the facts?

A	B	C	D	F	Don't Know	Total
87	16	3	2	0	0	108

25. How would you grade the arbitrator on objectivity and fairness?

A	B	C	D	F	Don't Know	Total
90	16	0	0	2	0	108

26. How would you grade the arbitrator on rendering an impartial decision?

A	B	C	D	F	Don't Know	Total
70	18	12	3	3	2	108

27. How would you grade the arbitrator on coming to a reasoned and well thought out decision?

A	B	C	D	F	Don't Know	Total
72	17	9	4	5	1	108

28. What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?

Vehicle Out Of Warranty	Vehicle Purchased Used	No Longer In Possession	Other	Total
45	26	53	32	156

29. How would you grade the Better Business Bureau AUTO LINE Program Staff on objectivity and fairness?

A	B	C	D	F	Don't Know	Total
168	104	60	48	20	0	400

30. How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	Don't Know	Total
147	130	62	43	18	0	400

31. Overall, what grade would you give to the Better Business Bureau AUTO LINE Program?

A	B	C	D	F	Don't Know	Total
152	124	64	45	15	0	400

32. Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	Total
327	67	6	400

# Appendix

I

Appendix I

BETTER BUSINESS BUREAU AUTO LINE PROGRAM  
AUDIT SURVEY RESULTS [Florida]

1. Starting with the year, what is the year and model of the vehicle involved in the complaint filed with the Better Business Bureau AUTO LINE Program?

Year	# of Vehicles
1999	16
1998	46
1997	27
1996	7
1995	4
Total	100

Model	# of Automobile	Model	# of Vehicles
Acura	1	Kia	18
GM	60	Lexus	1
Honda	4	Nissan	3
Hyundai	2	Saturn	1
Infiniti	1	Toyota	3
Isuzu	3	Volkswagen	3
Total Vehicles			100

2. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted the Better Business Bureau AUTO LINE Program?

0	1 time	2 times	3 times	4 times	more than 4	don't know	Total
0	0	2	6	36	56	0	100

3. How did you first learn about the Better Business Bureau AUTO LINE Program?

Method	Number
Better Business Bureau AUTO LINE Program	11
Friend/Family	29
Attorney	8
TV/Radio/Newspaper	4
Dealer/Information in Dealership	24
Manufacturer	16
Warranty Booklet/Owner's Manual	8
Total	100

4. Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?

Yes	No	Don't Know	Total
84	8	8	100

5. How would you describe the information in the materials you received?

Very Clear and Easy to Understand	A Little Difficult but Still Easy to Understand	Difficult to Understand	Don't Know/Don't Recall	Total
52	28	9	11	100

6. In preparing you for what would happen, which statement best describes the information you received?

Gave Consumer A Good Understanding	Covered Relatively Well, But Not Completely	Quite Different	Don't Know/Don't Recall	Total
62	21	5	12	100

7. Did you receive the Customer Claim Form?

Received and Completed	Received but Not Completed	Do Not Recall Receiving Form	Don't Know/Don't Recall	Total
74	8	5	13	100

8. How would you describe the Customer Claim Form?

Very Clear and Easy to Understand	A Little Difficult but Still Easy to Understand	Difficult to Understand	Don't Know/Don't Recall	Total
47	25	11	17	100

9. Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?

Yes	No	Don't Know	Total
85	4	11	100

10. Which statement best reflects the resolution in your case?

Claim Settled Prior to Arbitration	Arbitrated, Hearing Conducted	Ineligible	Withdrawn	Total
28	35	22	15	100
Refer to Questions 11-13	Refer to Questions 14-27	Refer to Question 28	Refer to Question 28	

11. Did the manufacturer carry out the terms of the settlement?

Yes	No	Don't Know	Total
28	0	0	28

12. Which statement best describes what happened?

Satisfied with Settlement	Originally Dissatisfied but Later Satisfied	Dissatisfied with Settlement; Contacted BBB	Don't Know/Don't Recall	Total
22	4	2	0	28

13. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
6	2	18	0	2	28

14. Did you receive written notice of the scheduled date, time and place of the hearing?

Yes	No	Don't Know	Total
31	4	0	35

15. After the hearing, was the decision mailed to you?

Yes	No	Don't Know	Total
35	0	0	35

16. Did you receive the decision within a reasonable time-frame?

Yes	No	Don't Know	Total
27	4	4	35

17. Which statement best describes the decision?

Replace Vehicle	Buy Back Vehicle	Repair Vehicle	Extend Warranty	No Award	Other	Total



15	8	5	1	6	0	35
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18. Was the decision accepted or rejected?

Accepted	Rejected	Neither	Don't Know	Total
29	6	0	0	35

19. Did the manufacturer make any attempt to carry out the terms of the decision?

Yes	No	Don't Know	Total
24	5	0	29

20. Which of the following statements best describe your experience?

Satisfied with Decision	Originally Dissatisfied; now Satisfied	Dissatisfied with Decision	Don't Know/Don't Recall	Total
22	5	7	1	35

21. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
2	15	18	0	0	35

22. After the decision, did you pursue the dispute any further?

Yes	No	Don't Know	Total
3	32	0	35

23. Which of the following did you do?

Worked Out Solution with Dealer/Manu.	Contacted Legal Representation	Contacted State or Other Government Agency	Did Not Pursue	Total
0	0	3	32	35

24. How would you grade the arbitrator on understanding the facts?

A	B	C	D	F	Don't Know	Total

19	12	2	2	0	0	35
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25. How would you grade the arbitrator on objectivity and fairness?

A	B	C	D	F	Don't Know	Total
17	10	3	3	2	0	35

26. How would you grade the arbitrator on rendering an impartial decision?

A	B	C	D	F	Don't Know	Total
19	8	2	2	4	0	35

27. How would you grade the arbitrator on coming to a reasoned and well thought out decision?

A	B	C	D	F	Don't Know	Total
18	9	4	2	2	0	35

28. What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?

Vehicle Out Of Warranty	Vehicle Purchased Used	No Longer In Possession	Other	Total
3	19	7	8	37

29. How would you grade the Better Business Bureau AUTO LINE Program Staff on objectivity and fairness?

A	B	C	D	F	Don't Know	Total
41	29	15	9	6	0	100

30. How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	Don't Know	Total
45	27	13	10	5	0	100

31. Overall, what grade would you give to the Better Business Bureau AUTO LINE Program?

A	B	C	D	F	Don't Know	Total
44	25	18	9	4	0	100

32. Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	Total
85	15	0	100

# Appendix

## J

Appendix J

BETTER BUSINESS BUREAU AUTO LINE PROGRAM  
AUDIT SURVEY RESULTS [Ohio]

1. Starting with the year, what is the year and model of the vehicle involved in the complaint filed with the Better Business Bureau AUTO LINE Program?

Year	# of Vehicles
1999	18
1998	52
1997	25
1996	4
1995	1
Total	100

Model	# of Automobile	Model	# of Vehicles
Acura	2	Kia	19
GM	62	Lexus	0
Honda	3	Nissan	2
Hyundai	1	Saturn	0
Infiniti	3	Toyota	4
Isuzu	2	Volkswagen	2
Total Vehicles			100

2. How many times, if any, did the dealer or manufacturer attempt to repair your vehicle before you contacted the Better Business Bureau AUTO LINE Program?

0	1 time	2 times	3 times	4 times	more than 4	don't know	Total
0	1	1	7	30	61	0	100

3. How did you first learn about the Better Business Bureau AUTO LINE Program?

Method	Number
Better Business Bureau AUTO LINE Program	6
Friend/Family	21
Attorney	11
TV/Radio/Newspaper	2
Dealer/Information in Dealership	24
Manufacturer	21
Warranty Booklet/Owner's Manual	15
Total	100

4. Did you receive a brochure and materials from the Better Business Bureau AUTO LINE Program explaining the program?

Yes	No	Don't Know	Total
89	7	4	100

5. How would you describe the information in the materials you received?

Very Clear and Easy to Understand	A Little Difficult but Still Easy to Understand	Difficult to Understand	Don't Know/Don't Recall	Total
58	30	7	5	100

6. In preparing you for what would happen, which statement best describes the information you received?

Gave Consumer A Good Understanding	Covered Relatively Well, But Not Completely	Quite Different	Don't Know/Don't Recall	Total
67	18	11	4	100

7. Did you receive the Customer Claim Form?

Received and Completed	Received but Not Completed	Do Not Recall Receiving Form	Don't Know/Don't Recall	Total
75	17	4	4	100

8. How would you describe the Customer Claim Form?

Very Clear and Easy to Understand	A Little Difficult but Still Easy to Understand	Difficult to Understand	Don't Know/Don't Recall	Total
56	29	11	4	100

9. Were the Better Business Bureau AUTO LINE Program records about your case kept accurate as the case was reviewed?

Yes	No	Don't Know	Total
94	2	4	100

10. Which statement best reflects the resolution in your case?

Claim Settled Prior to Arbitration	Arbitrated, Hearing Conducted	Ineligible	Withdrawn	Total
47	26	12	15	100
Refer to Questions 11-13	Refer to Questions 14-27	Refer to Question 28	Refer to Question 28	

11. Did the manufacturer carry out the terms of the settlement?

Yes	No	Don't Know	Total

45	2	0	47
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12. Which statement best describes what happened?

Satisfied with Settlement	Originally Dissatisfied but Later Satisfied	Dissatisfied with Settlement; Contacted BBB	Don't Know/Don't Recall	Total
39	6	2	0	47

13. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
2	3	42	0	0	47

14. Did you receive written notice of the scheduled date, time and place of the hearing?

Yes	No	Don't Know	Total
26	0	0	26

15. After the hearing, was the decision mailed to you?

Yes	No	Don't Know	Total
26	0	0	26

16. Did you receive the decision within a reasonable time-frame?

Yes	No	Don't Know	Total
18	5	3	26

17. Which statement best describes the decision?

Replace Vehicle	Buy Back Vehicle	Repair Vehicle	Extend Warranty	No Award	Other	Total
5	8	4	0	9	0	26

18. Was the decision accepted or rejected?

Accepted	Rejected	Neither	Don't Know	Total



15	11	0	0	26
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19. Did the manufacturer make any attempt to carry out the terms of the decision?

Yes	No	Don't Know	Total
15	0	0	15

20. Which of the following statements best describe your experience?

Satisfied with Decision	Originally Dissatisfied; now Satisfied	Dissatisfied with Decision	Don't Know/Don't Recall	Total
13	2	11	0	26

21. Did you talk to the Better Business Bureau AUTO LINE Program staff or receive a letter about how the manufacturer carried out the decision?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/Don't Recall	Total
3	5	18	0	0	26

22. After the decision, did you pursue the dispute any further?

Yes	No	Don't Know	Total
11	15	0	26

23. Which of the following did you do?

Worked Out Solution with Dealer/Manu.	Contacted Legal Representation	Contacted State or Other Government Agency	Did Not Pursue	Total
1	6	4	15	26

24. How would you grade the arbitrator on understanding the facts?

A	B	C	D	F	Don't Know	Total
10	8	4	3	1	0	26

25. How would you grade the arbitrator on objectivity and fairness?

A	B	C	D	F	Don't Know	Total

9	9	5	2	1	0	26
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26. How would you grade the arbitrator on rendering an impartial decision?

A	B	C	D	F	Don't Know	Total
11	7	6	1	1	0	26

27. How would you grade the arbitrator on coming to a reasoned and well thought out decision?

A	B	C	D	F	Don't Know	Total
9	8	4	4	1	0	26

28. What reason best describes why you either withdrew from or were determined to be ineligible for arbitration?

Vehicle Out Of Warranty	Vehicle Purchased Used	No Longer In Possession	Other	Total
2	10	9	6	27

29. How would you grade the Better Business Bureau AUTO LINE Program Staff on objectivity and fairness?

A	B	C	D	F	Don't Know	Total
42	26	15	12	5	0	100

30. How would you grade the Better Business Bureau AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	Don't Know	Total
44	23	18	11	4	0	100

31. Overall, what grade would you give to the Better Business Bureau AUTO LINE Program?

A	B	C	D	F	Don't Know	Total
41	26	17	12	4	0	100

32. Would you recommend the Better Business Bureau AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	Total
88	12	0	100