2000 AUDIT
OF
BBB AUTO LINE
INCLUDING:
THE STATE OF FLORIDA
AND
THE STATE OF OHIO

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SECTION 1: INTRODUCTION

All manufacturers which issue warranties for a wide variety of consumer products in the United States are required to abide by the terms of Public Law 93-637: the Magnuson-Moss Warranty Act; 15 U.S.C. § 2301 et seq. (hereinafter referred to as **Magnuson-Moss**). If a warrantor incorporates Informal Dispute Settlement Procedures into its warranty, thereby requiring consumers to utilize the procedure prior to enforcing rights under Magnuson-Moss in court, the manufacturer and the BBB AUTO LINE Program must also abide by the Federal Trade Commission Regulations set out in 16 C.F.R. Part 703 (hereinafter referred to as **Rule 703**).

In addition, if a manufacturer elects to require that consumers use its procedures prior to enforcing rights under the Lemon Law in Florida or in Ohio, the manufacturer 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 the **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**).

Under Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code, there are mandates designed to assist the consumer who purchases a new vehicle and who experiences problems with it when seeking redress from the manufacturer. These state motor vehicle laws are informally known as Lemon Laws, since the consumer often feels that he/she has purchased a “lemon”. The BBB AUTO LINE Program performs the function of the Informal Dispute Settlement Procedures for those manufacturers which utilize the BBB AUTO LINE Program services.

This audit is a direct result of these mandates. The above laws and administrative codes are quoted fully in the appendices. Rule 703 mandates a yearly audit of any Informal Dispute Settlement Procedures incorporated into a manufacturer’s

warranty. Unique requirements in Florida and in Ohio also require, in addition, a separate annual audit in those states. Morrison and Company has reviewed BBB AUTO LINE Program records for the entire country, as well as a separate review of records for Florida and Ohio consumers. It is felt by Morrison and Company that an audit of the national offices, as well as of a Florida and an of Ohio location, has given a fair sampling of the performance of the BBB AUTO LINE Program throughout the United States, and more specifically, has fulfilled the specialized requirements for Florida and for 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 deal specifically with these two states on an individual basis.

There is sometimes 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 as 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

2. Better Business Bureau
   5830 142nd Avenue North, Suite B
   Clearwater, Florida 33760-2819
   www.bbbwestflorida.org

3. Cincinnati Better Business Bureau, Inc.
   898 Walnut Street, FL 4
   Cincinnati, Ohio 45202-2023
   www.cinbbb.org

The BBB AUTO LINE Program is utilized by participating manufacturers to handle all of the responsibilities under Rule 703 with the exception of those provisions in Rule § 703.2, which outlines the duties of the warrantor/manufacturer. 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 is a well-organized, proficient organization.

All copies of case files are maintained at the BBB AUTO LINE Program office in Arlington, VA, with computerized information provided to the states as requested. All

cases resulting in settlements and in decisions are monitored by the BBB AUTO LINE Program staff in order to ensure that the terms of the mediation settlement or of the arbitration decision are in compliance.

The method of handling all BBB AUTO LINE Program records 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 both useable and secure at the same time.

SECTION 2: STATUTORY REQUIREMENTS

Magnuson-Moss
Rule 703
The Florida Lemon Law
The Florida Administrative Code
The Ohio Lemon Law
The Ohio Administrative Code
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

SECTION 3: CONDITIONS

In addition to reviewing BBB AUTO LINE case records for the year 2000, and for the four previous years, audits have been conducted by Morrison and Company in the spring of the calendar year, 2001, with the understanding that the activities of the BBB AUTO LINE Program will be reflective of the activities of the calendar year, 2000.

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

1. Manufacturer Warranty Materials,
2. Office Practices and Procedures,
3. Record-Keeping Procedures, and
4. Comparative Statistical Analysis.

Following is a brief discussion examining the four areas of the audit listed above.

1. An evaluation of **Manufacturer Warranty Materials** which are given to the consumer and/or posted in the dealerships to provide notice of BBB AUTO LINE at the time a dispute arises; this section of the audit consists of the following information: an evaluation of the dissemination of information and the ease of

use of those materials for the average vehicle purchaser regarding BBB AUTO LINE Program accessibility and information on how to contact the BBB AUTO LINE Program, and

2. An evaluation of **Office Practices and Procedures** of the BBB AUTO LINE Program, and of state BBB AUTO LINE Program offices; the evaluation consists of the following activities:

a. Arbitration Hearing Site

1. the appropriateness of facilities, and
2. the adequacy of personnel and equipment.

b. Arbitration Process

1. the openness of arbitration hearings,
2. the effectiveness of arbitration hearings, and
3. the appropriateness of decision-making.

3. An evaluation of **Record-Keeping Procedures** of the BBB AUTO LINE Program, and of state BBB AUTO LINE Program offices; the evaluation consists of the following activities:

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

4. A **Comparative Statistical Analysis** of the statistical information provided by Morrison and Company's telephone survey of consumers with statistical information provided from the BBB AUTO LINE Program office; this evaluation consists of the following activities:

a. a telephone survey of a random sample of cases throughout the United States, until in excess of a total of 400 responses is recorded nation-wide;

b. a telephone survey of a random sample of cases throughout Florida, until in excess of a total of 100 responses is recorded for the state;

c. a telephone survey of a random sample of cases throughout Ohio, until in excess of a total of 100 responses is recorded for the state;

d. the charting and the analysis of the statistics gained from the telephone survey and from the BBB AUTO LINE Program office; and

e. the comparison of those statistics in the BBB AUTO LINE Program statistics with those which have a similar data base of the telephone survey.

SECTION 4: FINDINGS

A. Manufacturer Warranty Materials

Only those manufacturers which utilize the BBB AUTO LINE Program throughout the United States, as well as in those states with specific certification requirements in order to operate the Informal Dispute Settlement Procedures, are audited under Magnuson-Moss and Rule 703.

Nationally, there is no certification program for manufacturers regarding warranty issues. In Florida and in Ohio, in order to be certified, it is mandatory that the manufacturer is in compliance with the state, as well as the federal regulations, pertaining to motor vehicle warranty issues.

The manufacturers which currently participate in the BBB AUTO LINE Program in all states have supplied information which the manufacturer uses to inform consumers and dealers about the BBB AUTO LINE Program in some manner. Many manufacturers utilize solely their own 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.

B. Office Practices and Procedures

Morrison and Company's review has found very few irregularities in the operation of the BBB AUTO LINE Program offices listed above; the specifics of those situations will be discussed in detail in Chapter 2. No material regulatory irregularities in the BBB AUTO LINE Program have been found. Even in the aggregate, any 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 uses efficiently and professionally-managed informal dispute settlement procedures which are in compliance with all pertinent federal and state regulations.

C. Record-Keeping Procedures

The records which have been reviewed in detail in this audit were, as a whole, very well organized and managed with the concern of the consumer in the forefront. The BBB AUTO LINE Program office in Arlington VA, and the two BBB AUTO LINE Program offices visited, had a uniform plan of operations in place, and the individual staff operations were carried out expeditiously and in conformity with the program.

D. Comparative Statistical Analysis

Before the telephone survey commenced, each potential survey participant was sent a letter from Morrison and Company explaining the purposes of the survey and informing the consumer that a Morrison and Company representative would be calling in the near future. A telephone number was provided to consumers who might have questions; several consumers took advantage of this opportunity to call and talk with representatives of Morrison and Company.

The telephone survey results supplied feedback only from those consumers who utilized 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, Record-Keeping Procedures, and Comparative Statistical Analysis), the details of Morrison and Company's recommendations and conclusions will be discussed extensively in the remaining chapters with a summary in Chapter 5.

CHAPTER ONE

MANUFACTURER WARRANTY MATERIALS

CHAPTER 1: MANUFACTURER WARRANTY MATERIALS

SECTION 1: INTRODUCTION

This chapter deals with the requirements as they relate to the manner in which automobile manufacturers participating 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 so that it is also easy to find, easy to read, and easy to use by the average vehicle purchaser.

All manufacturers have consumer relations programs upon which they expend a great deal of effort and money in order to encourage consumers to go to the selling dealer, or to any other dealer of that particular manufacturer, or to work with the manufacturer's representative as the first recourse in solving the problem.

In Rule § 703.2 (a) there is language which clearly permits the manufacturer to encourage consumers to seek redress directly from the manufacturer, so long as the manufacturer does not expressly require consumers to do so. If this is not successful, the manufacturer must also inform the consumer about any independent program of mediation and arbitration to settle the differences between the parties. For some manufacturers, resort to the informal dispute settlement procedure is a necessary prerequisite to filing legal actions in the dispute. This requirement is referred to as prior resort. Prior resort is important to the manufacturer because it assures at least one opportunity to work with the consumer before litigation. The primary intent of the federal and state rules is to give the parties an opportunity to solve the problem in such a way that the necessity of resorting to the court system is completely eliminated.

Rule § 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 701 of this subchapter.

The source of information for this chapter comes from the participating manufacturers which sent materials, as requested, to Morrison and Company for review.

SECTION 2: STATUTORY REQUIREMENTS

A. National

Rule § 703.7(b)(1) and § 703.2(a-h)
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

B. Florida

Florida Lemon Law § 681.103(2)(3)
Florida Administrative Code: § Rule 5J-11.002, § 11.003, § 11.004
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

C. Ohio

Ohio Administrative Code § 109:4-4-03
Ohio Lemon Law § 1345.71-78
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

SECTION 3: CONDITIONS

A. National

The manufacturers which choose to participate in the BBB AUTO LINE Program on a nation-wide basis are listed as follows:

01. AM General Sales Corporation (Hummer)
02. American Honda Motor Company (Honda/Acura)
03. American Isuzu Motors
04. Daewoo Motor America
05. General Motors Corporation
06. Hyundai Motor America
07. Kia Motors America
08. Land Rover of North America
09. 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 above-listed manufacturers are those which Morrison and Company has reviewed for compliance with national regulations contained in Magnuson-Moss and in Rule 703. With the exception of the states of Florida and Ohio, this audit does not include a detailed review of notices required by other state statutes. In order to determine how the manufacturers' information programs are working, Morrison and Company has reviewed the materials which manufacturers provided to Morrison and Company based upon the following information: the dissemination of information and the ease of use of materials for the average vehicle purchaser regarding BBB AUTO LINE Program accessibility and information on how to contact the BBB AUTO LINE Program.

There is also a list of manufacturers whose materials Morrison and Company will not evaluate. These manufacturers participate in the BBB AUTO LINE Program in some states, but not in others, as follows:

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

B. Florida

In Florida, the requirements are very similar to those set out in Rule § 703.2. The Florida requirements are contained in the Florida Lemon Law and in the Florida Administrative Code. They are as follows:

1. The manufacturer must give to the office of the Attorney General, by January 1st of each year, complete copies of owner's manuals and any written warranty information for each make and model of motor vehicle which is to be sold in the state of Florida in the following year.

2. The manufacturer must inform all Florida motor vehicle consumers, at the point of sale, clearly, conspicuously, and in writing, information on when, where, and how the consumer may contact the certified BBB AUTO LINE Program.

3. The selling dealer must give to the consumer, at the point of sale, a

copy of the booklet, *Preserving Your Rights Under the Florida Lemon Law,* which is published by the office of the Attorney General; this booklet must include the following information:

a. the toll-free number of the Informal Dispute Settlement Procedures program which represents the manufacturer, and
b. the toll-free number of the state of Florida's consumer hot line

The office of the Attorney General is vigilant in its monitoring of the performance of the manufacturers and dealers in carrying out their responsibilities to deliver to each new vehicle purchaser a current copy of the above-listed requisite information. Based upon this vigilance, it is stated with assurance that these portions of the Florida statutes are being performed by each manufacturer certified by Florida. Therefore, this issue will not be mentioned under each particular manufacturer on an individual basis.

The following is a list of the manufacturers which are certified for their participation in the BBB AUTO LINE Program in the state of Florida:

01. AM General Sales Corporation (Hummer)
02. American Honda Motor Company (Honda/Acura)
03. American Isuzu Motors
04. Daewoo Motor America
05. General Motors Corporation
06. Hyundai Motor America
07. Kia Motors America
08. Lexus Division of Toyota Motor Sales, U.S.A.
09. 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

C. Ohio

The duties of the manufacturer are contained in the Ohio Administrative Code
§ 109:4-4-03, which contains the same information found in the federal rules, as well as additional requirements for the manufacturer.

The Ohio Administrative Code § 109:4-4-03(C)(3)(4) outlines rights and responsibilities. The Ohio Administrative Code § 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.

In the state of Ohio, specifically mandated notices are required which must be given to the consumer at the point of sale and/or must be posted in conspicuous locations in dealerships. 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.

The following is a list of the manufacturers which are certified to use the BBB AUTO LINE Program in the state of Ohio [several other manufacturers have had their applications approved, but the approval came after the relevant period covered by this audit]:

1. General Motors Corporation
2. Volkswagen of America (Volkswagen/Audi)

SECTION 4: FINDINGS

As stated above, in order to determine how the manufacturers' information programs are working, Morrison and Company reviewed the materials which manufacturers supplied.

A. AM General Sales Corporation (Hummer) [NATIONAL and FLORIDA]

AM General Sales Corporation provided the *Hummer 2000 Owner's Manual*. On Page 1, under the heading "Owners Assistance", Step Three, a full paragraph of instructions is set out which explains what to do in the case of a problem with the manufacturer or with the dealer in handling the problems which arise under the warranty. At the end of the paragraph, this section sets out in bold print, the full name, address, phone number, fax number, and the e-mail address of the BBB AUTO LINE Program. On Pages 261, 262, and 263, under the section, "AM General Corporation's Participation in the Better Business Bureau Mediation/Arbitration Program", there is a concise outline of AM General's program of consumer satisfaction. The three step program, which is the same general one which all manufacturers follow, is noted below:

a. the dealer's responsibility to the consumer,
b. the manufacturer's responsibility to the consumer, and
c. the BBB AUTO LINE Program's procedures.

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

B. American Honda Motor Company (Honda/Acura)[NATIONAL and FLORIDA]

American Honda Motor Company provided two booklets for consumers in which information about the BBB AUTO LINE Program may be found; the first booklet has one version for Honda and one version for Acura, plus a second generic booklet for both vehicles, as follows:

1. *2000 Warranty Information* includes a section called "Consumer Satisfaction", containing specific reference to the BBB AUTO LINE Program and all information required by regulations; and

2. *The Lemon Law*, a specifically designed booklet written to provide assistance regarding these laws**.**

American Honda Motor Company also provided the following information specifically for dealers and for customer service personnel, as follows:

1. *Client Service and Customer Relations: Mediation Case Handling,* which includes the following information:

a. Independent Arbitration Program,
b. BBB AUTO LINE, and
c. Lemon Law information.

2. *ACURA Dealer Operations Manual* and *HONDA Service Operations Manual.*

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

C. American Isuzu Motors [NATIONAL and FLORIDA]

American Isuzu Motors provided five basic sources of information, which are listed as follows:

1.The *2000 Owners' Manual* contains references to the BBB AUTO LINE Program and includes the name, address, and toll-free telephone number of the BBB AUTO LINE Program, plus an explanation of what the BBB AUTO LINE Program is, and what it does for the consumer.

2. The *2000 Warranty Information* contains a reference to the BBB AUTO LINE Program on Page 1. This consists of a paragraph which provides the name, address, and toll-free telephone number of the BBB AUTO LINE Program and other essential information helpful to the consumer.

3. The *Notice To Purchasers and Lessees of American Isuzu Motors Inc. Vehicles* contains information for the consumer to address grievances with Isuzu and, failing that, contains the information for the consumer to access the BBB AUTO LINE Program. The materials consist of information which gives the name, address, and toll-free telephone number of the BBB AUTO LINE Program.

4. Various form letters used to address most questions presented by consumers.

5. The information provided by American Isuzu Motors for dealers is *Field Service Operations Manual.*

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

D. Daewoo Motor America [NATIONAL and FLORIDA]

Daewoo Motor America provided a booklet entitled *2000 Warranty and Maintenance Information*, which gives an entire page of information listing the BBB AUTO LINE Program and how to reach them, as well as consumer rights.

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

E. General Motors [NATIONAL, FLORIDA, and OHIO]

In the table of contents of the booklets listed below, are references to the BBB AUTO LINE Alternative Dispute Resolution Program. In these booklets, the BBB AUTO LINE Program is described and information is provided about how to contact the program, including a toll-free number, as follows:

1. the *2000 Warranty and Owner Assistance Information Booklet* [titled with division's name];

2. form letters used in the internal customer-satisfaction process, wherein the consumer is provided with BBB AUTO LINE Program referral information. These letters contain the BBB AUTO LINE Program's toll-free telephone number and the steps which the consumer needs to take in the Informal Dispute Settlement Procedures process, as well as General Motors' position at each stage of the process;

3. the steps which the consumer needs to take in the Informal

Dispute Settlement Procedures process, as well as General Motors' position at each stage of the process; and

4. pages from its dealer materials referring to the BBB AUTO LINE Program, as well as copies of the required notices for Ohio consumers; and

General Motors warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

E. Hyundai Motor America [NATIONAL and FLORIDA]

Hyundai Motor America provided the following information, as follows:

1. The *2000 Owner's Handbook*
2. The *2001 Owner's Handbook Supplement* which is devoted specifically to dispute resolution information and which is subtitled as follows:

    a. State Disclosure Notices
    b. Consumer Assistance Process
    c. Alternative Dispute Resolution program

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

F. Kia Motors America [NATIONAL and FLORIDA]

Kia Motor America provided the *2000 Kia Warranty and Consumer Information Manual*. It contains a section entitled "When You Need to Talk to Kia" on page 40. Step 3 contains information on the BBB AUTO LINE Program. The only question which the organization of the materials raises with Morrison and Company is the absence of specific reference to the BBB AUTO LINE Program or to consumer affairs procedures in the "Table of Contents" section of the booklet. Kia Motors America also provided some forms with information about the BBB AUTO LINE Program, but their purpose is unclear.

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

G. Land Rover of North America [NATIONAL]

Land Rover of North America provided the *Passport to Service 2000*, which includes two pages of excellent information on the BBB AUTO LINE Program and how to reach them.

Land Rover of North America warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703.

H. Lexus Division of Toyota Motor Sales, U.S.A. [NATIONAL and FLORIDA]

The information provided by Lexus about the BBB AUTO LINE Program is found in two booklets. Both booklets provide the information consumers need to deal with warranty problems. There is a comprehensive explanation of the arbitration process. The booklets are listed below, as follows:

1. The *Owners Manual Supplement: Warranty, Maintenance and General Information* which contains a page listing BBB AUTO LINE Program assistance, although this is not listed as such in the Table of Contents.

2. The *Owners Manual Supplement Lemon Law Information* provides information about all Lemon Laws in a state-by-state format.

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

I. Nissan North America (Infiniti/Nissan) [NATIONAL and FLORIDA]

Nissan North America provided two booklets which give information about the BBB AUTO LINE Program, as well as form letters for dealers. The owner's manual and the warranty booklet each have one version for Nissan and one version for Infiniti, as follows:

1. The *2000 [Nissan/Infiniti] Warranty Information and Maintenance Log Booklet* provides the introductory information about Lemon Laws and the procedures to follow when a problem arises with the new vehicle, including information about BBB AUTO LINE.

2. The *2000 [Nissan/Infiniti] New Vehicle Limited Warranty Information Booklet & 2000 Nissan Owner's Manual: Customer Care/Lemon Law Information* provides consumer information on BBB AUTO LINE Program issues in greater detail.

3. A series of form letters and other information for dealers providing required notices and Nissan's position at different stages of the process.

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

J. Porsche Cars North America [NATIONAL and FLORIDA]

No information was provided to Morrison and Company by Porsche Cars North America.

K. Saturn Corporation [NATIONAL and FLORIDA]

Saturn Corporation provided a packet of materials for dealers including letters which explain Saturn's position at various stages of the dispute process, as well as other notices and information.

Saturn Corporation warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

L. Volkswagen of America (Audi/Volkswagen) [NATIONAL FLORIDA, and OHIO]

Volkswagen of America provided two booklets for consumers in which information about the BBB AUTO LINE Program is located:

1. The *2000 Audi USA Model Warranty* Booklet, and *Volkswagen USA Warranty Model Year 2000.* Each have specific places which refer the consumer to the BBB AUTO LINE Program.

2. The *Owner Information: Consumer Protection Laws* is a generic booklet which contains information on state Lemon Laws and other information about the BBB AUTO LINE Program.

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

M. Workhorse Custom Chassis [NATIONAL and FLORIDA]

Workhorse Custom Chassis is a chassis builder only, as opposed to a builder of a complete vehicle. Its warranties apply only to those parts of the vehicle produced by Workhorse Custom Chassis. Workhorse Custom Chassis provided the booklet entitled, *Workhorse Custom Chassis Warranty and Owner Assistance Information [forward control chassis]*; 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 may be found on Pages 30 and 31. In both of these references, the BBB AUTO LINE Program is identified with the address and the toll-free telephone number printed in bold type.

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

SECTION 5: RECOMMENDATIONS

The primary function of Magnuson-Moss and of Rule 703, in the opinion of Morrison and Company, is to involve manufacturers in the process of informing

consumers of the Informal Dispute Settlement Procedures. The regulation's drafters were able to accomplish this function only in a very few places. Rule § 703.2(b) and (c) require specific information to be disclosed in the warranty or other similar materials. Rule § 703.2(d) 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 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.

It needs to be noted by Morrison and Company that it is very difficult to evaluate materials from manufacturers which do not send comprehensive information for this audit. It is extremely important that each manufacturer respond as quickly and as thoroughly as possible in order to expedite these audits.

A. National

Morrison and Company recommends that the manufacturers continue the examination of their strategies to fully inform consumers of their rights to recourse in the case of a defective vehicle. 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 to which many consumers may turn when faced with consumer product problems.

It is suggested that all manufacturers make greater efforts to promote the use of the BBB AUTO LINE Program since it serves consumers so effectively.

All manufacturers comply with the mandate to disclose certain information about BBB AUTO LINE in the warranty materials. However, a number of the participating manufacturers are encouraged to develop plans to improve their education programs for consumers about the availability of the BBB AUTO LINE Program. This means more than simply 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.

In addition, to ensure compliance with the requirement that consumers be informed about BBB AUTO LINE at the time they experience warranty disputes, information about the BBB AUTO LINE Program should also be prominently displayed in strategic locations throughout dealerships. These areas might

include the following locations: the service area, the wall near the cashier, and 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 necessary to properly pursue their rights under Magnuson-Moss. This responsibility was placed squarely with manufacturers and dealers.

Several manufacturers are doing this already; others need to follow suit. 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 above-listed named manufacturers' warranty materials which are certified on a national basis are IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703.

B. Florida

None.

The above-listed named manufacturers' warranty materials which are certified in Florida are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

C. Ohio

None.

The above-listed named manufacturers' warranty materials which are certified in Ohio are IN COMPLIANCE with the specific requirements of Magnuson-Moss and Rule 703, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 6: CONCLUSIONS

From this review, Morrison and Company has determined that, in general,

information is provided to consumers about the BBB AUTO LINE Program, and that the overall performance of the manufacturers meets the requirements. In Morrison and Company's view, the manufacturers provide information in the owner's manual; however, some manufacturers could demonstrate a greater commitment to the intent of Rule 703, as well as to the regulations of Florida and Ohio, simply by providing additional information to the consumer.

Most manufacturers show 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 the 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 BBB. 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 more understandable. For these efforts, Morrison and Company commends these forward-looking manufacturers; they will set the standard for the industry.

In future audits, we recommend that the audit take a closer look at each manufacturer's internal efforts to inform consumers of the availability of BBB AUTO LINE when consumers directly contact the manufacturer with a complaint.

In conclusion, some manufacturers are showing an improved commitment to 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; they show a desire to improve the quality of the information and the methods of delivery.

The above-listed manufacturers' warranty materials are IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

CHAPTER TWO

OFFICE PRACTICES AND PROCEDURES

CHAPTER 2: OFFICE PRACTICES AND PROCEDURES

SECTION 1: INTRODUCTION

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.

A. BBB AUTO LINE Program Forms

In the evolution of the Informal Dispute Settlement Procedures, the BBB AUTO LINE Program utilizes a great many forms; for clarification purposes, some of the more significant forms and their respective purposes are listed below, as follows:

01. The Customer Claim Form is a questionnaire which the BBB AUTO LINE Program staff sends directly to the consumer after receipt of the first phone call from the consumer. The form is comprehensive and is very helpful in promoting a more effective solution of disputes. Except in California and Florida, the BBB AUTO LINE Program considers the date that the dispute is opened to be the date it receives a completed Customer Claim Form from the consumer. When the Customer Claim Form is returned to the BBB AUTO LINE Program, a copy of the form is sent to the manufacturer, except in Florida and California.

02. The Manufacturer Response Form is also sent along with the Customer Claim Form, which the manufacturer's representative completes and returns to the BBB AUTO LINE Program office.

03. The Automotive Case Record is the record of the activity maintained in the BBB AUTO LINE Case File wherein all actions, phone calls, and/or communications are noted in order to keep a complete file.

04. The Case File Notes are the individual notes which accompany the computer record.

05. The Notice of Hearing Form is the notice sent to all involved parties prior to the arbitration hearing giving all pertinent information about the arbitration hearing

06. The Checklist for Arbitration Hearing Form consists of a list of responsibilities for the following purposes:

a. assisting in coordination of setting up the initial arbitration process,
b. contributing to actual arbitration hearing efficiency, and
c. serving as an excellent accountability tool.

The final action before the commencement of the arbitration hearing itself is the signing of the completed Checklist for Arbitration Hearing Form by the BBB AUTO LINE Hearing Site staff and the returning of it to the BBB AUTO LINE Program. When the signed form is returned it is electronically filed. The hard copies of BBB AUTO LINE Case Files are generated at the BBB AUTO LINE Program office and information is provided to the states as requested.

07. The Agreement to Arbitrate Form is signed before or at the beginning of the arbitration hearing. The Agreement to Arbitrate presents each party's position and the relief sought in arbitration. (This form is not used in California.)

08. The Record of Hearing Form is a record of the proceedings which transpire during the arbitration hearing itself. This form is then added to the BBB AUTO LINE Case File.

09. The Reasons for Decision Form is the form which the arbitrator uses during the arbitration hearing and deliberations, and which contains a series of questions designed to assist the arbitrator in reaching a decision; this form is then turned over to the BBB AUTO LINE Program staff who types it from the written draft and files it in the BBB AUTO LINE Case File.

10. The Decision Form contains the decision in the arbitration case. It is prepared by the arbitrator; it is given to the BBB AUTO LINE Program staff, who types it; it is returned to the arbitrator, who signs it; and, finally, it is sent to the BBB AUTO LINE Program staff, who copies it and sends it to the consumer and to the manufacturer.

11. The Performance Verification Record is the final step in the mediation/arbitration process. This form is sent to the consumer and verifies that the settlement agreed upon in mediation or the decision in arbitration has been completed by the manufacturer. When the signed form is returned by the consumer, it is attached to the hard copy of the Case File Notes, and then is filed in the computer system as a closed case. In most cases, files which call for performance verification include a date when performance either was completed or was assumed to be

completed. 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 staff assumes that performance is satisfactory. The assumed satisfaction is recorded in the case's computer BBB AUTO LINE Case File and is counted as a case in which performance is satisfactory for index tabulation purposes.

12. The BBB AUTO LINE Case File is the entire computer record and includes documentation which has accrued during the case.

B. Informal Dispute Settlement Procedures

The entire Informal Dispute Settlement Procedures can be divided into the following three segments which are discussed below, as follows:

1. Conciliation

Conciliation is a process in which initial contact information is filed with the BBB AUTO LINE Program by the consumer, which is then passed on to the manufacturer's representative. The manufacturer's representative then contacts the consumer and the dispute is able to be resolved at this point. In a large segment of the cases, this process facilitates a prompt resolution of the dispute prior to the more formal process of mediation.

2. Mediation

Cases which are not resolved through conciliation move into the mediation phase. Mediation is the interim process of 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 in that BBB AUTO LINE staff will either relay communications between the parties or conduct a mediation teleconference. The BBB AUTO LINE Program staff performs the function of a neutral third party, which brings the parties together in an attempt to resolve the dispute. BBB AUTO LINE Program mediation is an integral part of the overall Informal Dispute Settlement Procedures, and is in operation at all times, up to and including, the time of the arbitration hearing itself.

When an offer is made by the manufacturer, the consumer has the

option to accept, to reject, or to make a counter offer in response to the proposal. If agreement is reached, the BBB AUTO LINE Program staff sends each party a letter describing the terms of the settlement. The final step in settlement by mediation occurs when a Performance Verification Record Form is sent to the consumer.

If, on the other hand, the parties indicate that there is no likelihood of settlement, preparations are made for conducting an arbitration hearing and the mediation function becomes inactive; however, the mediation process may be reactivated if there is a renewed interest in settlement through mediation by either of the parties.

3. 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; each aspect of the program was examined with a view toward the regulation's overall objective of fair and expeditious resolution of disputes.

The arbitration hearing provides to both parties in the dispute an opportunity to present any information pertinent to the dispute. The arbitrators who use the Reasons for Decision Form as a checklist are more likely to give each party ample opportunity to present all the information appropriate to the case.

From discussions with the local BBB AUTO LINE Program staff, Morrison and Company has found that the choice of which arbitrator will conduct any given case is made at the BBB AUTO LINE Hearing Site; however, the consumer is afforded an opportunity to reject any proposed arbitrator if a conflict exists. It was reported that the availability of arbitrators is an ever-present concern, but the staff noted that there is a continual attempt to ensure that there is a balanced and fair distribution of the arbitration case load.

So that the BBB AUTO LINE Program has an adequate pool of trained arbitrators, a program is 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 training.

The training process includes participation in mock arbitration hearings, both as witnesses and as decision-makers; writing mock decisions based on cases presented; 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.

The BBB AUTO LINE Program staff in Arlington, VA begins the arbitration hearing process, in all states except Florida and California, which do their intake process differently. The BBB AUTO LINE Program process involves the following steps:

a. Preparation for Arbitration Hearing

The BBB AUTO LINE Program office notifies the local BBB AUTO LINE Hearing Site (almost always a Better Business Bureau office) in the area where the consumer resides that a dispute exists and lists the parties involved in the dispute. The local BBB AUTO LINE Program staff opens a BBB AUTO LINE Case File and completes a Checklist for Arbitration Hearing Form.

The local BBB AUTO LINE Program staff locates a facility in which to hold the arbitration, if necessary. Virtually all BBB AUTO LINE arbitrations are held at local BBB AUTO LINE Program offices, where an arbitration hearing room is set aside. The BBB AUTO LINE Program staff sets a date for the arbitration hearing.

The BBB AUTO LINE Program staff sends a Notice of Hearing Form to all involved parties. The BBB AUTO LINE Program staff acquires expert witnesses, if necessary.

The local BBB AUTO LINE Program office staff contacts, and arranges for, an arbitrator. With several manufacturers, a panel of three arbitrators is requested to hear cases. In those cases, the BBB AUTO LINE Program staff 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 repurchase or replacement cases.

In most cases, the staff selects an arbitrator from the current list and, if this person is unable to serve, the staff person continues down the list, until an arbitrator is contacted who is 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 arbitration hearing. This would help eliminate the likelihood of inadvertently overusing any one arbitrator.

b. Arbitration Hearing

The local BBB AUTO LINE Program office staff is responsible for the following aspects of the arbitration hearing process:

1. introducing the arbitrator to the hearing participants;
2. making sure the sworn oath is signed by the participants;
3. conducting the arbitration hearing by operating the taping equipment if the hearing is taped;
4. making copies of documents which may be needed; and
5. helping the arbitrator with the organization and the collection of documentation and any other materials needed to draft the decision.

The arbitration 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 after 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 may be either positive or negative, based upon a comparison of the current condition of the vehicle and of the normal condition of a like vehicle.

Cases in which a vehicle has been damaged can present a confusing issue for the arbitrator[s] and for the BBB AUTO LINE Program staff to determine. The amount of money which is due to the consumer as a result of the arbitration decision may be reduced based upon the mileage and the condition of the vehicle. This is known as the off-set, or the amount to which the manufacturer is entitled upon repurchase of the vehicle.

In the cases which Morrison and Company reviewed, when a repurchase was ordered, the computation of the off-set amount for mileage and/or damage was properly accomplished, even

though states use different formulas to arrive at the proper amount. The determination concerning mileage off-sets and the deductions for damage beyond normal, have been handled in detail; the decisions appeared appropriate, based upon the facts in the case.

Rule § 703.8 (d) requires that “meetings of the members to hear and decide disputes shall be open to observers on reasonable and nondiscriminatory terms.” The BBB AUTO LINE Program rules allow observers to be present during the arbitration hearing phase of the case, provided that they have obtained the permission of the consumer and of the arbitrator assigned to the case in advance of the arbitration hearing; however, these same observers, and the parties to the case, are not allowed to remain in the arbitration hearing room during the deliberation and the decision-making phases of the meeting (if a panel is used). It is very similar to the judicial system, in which arbitration hearings are open to the public, but in which internal deliberations of judges and juries are not.

c. Arbitration Decision

The arbitrator prepares the Decision Form and the Reasons for Decision Form and submits them to the BBB AUTO LINE Program staff for typing and checking. In the process, the staff points out to the arbitrator any information, if any, which is incomplete, or which is missing from the documents or from the decision itself. After the case is heard, the staff is responsible for the processing of reimbursements, if appropriate, to the arbitrator.

The Record of Hearing Form, the Reasons for Decision Form, and the Decision Form are the only documentation which are used in General Motors cases; with many other manufacturers, an audio-tape of the arbitration hearings is made.

d. Post Arbitration Decision

A copy of the decision is mailed or faxed to the BBB AUTO LINE Program office, which sends a copy to the consumer and a copy to the manufacturer. After receipt of the Decision Form, if either party disagrees with the decision, each has ten days in which to request that the arbitrator reconsider his/her decision, albeit on very limited grounds. (This review is not permitted in California.)

The Performance Verification Record Form is used to log action promised by the manufacturer. The consumer's response to whether this has occurred is then logged into the consumer's BBB AUTO LINE Case File. This step is to determine whether the action promised by the manufacturer has actually taken place and whether the performance has been satisfactory.

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 staff will assume that the manufacturer's performance has been satisfactory. The actual or assumed satisfaction is recorded in the BBB AUTO LINE computer case file; this is then counted as a case in which performance was satisfactory for index tabulation purposes.

C. Florida

Better Business Bureau
5830 142nd Avenue North, Suite B
Clearwater, Florida 33760-2819
www.bbbwestflorida.org

Morrison and Company visited the Better BBB AUTO LINE Program in Clearwater, FL, which is responsible for handling all mediating activity in the state of Florida, as opposed to most other states in which the BBB AUTO LINE Program in Virginia handles this aspect. In the Clearwater, FL, BBB AUTO LINE Program office, the procedure for arbitration hearings is much the same; however, the staff at the Clearwater, FL BBB AUTO LINE Program office prepares the case for arbitration. This BBB AUTO LINE Program staff conducts all arbitration hearings for the Clearwater and Tampa area, the boundaries of which are determined by specific postal zip codes, and supervises hearings held in other Florida Better Business Bureaus.

D. Ohio

Cincinnati Better Business Bureau, Inc.
898 Walnut Street, FL 4
Cincinnati, Ohio 45202-2023
www.cinbbb.org

Morrison and Company visited the BBB AUTO LINE Program in Cincinnati, OH, which is responsible for hearing all arbitration cases in Southern Ohio, in Northern Kentucky, and in Southeastern Indiana. The precise area of coverage is determined by the application of specific postal zip codes.

SECTION 2: STATUTORY REQUIREMENTS

Rule § 703.6(a)(f) and § 703.8(b)(c)(d)(e)(f)
Florida Administrative Code Rule 5J-11.010
Ohio Administrative Code § 109:4-4-04(D) and (E)
[Please refer to appendices for the complete text of all related statutes and regulations]

SECTION 3: CONDITIONS

Audits have been conducted by Morrison and Company in the spring of the calendar year, 2001. These audits include cases which were still current at the time of the review. Morrison and Company's staff completed audits at the following BBB AUTO LINE Program offices:

1. the Better Business Bureau of West Florida, Inc. [on March 07th, 2001]
5830 142nd Avenue North, Suite B
Clearwater, Florida 33760-2819
www.bbbwestflorida.org

2. the Cincinnati Better Business Bureau, Inc. [on April 08th, 2001]
898 Walnut Street, FL 4
Cincinnati, Ohio 45202-2023

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

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

In evaluating the decisions of the arbitrators, it should be noted that it is not Morrison and Company's responsibility to determine whether the decision in itself was right or wrong; rather, it is Morrison and Company's responsibility to evaluate the process which the arbitrator applies in order to arrive at a decision.

SECTION 4: FINDINGS

A. Florida

1. Arbitration Hearing Site

Better Business Bureau of West Florida
5830 142nd Avenue North, Suite B
Clearwater, Florida 33760-2819
www.bbbwestflorida.org

a. Facilities

Within the Clearwater, FL, offices, the centralized conference room which functions as the arbitration hearing room, is very spacious, nicely furnished, and sufficiently large to accommodate almost any arbitration hearing. It provides space and seating for the arbitrator and for the parties to the dispute with ample room for any observers.

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

b. Personnel

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

1. Ms Karen W. Nalven, Vice President and Regional BBB AUTO LINE Director
2. Mr. Todd M. Eikenberry, Mediation/Arbitration Specialist
3. Ms. Amanda Goon, Mediation Specialist
4. Ms. Rhonda Eakins, Mediation Specialist
5. Ms. Christine Hack, Mediation Specialist

The staff members were very well-trained and they

performed their assigned duties in an efficacious and 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 fit the jobs being performed and the individual needs of each staff person. BBB AUTO LINE Case Files were arranged logically, which made them readily accessible. As a whole, the entire BBB AUTO LINE Program staff demonstrated an outstanding knowledge of the federal requirements as well as of Florida's specific requirements.

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

2. Arbitration Hearing Process

a. Openness of Arbitration Hearings

From the observation of the arbitration hearing audited in the Clearwater, FL, office, it may be concluded that the arbitration hearings generally proceeded without event or problem. The arbitrated hearing files which were audited appeared to have been 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, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

b. Effectiveness of Arbitration Hearing

The specific arbitration 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 hearings. Because the regularly participating staff members have greater experience in the process of the arbitration hearing than the typical arbitrator who conducts

arbitration hearings only occasionally, the administration of the arbitration hearing 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 arbitration hearing, the manufacturer elected to participate in person by having a representative handle the presentation for the manufacturer; the consumer was present and representing himself. Mr. Eikenberry introduced everyone and then read aloud the Agreement to Arbitrate Form. He opened the arbitration hearing and explained the process to the parties. Once the preliminaries were complete, Mr. Eikenberry administered the sworn oath to the parties, after which he presented it to the parties to sign. He explained that the arbitration hearing was being taped, and that copies would be available upon request for a nominal charge.

The presentation of evidence and the testimony of both parties were handled in a very professional manner by the arbitrator. Each side was given ample opportunity to present his/her evidence and testimony, as well as freedom to question and challenge the other side. All necessary information for this case could be found in the BBB AUTO LINE Case File.

After testimony was presented, the tape recorder was turned off. The arbitrator, the manufacturer's representative, 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 the case proceeded to conclusion. This was accomplished after the manufacturer's representative and the consumer each made concluding remarks; the arbitrator then closed the arbitration hearing.

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

c. Decision-Making

In the case of the arbitration hearing in Clearwater, FL, and

in other BBB AUTO LINE Case Files which Morrison and Company reviewed, it is very clear that this office staff was 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, Rule 703, the Florida Lemon Law, and the Florida Administrative Code.

B. Ohio

1. Arbitration Hearing Site

Cincinnati Better Business Bureau, Inc.
898 Walnut Street, FL 4
Cincinnati, Ohio 45202-2023
www.cinbbb.org

a. Facilities

The arbitration hearing room is located in a converted chapel within the BBB AUTO LINE Program offices, which are located in an older YWCA building; the room had a large conference table with sufficient seating and a large amount of space elsewhere in the room. The room was supplied with a telephone, snack supplies, and other office items. This room certainly meets or exceeds the needs for the arbitration hearings conducted there.

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

b. Personnel

Ms. Jocile Ehrlich, President and CEO of the BBB AUTO LINE Program, was not present due to a meeting of the City

Planning Commission; thus, Morrison and Company met with the following people:

1. Ms. Lisa M. Lonneman, Dispute Resolution Specialist, who is responsible for the BBB AUTO LINE Program activities in the office, and

2. Ms. Christine A. Baker, Dispute Resolution Specialist, who is responsible for the handling of cases other than those of General Motors.

The staff of this office is responsible for handling all of the BBB AUTO LINE Program cases; both employees appeared to be quite knowledgeable of their own and of other staff responsibilities. Ms. Lisa M. Lonneman is the individual primarily responsible for communications with the BBB AUTO LINE Program office in Arlington, VA.

Not only is Ms. Lonneman responsible for communications with the BBB AUTO LINE Program, she is also responsible for arranging arbitration hearings, for notifying consumers of arbitration hearing dates and times, and for arranging for arbitrators to be present at the arbitration hearings. Ms. Christine A. Baker is Ms. Lonneman's assistant, as well as a Trade Practice Consultant.

Morrison and Company discussed the duties of the staff members; it is very clear that they were well-trained and were very knowledgeable of their primary duties, as well as of their other duties. They were organized well and performed all duties in compliance with the regulatory requirements.

During the interview process, Morrison and Company discussed the voluntary arbitrator program and learned that the program had an adequate pool of arbitrators. The pool consisted primarily of successful business professionals who are performing a community service, in addition to several new arbitrators who have been trained in the legal profession. When an arbitrator is called for a case, it is unusual to find a situation when the arbitrator is unable to serve, even on short notice.

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

Magnuson-Moss, Rule 703, the Ohio Lemon Law, and the Ohio Administrative Code.

2. Arbitration Hearing Process

a. Openness of Arbitration Hearing

During the interview with Ms. Lonneman and her staff, each member made it very clear that all arbitration hearings held in their office are open to certain observers, such as BBB AUTO LINE Program staff and government observers.

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

b. Effectiveness of Arbitration Hearings

In order to determine the efficiency of the arbitration hearing process, Morrison and Company extensively reviewed the BBB AUTO LINE Case Files heard in the year 2000, and discussed several arbitration hearings with staff members who participated in the arbitration hearings. The forms necessary for the process were present in the BBB AUTO LINE Case Files, and with very few exceptions, contained the needed documentation for a fair decision to be rendered.

During the interview with Morrison and Company, the staff explained, in detail, the procedure which was followed in one re-hearing of a case due to the consumer's dissatisfaction with the performance of repairs initially ordered by the arbitrator. After everyone was seated, Ms. Lonneman, the Dispute Resolution Specialist, obtained the consumer's signature on the Agreement to Arbitrate Form and announced that the agreement had already been signed by the manufacturer and the manufacturer's representative who was presenting that side of the case by telephone.

The actual arbitration hearing itself appeared to have been very well administered. Utilizing the 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 and each party was given ample opportunity to challenge and to question each other. The arbitrator then recessed the hearing by terminating the telephone connection with the manufacturer and left the hearing room for an inspection and a test drive of the consumer's vehicle.

After the test drive was completed, the arbitrator 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 arbitration hearing.

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

c. Decision-Making

During the interview, Ms. Lonneman made it very clear that the procedures were followed in this arbitration hearing, that it was in compliance with the BBB AUTO LINE Program requirements regarding open hearings, and that the deliberations of the arbitrator without outside influence. When Morrison and Company reviewed this BBB AUTO LINE Case File, it was apparent that the arbitration hearing was conducted in full compliance with the BBB AUTO LINE Program procedures. The review also disclosed the arbitrator's commitment to a fair and expeditious resolution of the dispute. It was also clear that the arbitrator made every effort to ensure that both parties had an opportunity to present any testimony or information they wished in support of their positions. From Morrison and Company's review of other BBB AUTO LINE Case Files, it was apparent that the arbitration hearings were being handled according to all guidelines.

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

Magnuson-Moss, Rule 703, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 5: RECOMMENDATIONS

The review of the BBB AUTO LINE Case Files disclosed that there were several BBB AUTO LINE Case Files which were not completed in an expedient manner, There were various conditions which contributed to this situation. The reading of the BBB AUTO LINE Case Files suggested that many of these cases could have had a much quicker resolution if the staff at the BBB AUTO LINE Program office in Arlington, VA, had followed through more quickly to bring them to a close. The regulations state that cases must be concluded within 40 days. In the review year 2000, of the 23,120 cases handled nationally last year, 2,665 of those cases were not resolved within the required 40 days. Nationally, 11.53% of all cases were not completed within the required 40 days. In Florida, that percentage was 8.77%; in Ohio, the percentage was 13.79%.

It is Morrison and Company's recommendation that a joint effort be undertaken by the BBB AUTO LINE Program staff and by the BBB AUTO LINE Program staff who prepare the cases for arbitration hearings to expedite the processing of these cases so that the number of cases exceeding 40 days will be reduced.

SECTION 6: CONCLUSIONS

A. National

The most noticeable area of weakness was in the long and difficult problem of resolving all cases with 40 days of the date they commenced. This situation, if not monitored constantly, will become an ever-increasing problem. At present it is only a small issue, but the situation should be addressed before it does become more serious.

B. Florida

The BBB AUTO LINE Program in Arlington, VA, and the BBB AUTO LINE Program in Clearwater, FL, as well as the other BBB AUTO LINE Program offices throughout the state of Florida, worked well with each other, and with other regulating agencies in the state of Florida.

The Clearwater, FL, BBB AUTO LINE Program office had a well-organized and professionally-operated program. The decisions for arbitration decisions were well thought-out, thorough, and consistent with the facts presented. The Clearwater, FL 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, FL, performed all required tasks and went well beyond, by working expeditiously as a highly proficient group, whose performance was outstanding.

C. Ohio

Morrison and Company found the Cincinnati, OH, office staff to be an extremely well-trained and committed group of professionals dedicated to providing fair and expedient resolution of disputes for the citizens of Ohio. The Cincinnati, OH, BBB AUTO LINE Program office and the BBB AUTO LINE Program office need to work together to reduce the number of cases not in compliance with the 40 day regulation.

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 Ohio Lemon Law. The BBB AUTO LINE Program in Cincinnati, OH, is doing the job envisioned by the drafters of the state and federal laws.

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

CHAPTER THREE

RECORD-KEEPING PROCEDURES

CHAPTER 3: RECORD-KEEPING PROCEDURES

SECTION 1: INTRODUCTION

An audit of the BBB AUTO LINE Program is required by Magnuson-Moss under Rule 703. This audit is needed to verify that the records kept by the BBB AUTO LINE Program are accurate and are filed properly.

As stated previously, Florida and Ohio have regulations which require individual state audits. The BBB AUTO LINE Program of Clearwater, FL, was chosen this year due to the fact that it houses copies of records for all Florida BBB AUTO LINE Program locations.

A different BBB AUTO LINE Program office in Ohio has been chosen for the 2000 audit than that visited for the 1999 audit in order to give a more complete representation of Ohio practices, since there is no central filing of records in the state of Ohio. All records from Ohio are filed in Arlington, VA.

Each section of the record-keeping statutes must be audited individually in order to assure that the requirements of that section are being met; thus, this chapter is divided into segments based upon the individual segments of Rule 703, as follows:

Segment 01: Name, address, telephone number of the consumer
Segment 02: Name, address, telephone number, and contact person of the warrantor
Segment 03: Brand name and model number of the product involved
Segment 04: The date of receipt of the dispute and the date of disclosure to the consumer of the decision
Segment 05: All letters or other written documents submitted by either party
Segment 06: 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);
Segment 07: A summary of any relevant and material information presented by either party at an oral presentation
Segment 08: 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 09: 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

At this point the regulations change somewhat; the remainder of the segments refer to indexes and statistics which the BBB AUTO LINE Program office must keep regarding all BBB AUTO LINE Program activity.

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 four years after final disposition of the dispute
Segment 18: The annual audit shall include an evaluation of the 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

A. National

Rule § 703.6(a-f)
Rule § 703.6(a)(1-12)
Rule § 703.6(b-f)
Rule § 703.7(b)(3)(l);
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

B. Florida

Florida Lemon Law § 681.108(3)(a-h)
Florida Lemon Law § 681.108
Florida Administrative Code Rule § 5J-11.006.007,
Florida Administrative Code Rule § 5J-11.006.009
Florida Administrative Code Rule § 5J-11.006.010
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

C. Ohio

Ohio Lemon Law § 1345.71-78
Ohio Administrative Code § 109:4-4-04(D) and (E)
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

SECTION 3: CONDITIONS

As previously noted in the introduction, on-site audits have been conducted in the spring of the calendar year, 2001, with the understanding that the activities of the BBB AUTO LINE Program records will be reflective of the audit year, 2000. A minimum of fifty randomly selected BBB AUTO LINE Case Files, representing the activities of each of the audited BBB AUTO LINE Program offices, has been thoroughly audited, and reviewed for information, as noted in each segment below.

In each of the first twelve segments listed below, Morrison and Company has reviewed the record-keeping procedures of the BBB AUTO LINE Program and of the local BBB AUTO LINE Programs. In order 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.

From Segment 13 through Segment 18, the individual state offices do not maintain their own indexes; rather, these indexes are maintained by the BBB AUTO LINE Program office in Arlington, VA. The focus of the requirements in Rule 703 is different from the prior sections because the requirements of these sections shift from the general to the specific. From this point on, the rule makes specific requirements; it mandates that the BBB AUTO LINE Program shall maintain certain indexes and statistics.

SECTION 4: FINDINGS

The information required in this segment could be found easily in the BBB AUTO LINE Case Files in one or more of the documents listed in Chapter 2. The arbitration decisions which Morrison and Company reviewed were very detailed, and were written consistently with the *BBB AUTO LINE Program's Operations Manual* instructions. The Decision Forms were supplemented by Reasons for Decision Forms. These forms and other related forms were maintained as a part of each BBB AUTO LINE Case File.

Segment 01

A. National

a. Statutes

1. Rule § 703.6(a)(1)
Name, address, telephone number of the consumer

b. Discussion

This information could be found easily in the BBB AUTO LINE Case Files, and no files were found which did not contain the required information.

B. Florida

Florida Lemon Law § 681.108(3)(a)

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, only the name and the address of the consumer are required. The information required in this segment could be found easily in the BBB AUTO LINE Case Files.

C. Ohio

a. Statutes

Ohio Administrative Code § 109:4-4-04(D(1)(a)
(a) Name, address and telephone number of the consumer;

b. Discussion

The information required in this segment could be found easily in the BBB AUTO LINE Case Files.

Segment 01 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 02

A. National

a. Statutes

1. Rule § 703.6(a)(2)

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

b. Discussion

In every BBB AUTO LINE Case File reviewed at each BBB AUTO LINE Program office, Morrison and Company found that each BBB AUTO LINE Case File contained the name, address, telephone number, and contact person of at least one manufacturer's representative who interacted with the BBB AUTO LINE Program's staff prior to arbitration. When the case went to arbitration, the BBB AUTO LINE Case File also contained the name of the manufacturer's representative who was participating at the arbitration hearing. This information could be found in the Case File Notes.

B. Florida

a. Statutes

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

Rule 703, listed below as follows:

> 1.the name of the manufacturer, and
> 2. the address of the dealership from which the vehicle was purchased.

From the review of the Florida BBB AUTO LINE Case Files in the Clearwater, FL, office of the BBB AUTO LINE Program, all of the randomly audited BBB AUTO LINE Case Files contained the required information.

C. Ohio

a. Statutes

Ohio Administrative Code § 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

This law is similar to the national one. The review of randomly selected cases in Cincinnati, OH, disclosed that the information in each of the BBB AUTO LINE Case Files was complete and correct. The information was not always in the same position, due mainly to the manner in which each case developed.

Segment 02 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 03

A. National

a. Statutes

1. Rule § 703.6(a)(3)

> 3. Brand name and model number of the product involved

b. Discussion

Morrison and Company found the brand name and the model number of each vehicle clearly reported in every BBB AUTO LINE Case File. It was very apparent that this requirement has been established as a base of performance for the handling of BBB AUTO LINE Case Files.

B. Florida

a. Statutes

Florida Lemon Law § 681.108(1)

This particular requirement is not contained in the Florida statute.

b. Discussion

An examination of the records and a random review of BBB AUTO LINE Case Files found the required information in each of the BBB AUTO LINE Case Files reviewed.

C. Ohio

a. Statutes

Ohio Administrative Code § 109:4-4-04(D(1)(c)

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

b. Discussion

Morrison and Company found the make, the model, and the vehicle identification number for each vehicle clearly reported in every BBB AUTO LINE Case File.

Segment 03 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 04

A. National

a. Statutes

1. Rule § 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 Customer Claim Form from the consumer (except in California and Florida, where the date when the consumer first contacts the BBB AUTO LINE Program is considered to be the opening date of the file). The date of disclosure of a decision is the same date on which the decision is signed by the arbitrator and is mailed to the consumer and to the manufacturer. When Morrison and Company reviewed BBB AUTO LINE Case Files, this information was found in one or more locations and was clearly stated in each case.

B. Florida

a. Statutes

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

This date is different in the state of Florida, which recognizes the date of receipt as the date of first contact, which is usually the first phone call the consumer makes to the BBB AUTO LINE Program office. When Morrison and Company reviewed BBB AUTO LINE Case Files, this information was found in one or more locations and was clearly stated in each case.

C. Ohio

a. Statutes

Ohio Administrative Code § 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

When Morrison and Company reviewed BBB AUTO LINE Case Files, the date of receipt of the dispute and the date of disclosure to the consumer of the decision was found in evidence.

Segment 04 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 05

A. National

a. Statutes

1. Rule § 703.6(a)(5)

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

b. Discussion

Since there are no objective standards against which to measure such information, Morrison and Company could draw no absolute conclusions. Rather, the existence of the materials was noted. The reviewed BBB AUTO LINE Case Files and the similarity of materials led Morrison and Company to the conclusion that a concerted effort was made to comply with these requirements. Nothing of note appeared to be out of order.

B. Florida

a. Statutes

Florida Lemon Law § 681.108(3)(d)

None

b. Discussion

The Florida Lemon Law does not have a requirement which means

that Florida relies upon the language of Rule 703. When Morrison and Company reviewed BBB AUTO LINE Case Files, all of this information appeared to be present.

C. Ohio

a. Statutes

Ohio Administrative Code § 109:4-4-04(D(1)(e)

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

b. Discussion

The Ohio Lemon Law has a similar requirement. 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 were present in the reviewed BBB AUTO LINE Case Files.

Segment 05 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 06

A. National

a. Statutes

1. Rule § 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

Again, there are no absolute standards by which to measure this information; however, these materials were present in every BBB AUTO

LINE Case File reviewed. This information appeared to be in the same order in each reviewed BBB AUTO LINE Case File, and the similarity of materials led to the conclusion that a concerted effort had been made to comply with this requirement.

B. Florida

a. Statutes

Florida Lemon Law § 681.108(3)

None

b. Discussion

Florida statutes do not contain a similar provision, thus Rule 703 applies. When Morrison and Company reviewed the BBB AUTO LINE Case Files, this information appeared to be complete.

C. Ohio

a. Statutes

Ohio Administrative Code § 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

Ohio's law is similar to the national one; when Morrison and Company reviewed BBB AUTO LINE Case Files, all information appeared to be present.

Segment 06 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 07

A. National

a. Statutes

1. Rule § 703.6(a)(7)

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

b. Discussion

With the exception of General Motors claims, each case which results in an arbitration hearing is audio-taped; either the tapes or a Record of Hearing Form is stored for the required four years. In those cases where audio-tapes of arbitration hearings are kept, they do not remain with the stored BBB AUTO LINE Case Files but are filed separately by BBB AUTO LINE case number. Even though the tapes are not maintained as part of the physical BBB AUTO LINE Case File 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.

The policy for General Motors claims has resulted in cases which are not recorded, but the Record of Hearing Form, Reasons for Decision Form and the Decision Form were present in those BBB AUTO LINE Case Files, which therefore meets the requirements.

B. Florida

a. Statutes

Florida Lemon Law § 681.108(3)

None

b. Discussion

The state of Florida does not have a similar provision in its Florida Lemon Law, and again relies on Rule 703. The records and tapes of arbitration hearings were stored in different locations, but in every BBB AUTO LINE Case File reviewed, there was a Reasons for Decision Form and a Decision Form with supporting tape recordings.

C. Ohio

a. Statutes

Ohio Administrative Code § 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 records and tapes of arbitration hearings were stored in different locations, but in every BBB AUTO LINE Case File reviewed, there was a Reasons for Decision Form and a Decision Form with supporting tape recordings.

Segment 07 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 08

A. National

a. Statutes

1. Rule § 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 entirely there, as a part of the Notice of Hearing Form, which is maintained as part of the BBB AUTO LINE Case File. All information was located in the places stated above.

B. Florida

a. Statutes

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;

Florida Administrative Code 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 the Florida statutes, the language is not in conformity with Rule 703, but there are several sections of Florida law which deal with various aspects of this rule. This information was found in the Decision Form and/or in the Reasons for Decision Form. Parts of this information were also found in the Record of Hearing Form, or even in the actual audio-tape.

C. Ohio

a. Statutes

Ohio Administrative Code § 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 Rule 703. When Morrison and Company reviewed BBB AUTO LINE Case Files, this information was found in one or more locations.

Segment 08 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 09

A. National

a. Statutes

1. Rule § 703.6(a)(9)

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

b. Discussion

In reviewing BBB AUTO LINE Case Files to determine compliance with this segment, the Decision Form met the disclosure to the parties requirement, since the final draft of the decision utilizes the Decision Form, which serves as the decision disclosure. The Decision Form is mailed to each party along with the Reasons for Decision Form. When Morrison and Company reviewed BBB AUTO LINE Case Files, this information was found in one or more locations.

B. Florida

a. Statutes

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 do not directly contradict the language of Rule 703. When Morrison and Company reviewed BBB AUTO LINE Case Files, this information was found in one or more locations.

C. Ohio

a. Statutes

Ohio Administrative Code § 109:4-4-04(D(1)(l)

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

b. Discussion

The language of Rule 703 is repeated in Ohio's law, 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 BBB AUTO LINE Case File which clearly showed the Decision Form of the arbitrator and the Reasons for Decision Form. When Morrison and Company reviewed BBB AUTO LINE Case Files, this information was found in one or more locations.

Segment 09 of the BBB AUTO LINE Program activity is IN

COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 10

A. National

a. Statutes

1. Rule § 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, so long as the decision falls within the scope of the program's authority. This precommitment is communicated to consumers in the BBB AUTO LINE Arbitration Rules and on the Acceptance or Rejection of Decision Form.

In the randomly reviewed BBB AUTO LINE Case Files, it was very clear that manufacturer compliance with BBB AUTO LINE Program decisions was the primary response, and that any exception was rare. The paperwork explaining the manufacturer's reasons for failing to comply with the decision must be extensive. This paperwork would be maintained as a part of the permanent BBB AUTO LINE Case File in such cases.

Any refusal to comply with a decision would involve circumstances where performance of the decision would not be possible or the decision clearly exceeded program limitations. Because of the extensive paper trail that would be created in such a situation, 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. This procedure has been confirmed by the BBB AUTO LINE Program attorney.

B. Florida

a. Statutes

Florida Lemon Law § 681.101 - Legislative Intent

This specific language does not appear in Florida statutes, but in reading the entire Florida Statutes, there are numerous references to the duty of the manufacturer to carry out its responsibilities to the consumers of its products. In the 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 BBB AUTO LINE Case Files reviewed, there were very few BBB AUTO LINE 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 was well-documented in the BBB AUTO LINE Case File.

C. Ohio

a. Statutes

2. Ohio Administrative Code § 109:4-4-04(D(1)

None

b. Discussion

Ohio has no such provision, however, in the BBB AUTO LINE Case Files reviewed, there were very few BBB AUTO LINE Case Files where the manufacturer failed to perform as outlined in the case decision. Where any confusion with the decision existed, it was usually worked out between the parties and was well-documented in the BBB AUTO LINE Case File.

Segment 10 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 11

A. National

a. Statutes

1. Rule § 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

The above requirements, again, are not appropriate for standard auditing methods, since there is no objective standard by which to measure. Morrison and Company's review of BBB AUTO LINE Case Files revealed the existence of the referenced materials in the BBB AUTO LINE Case Files reviewed.

B. Florida

a. Statutes

None

b. Discussion

The Florida lemon law does not have a similar provision, and relies on Rule 703. Based upon Morrison and Company's observations, and in reading the BBB AUTO LINE Case Files, it is very clear that every effort was made to comply with this rule; there was no evidence to conclude otherwise.

C. Ohio

a. Statutes

Ohio Administrative Code § 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

The Ohio requirements and the federal requirements are exactly the same. From the review of BBB AUTO LINE Case Files, the records appeared to be complete and had been processed properly.

Segment 11 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 12

A. National

a. Statutes

1. Rule § 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 segment 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 BBB AUTO LINE Case Files revealed the existence of these materials in the records 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 existed.

B. Florida

a. Statutes

None

b. Discussion

Again, the Florida lemon law does not have a similar provision, and relies on Rule 703. Based upon Morrison and Company's observations, and in reading the BBB AUTO LINE Case Files, it is very clear that every effort was made to comply with this rule; there was no evidence to conclude otherwise.

C. Ohio

a. Statutes

Ohio Administrative Code § 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

This rule and the federal requirements are exactly the same. From the review of the BBB AUTO LINE Case Files, they appeared to be complete and processed properly.

Segment 12 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

As noted above, the focus of the following requirements of Rule 703 is different from the prior segments because the requirements of this section shift from the general to the specific. From this point on, the rule makes specific requirements; it mandates that the BBB AUTO LINE Program office maintain certain indexes and statistics.

This section of the report is very valuable and very important in determining the performance level of the BBB AUTO LINE Program. The statistics are provided to each state, on both a semi-annual basis and an annual basis, by the BBB AUTO LINE Program office.

Segment 13

A. National

a. Statutes

1. Rule § 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 BBB AUTO LINE Program containing the information required by this segment, has determined that the BBB AUTO LINE Program maintains an index that is complete and consistent with the regulatory requirements. This semi-annual documentation provided an avenue with which to compare the difference in each semi-annual period with the annual period. The data required by this segment will be relied upon heavily in Chapter 4. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

B. Florida

a. Statutes

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 Rule 703, 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. Discussion

Under the general requirement that an annual audit be conducted, BBB AUTO LINE maintains the specified index and provided it to Morrison and Company for review. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

C. Ohio

a. Statutes

Ohio Administrative Code § 109:4-4-04(D)(2)

(3) The board shall maintain an index of each warrantor's disputes grouped under make and subgrouped under model.

b. Discussion

In Ohio, the requirement is the same as in Rule § 703.6. 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 BBB AUTO LINE Program office in Arlington, VA. For the purposes of this audit, a copy of the national index and the Ohio index were provided to Morrison and Company for review and evaluation. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

Segment 13 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 14

A. National

a. Statutes

1. Rule § 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 BBB AUTO LINE Program records has disclosed that this index was maintained as required, and that the program reported few instances in which a

manufacturer failed to comply with a decision. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

B. Florida

a. Statutes

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 Rule 703, 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. Discussion

Under the general requirement that an annual audit be conducted, BBB AUTO LINE maintains the specified index and provided it to Morrison and Company for review. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

C. Ohio

a. Statutes

2. Ohio Administrative Code § 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 segment has found few

instances in which a manufacturer failed to comply with a BBB AUTO LINE Program decision. In cases where the manufacturer failed to comply, the BBB AUTO LINE Case Files were well documented. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

Segment 14 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 15

A. National

a. Statutes

1. Rule § 703.6 (d)

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

b. Discussion

The BBB AUTO LINE Program provided a comprehensive statistical index showing each case delayed beyond 40 days for each participating manufacturer. Morrison and Company's review disclosed that the procedures were followed and met the requirements of the laws and regulations.

B. Florida

a. Statutes

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 Rule 703, 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. Discussion

Under the general requirement that an annual audit be conducted, BBB AUTO LINE maintains the specified index and provided it to Morrison and Company for review. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

C. Ohio

a. Statutes

Ohio Administrative Codes § 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; the BBB AUTO LINE Program provided a comprehensive statistical index showing each case delayed beyond 40 days for each participating manufacturer. Morrison and Company's review disclosed that the procedures were followed and met the requirements of the laws and regulations.

Segment 15 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 16

A. National

a. Statutes

1. Rule § 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 statistics maintained by BBB AUTO LINE address completely all of the questions raised by the subsections, and thereby met all of the requirements of the full section. The report filed by the BBB AUTO LINE Program divided the data into four columns, with appropriate data in each of the columns, as follows:

1. Total Cases,
2. Percent of All Mediations,
3. Percent of All Arbitrations, and
4. Percent of All Disputes.

Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

B. Florida

a. Statutes

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 Rule 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 more inclusive since it requires everything which Rule 703 requires, plus all of the information mentioned above. In these sections there is a duplication of the information requested; however, the information provided to Morrison and Company covered the specific requirements. The information in which Florida shows a special interest is the number of refunds and replacements made in this state.

The information sought by Florida is contained in numerous areas of this report; however, most of the statistical data requested will be covered in Chapter 4. At this point, from the perspective of Morrison and Company, the information sought by the state of Florida was contained in the report.

C. Ohio

a. Statutes

Ohio Administrative Code § 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

Ohio's law is also more comprehensive; this requirement places upon the BBB AUTO LINE Program the responsibility to compile semi-annual reports which contain specific information about the operation of the BBB AUTO LINE Program. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

Segment 16 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 17

A. National

a. Statutes

1. Rule § 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

This requirement deals specifically with the retention of the BBB AUTO LINE Case Files and all records. As a function of the audit, Morrison and Company has reviewed the records referred to in this segment, and has found that the audited offices maintained the BBB AUTO LINE Case Files for the four years as required. Morrison and Company found the BBB AUTO LINE Case Files for the four years

secured in boxes or in computer data. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

B. Florida

a. Statutes

Florida Lemon Law § 681.108

None

b. Discussion

In the state of Florida, there is no specific time limitation in the written statutes and rules. In Morrison and Company's audit of the BBB AUTO LINE Program office in Clearwater, FL, Morrison and Company found the hard copies of BBB AUTO LINE Case Files, as well as electronic BBB AUTO LINE Case Files in the computer program.

C. Ohio

a. Statutes

Ohio Administrative Code § 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 Ohio requirements are very similar to those of Rule § 703.6(f). In the Ohio audit, as in the national audit, the files and records were being maintained as required. Morrison and Company's audit of the BBB AUTO LINE Program office in Cincinnati OH, revealed a storage area which held the files for the preceding years. Copies of the cases for the years 1997 through 2000 were on file. Cases were also filed in the computer database.

Segment 17 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

Segment 18

A. National

a. Statutes

1. Rule § 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 were developed by the BBB AUTO LINE Program 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 allow the forms to serve as a valuable resource for the local BBB AUTO LINE Program offices. 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 BBB AUTO LINE Program in Arlington, VA.

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 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 record-keeping program is the *BBB AUTO LINE Program's Operations Manual*, which is a constantly changing document, designed to ensure that changes are updated as they occur. 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 and of Rule 703. This manual is extremely user-friendly and contributes as much to the program's success as any other component. Morrison and Company's review disclosed that

the procedures followed met the requirements of the laws and regulations; in fact, this facet of the program was outstanding.

B. Florida

a. Statutes

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 Rule 703, 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. Discussion

By requiring an annual audit, the Florida statute also mandates an evaluation of the Mechanism's complaint and other forms. The discussion located in the national segment above, on forms and documents, applies equally well to the Florida program, and since Florida uses the forms provided by the BBB AUTO LINE Program, all documents are uniform. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

C. Ohio

a. Statutes

Ohio Administrative Code § 109:4-4-04(E)(1-4)

(E) Audits

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

b. Discussion

The discussion located in the national segment above, on forms and documents,applies equally well to the Ohio program, and since Ohio uses the forms provided by the BBB AUTO LINE Program, all documents are uniform. Morrison and Company's review disclosed that the procedures followed met the requirements of the laws and regulations.

Segment 18 of the BBB AUTO LINE Program activity is IN COMPLIANCE with the specific requirements of Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code.

SECTION 5: RECOMMENDATIONS AND CONCLUSIONS

Due to the excellence of the record-keeping procedures already in place in the BBB AUTO LINE Program and in the BBB AUTO LINE Programs which were audited, Morrison and Company has no recommendations to make.

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, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the 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 must evaluate the adequacy of BBB AUTO LINE complaint handling and substantiate the accuracy of the BBB AUTO LINE Program's record-keeping and reporting. Morrison and Company must also compare and report any discrepancies and/or disparities found between the BBB AUTO LINE Program records and Morrison and Company's information, which is obtained from a discrete source.

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 by Morrison and Company. This method has provided substantive results. The telephone survey consisted of randomly selected purchasers of new vehicles who were within the following parameters:

a. those consumers who utilized the BBB AUTO LINE Program,
b. those consumers whose cases were among those closed in 2000, and
c. those consumers who were willing to respond to Morrison and Company's survey questions, up to the target sample size of 400 respondents.

B. Florida

The Florida Lemon Law and the Florida Administrative Code require the BBB AUTO LINE Program to file a copy of the required national audit with the state of Florida. This audit contains more detailed information which is required for the report as it relates to Florida consumers. Morrison and Company conducted a telephone survey of a random sample of 100 Florida consumers whose cases were closed in 2000.

C. Ohio

The state of Ohio has it own requirements for this report similar to those contained in Rule 703. The Ohio Lemon Law and the Ohio Administrative Code mandate direct random sampling of Ohio consumers. This audit contains more detailed information which is required for the report as it relates to Ohio consumers. Morrison and Company conducted a telephone survey of a random sample of 100 Ohio consumers whose cases were closed in 2000.

SECTION 2: STATUTORY REQUIREMENTS

A. National

Rule § 703.7(b)(3)
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

B. Florida

Florida Lemon Law.
Florida Administrative Code Rule § 5J-11.010
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

C. Ohio

Ohio Lemon Law § 1345.71-78 and § 1345.77
Ohio Administrative Code § 109:4-4-04(E)(2)(c)
[Please refer to appendices for the complete text of all related laws, statutes, and regulations]

SECTION 3: CONDITIONS

A. National

Information from consumers was 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 in order to determine the validity of BBB 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 number of returned letters was very light: a total of 11 letters was returned out of the 975 letters mailed.

This letter explained that the consumer was likely to receive a

telephone call from Morrison and Company; the consumer was invited to participate in the interview when the call was received. A telephone number to reach Morrison and Company was listed, as well as one to reach the BBB AUTO LINE Program office. Several consumers took advantage of the opportunity to ask questions and/or to offer input.

Most calls averaged fifteen minutes for completion and were designed to ascertain information in the following categories:

01. General Information
02. Consumer Knowledge about Program
03. Resolution of Case
04. Ineligible/Withdrawn Cases
05. Mediated Cases
06. Arbitrated Cases
07. 40 Day Time Limit
08. Manufacturer Obligations
09. Arbitrator Performance
10. Consumer Satisfaction

Telephone interviews were conducted by Morrison and Company between February 1, 2001, and April 1, 2001. Morrison and Company consummated 400 telephone interviews from a total of 975 cases randomly drawn from the 23,120 disputes handled by the BBB AUTO LINE Program, which were closed in the year 2000. Phone calls fell into the following categories:

1. unavailable,
2. refused to respond, or
3. consumer replied to survey questions.

Consumers who were unavailable or who did not respond after at least five attempts at various times of the day over a period of several days were excluded. If a respondent refused to participate, the consumer was considered non-responsive. This situation was very infrequent and caused no problems.

2. Division of Cases

The outcome of cases generally falls within three categories, each of which will be discussed in detail in the Findings Section, as follows:

a. Ineligible/Withdrawn
b. Mediated
c. Arbitrated

B. Florida

An additional 230 cases were pulled for the state of Florida because Florida's BBB AUTO LINE Program and audit are governed by state regulations which are not identical to the federal regulations in every case. The audit results for Florida are reported in a separate segment of this chapter.

C. Ohio

The same situation applies in Ohio as it does in Florida; an additional 200 cases were pulled for Ohio. The audit results for Ohio are also reported in a separate segment of this chapter.

SECTION 4: FINDINGS

A. National

Several segments of this section revolve around a comparison of statistics compiled by the BBB AUTO LINE Program office with those statistics compiled through Morrison and Company's telephone survey of consumers. The BBB AUTO LINE Program does not keep, nor is it required to keep, statistics for the majority of the consumer survey questions. Those segments which show comparison information in tables are listed with an + below:

01. General Information
02. Consumer Knowledge about Program
03. Resolution of Case +
04. Ineligible/Withdrawn Cases
05. Mediated Cases
06. Arbitrated Cases+
07. 40 Day Time Limit
08. Manufacturer Obligations +
09. Arbitrator Performance
10. Consumer Satisfaction

01. GENERAL INFORMATION

For the purposes of this section, each survey question is presented in the form and in the order in which it was presented to each consumer

surveyed. The material in each of the following segments [National, Florida, and Ohio] consists of thirty charts and one table which show clearly the results of each question asked on the survey. In addition, there are three tables which show the comparison of BBB AUTO LINE Program statistics with those of Morrison and Company's telephone survey statistics.

1. What is the year of the vehicle involved in the complaint you filed with the BBB AUTO LINE Program?

Year	Number of Vehicles	Percentage of Vehicles
Prior to & including 1997	075	18.75%
1998	103	25.75%
1999	159	39.75%
2000	056	14.00%
2001	007	01.75%
TOTAL	**400**	**100.00%**

02. CONSUMER KNOWLEDGE ABOUT PROGRAM

This segment shows how surveyed consumers learned about the BBB AUTO LINE Program. The results of this year's survey are much more evenly balanced than were last year's results. Last year consumers said that they learned about the BBB AUTO LINE Program from the following sources:

a. Friends/Family Members - 28.5%
b. BBB - 11.5%
c. Warranty Book/Owners Manual - 07.0%
d. Dealer/Information in Dealership - 26.0%
e. Manufacturer - 15.5%

This year, however, surveyed consumers said that they learned about the BBB AUTO LINE Program from the following sources:

a. Friends/Family Members - 06.00%
b. BBB - 20.00%
c. Warranty Booklet/Owner's Manual - 23.50%,
d. Dealer/Information in Dealership - 18.50%, and
e. Manufacturer - 18.25%.

These statistics show the following increases and decreases:

a. a 22.50% decrease this year in BBB AUTO LINE Program information procured through Friends/Family Members,
b. an 08.50% increase in information procured from the BBB,
c. a 16.50% increase in information procured from the Warranty Booklet/Owner's Manual,
d. a 07.50% decrease in information procured from the Dealer/Information in Dealership, and
e. a 02.75% increase in information procured from the Manufacturer.

3. How did you first learn about the BBB AUTO LINE Program?

Method	Number	Percentage
BBB AUTO LINE Program	82	20.00%
Friend/Family	24	06.00%
Attorney	21	05.25%
TV/Radio/Newspaper	23	05.75%
Dealer/Information in Dealership	74	18.50%
Manufacturer	73	18.25%
Warranty Booklet/Owner's Manual	94	23.50%
Other	11	02.75%
Don't Know/Don't Recall	00	00.00%
TOTAL	**400**	**100.00%**

4. Did you receive a brochure and materials from the BBB AUTO LINE Program explaining the program?

Yes	No	Don't Know/ Don't Recall	TOTAL
338	054	008	**400**
84.50%	13.50%	02.00%	**100%**

Information was sought to determine how easily understood the BBB AUTO LINE Program materials seemed to be, as follows:

a. 56.00% of surveyed consumers said the materials were Very Clear and Easy to Understand;
b. 30.25% of surveyed consumers said they were A Little Difficult but Still Easy to Understand, and
c. 05.75% of surveyed consumers said they were Difficult to Understand
d. 08.00% of surveyed consumers Did not Know/Did Not Recall how difficult the materials were for them.

In addition, 72.50% of the surveyed consumers said that they had received the Customer Claim Form, which is the consumer's first avenue of written response about a vehicle's problem.

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
224	121	023	032	**400**
56.00%	30.25%	05.75%	08.00%	**100%**

6. In preparing you for what would happen in your particular case, which statement best describes the information you received?

Gave Me A Good Understanding	Covered Information Relatively Well But Not Completely	Quite Difficult to Understand	Don't Know/ Don't Recall	TOTAL
171	151	028	050	**400**
42.75%	37.75%	07.00%	12.50%	**100%**

7. Did you receive the Customer Claim Form?

Received and Completed	Received but Not Completed	Don't Know/ Don't Recall	TOTAL
290	074	036	**400**
72.50	18.50%	09.00%	**100%**

03. RESOLUTION OF CASES

This segment presents information from surveyed consumers which shows how each eligible case was resolved, as follows.

a. 36.00% of all cases were resolved through mediation, b. 35.75% of all cases went to an arbitration hearing.

The BBB AUTO LINE Program reported statistical information as follows:

a. 34.10% of the cases were resolved through mediation, and
b. 29.34% of the cases went to an arbitration hearing.

These differences between the two sets of data are not statistically significant. This difference may be also related to the fact that consumers, when contacted, may have confused case resolution definitions or may have had difficulty in remembering, or even in understanding, the final determination of their cases.

The single largest group of reported cases in the BBB AUTO LINE Program statistics are those resolved through mediation. These cases represent the BBB AUTO LINE Program's effort to resolve the differences between the manufacturer and the consumer.

One of the BBB AUTO LINE Program's most successful effort in the recent past has been to increase the number of cases which are settled at the mediation stage. The numbers reported by the BBB AUTO LINE Program are slightly higher than those reported in the survey of Morrison and Company.

8. Which statement best reflects the resolution in your case?

Claim Settled through Mediation	**Claim went to Arbitration and Hearing was Conducted**	**Claim was Ineligible**	**Claim was Withdrawn by You**	**Don't Know/ Don't Recall**	**TOTAL**
144	143	086	027	000	**400**
36.00%	35.75%	21.50%	06.75%	00.75%	**100%**

Table I
Method of Resolution of Cases
[Comparison]

Method of Resolution of Cases	Morrison and Company			BBB AUTO LINE Program		
	Number of Cases	Percent of Cases in Jurisdiction	Percent of All Disputes	Number of Cases	Percent of Cases in Jurisdiction	Percent of All Disputes
Mediation	144	50.17%	36.00%	07,884	53.74%	34.10.0%
Arbitration	143	49.83%	35.75%	06,785	46.25%	29.34%
Sub Total	**287**	**100%**	**N/A**	**14,669**	**100.00%**	N/A
Withdrawn Ineligible	113	N/A	28.75%	08,451	N/A	36.55%
TOTAL	**400**	**N/A**	**100.00%**	**23,120**	**N/A**	**100.00%**

04. INELIGIBLE/WITHDRAWN CASES

This segment presents information which shows those cases which have been Ineligible or Withdrawn, the categories, and the reasons thereof.

9. What reason best describes why you either withdrew from, or were determined to be ineligible for, arbitration?

Vehicle Beyond Age/Mileage Limits	Problem was Repaired	No Longer in Possession	Other	Don't Know/ Don't Recall	TOTAL
50	25	34	03	01	**113**
43.48%	21.74%	29.56%	02.61%	00.88%	**100%**

05. MEDIATED CASES

10. After the mediation concluded, was a copy of the settlement mailed to you?

Yes	No	Don't Know Don't Recall	TOTAL
133	007	004	**144**
92.36%	04.86%	02.78%	**100%**

11. Did you talk to the BBB AUTO LINE Program staff or receive a letter about how the manufacturer carried out the mediation settlement?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/ Don't Recall	TOTAL
52	35	51	02	04	**144**
36.11%	24.31%	35.42%	01.39%	02.77%	**100%**

06. ARBITRATED CASES

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

The BBB AUTO LINE Program statistics showed the following:

a. The consumer accepted the decision in 3,179 cases with manufacturer compliance.

b. The consumer accepted the decision in 170 cases but the manufacturer had not complied within the required time frame; of these,

1. 146 awards were performed after the specified time frame,
2. 10 consumers continued the case with the BBB AUTO LINE Program, and
3. 14 consumers did not elect to continue pursuit of their claim.

c. The consumer rejected the award in 924 cases.

d. The consumer was granted no award in 2,412 cases.

12. Did you receive written notice of the scheduled date, time, and place of the arbitration hearing?

Yes	No	Don't Know/ Don't Recall	TOTAL
139	001	003	**143**
97.20%	00.70%	02.10%	**100%**

13. After the arbitration hearing, was the decision mailed to you?

Yes	No	Don't Know/ Don't Recall	TOTAL
136	004	003	**143**
95.10%	02.80%	02.10%	**100%**

14. Which statement best describes the decision?

Mfr. Should Replace the Vehicle	Mfg. Should Buy Back the Vehicle	Mfg. Should Repair the Vehicle	Mfg. Should Extend the Warranty	No Award Made	Other	Don't Know/ Don't Recall	TOTAL
39	29	24	21	30	00	00	**143**
27.27%	20.28%	16.78%	14.69%	20.98%	00.00%	00.00%	**100%**

15. Was the arbitration decision accepted or rejected?

Accepted	Rejected	Neither	Don't Know Don't Recall	TOTAL
107	036	000	000	**143**
74.83%	25.17%	00.00%	00.00%	**100%**

16. After the arbitration decision, did you pursue the dispute any further?

Yes	No	Don't Know Don't Recall	TOTAL
029	110	004	**143**
20.28%	76.92%	02.80%	**100%**

17. Which of the following did you do?

Worked Out Solution with Dealer/ Manufacturer	Contacted Legal Representation	Contacted State or Other Government Agency	Did Not Pursue	Don't Know/ Don't Recall	TOTAL
37	07	10	86	03	**143**
25.87%	04.90%	07.00%	60.14%	02.09%	**100%**

Table II
Outcome of Arbitrated Cases
[Comparison]

Outcome of Arbitrated Cases	Morrison and Company		BBB AUTO LINE Program	
	Number Arbitrated	Percent Arbitrated	Number Arbitrated	Percent Arbitrated
Refund	29	20.28%	2061	30.38%
Replacement	39	27.202%	0637	09.39%
Additional Repair Attempt	24	16.78%	1562	23.02%
Reimbursement for Expenses	00	00.00%	0060	00.86%
Trade Assists	00	00.00%	0000	00.00%
Other	21	14.92%	0056	00.85%
No Award	30	21.00%	2409	35.50%
TOTAL	**143**	**100.00%**	**6785**	**100.00%**

07. 40 DAY TIME LIMIT

Rule § 703.6(e) 9-11 requires the following, and Rule § 703.5(e)(1,2) shows the reasons for delay of cases beyond 40 days, 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.

The BBB AUTO LINE Program does not delay cases as a result of missing consumer information, but when there is missing consumer information, the staff continues the process based upon information provided by the consumer at any time. The BBB AUTO LINE Program statistics contain the following information regarding the reasons cases were delayed beyond the required time limit:

a. 62 of the cases were delayed as a result of the fact that the consumer made no attempt to seek redress directly from the manufacturer, and

b. 2,665 cases were delayed due to a variety of reasons not included in the regulations.

Morrison and Company's statistics regarding reasons why consumers believed that their cases were delayed show the following:

a. the arbitrator caused 12.25% of the delays,
b. the manufacturer caused 10.75% of the delays, and
c. the consumer did not know or did not recall what caused 61.25% of the delays.

18. BBB AUTO LINE Program records show that your case was started on_____ and that the decision was returned on _____. Does this seem correct to you?

Yes	No	Don't Know/Don't Recall	TOTAL
310	012	078	**400**
77.50%	03.00%	19.50%	**100%**

19. Did it take more than 40 days?

Yes	No	Don't Know/ Don't Recall	TOTAL
078	286	036	**400**
19.50%	71.50%	09.00%	**100%**

20. The BBB AUTO LINE process should ordinarily take no more than 40 days. What was the reason for going beyond 40 days in your case?

Consumer	BBB AUTO LINE Program	Arbitrator	Manufacturer	N/A Don't Know/ Don't Recall	TOTAL
032	031	049	043	245	**400**
08.00%	07.75%	12.25%	10.75%	61.25%	**100%**

08. MANUFACTURER OBLIGATIONS

This segment discusses how the manufacturers completed their obligations to the consumer.

21. Did the manufacturer carry out the terms of the mediation settlement?

Yes	No	Don't Know Don't Recall	TOTAL
128	010	006	**144**
88.89%	06.94%	04.17%	**100%**

22. Did the manufacturer carry out the terms of the arbitration decision?

Yes	No	Don't Know/ Don't Recall	TOTAL
108	011	024	**143**
75.52%	07.69%	16.79%	**100%**

Table III
Manufacturer Obligations re: Outcome of Mediated Cases
[Comparison]

Manufacturer Obligations re: Outcome of Mediated Cases	Morrison and Company		BBB AUTO LINE Program	
	Number	Percent	Number	Percent
Resolved: Compliance with Settlement	127	88.19%	7376	93.56%
Resolved: Non-Compliance with Settlement	011	07.64%	0384	04.87%
Non-Performance: Consumer	005	03.48%	0096	01.22%
Don't Know/Don't Recall/ Performance not due to be verified at time of audit	001	00.69%	0028	00.35%
TOTAL	**144**	**100.00%**	**7884**	**100.00%**

09. ARBITRATOR PERFORMANCE

23. How would you grade the arbitrator on understanding the facts?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
41	54	25	10	08	05	**143**
28.67%	37.76%	17.48%	07.00%	05.59%	03.50%	**100%**

24. How would you grade the arbitrator on objectivity and fairness?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
43	56	17	15	05	07	**143**
30.07%	39.21%	11.89%	10.49%	03.44%	04.90%	**100%**

25. How would you grade the arbitrator on rendering an impartial decision?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
62	43	10	15	06	07	**143**
43.36%	30.07%	06.98%	10.49%	04.20%	04.90%	**100**%

26. How would you grade the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
58	41	12	12	12	08	**143**
40.56%	28.64%	08.40%	08.40%	08.40%	05.60%	**100%**

Table IV
Arbitrator Grade

How Would You Grade Your Arbitrator on the Following?	A	B	C	D	F	Don't Know/ Don't Recall	Total
Understanding the Facts	41	54	25	10	08	05	**143**
	28.67%	37.76%	17.48%	06.99%	05.59%	03.50%	**100%**
Objectivity and Fairness	43	56	17	15	05	07	**143**
	30.07%	39.16%	11.89%	10.49%	03.50%	04.90%	**100%**
Rendering Impartial Decision	62	43	15	10	06	07	**143**
	43.36%	30.07%	10.49%	06.99%	04.20%	04.90%	**100%**
Rendering Reasonable and well thought-out Decision	58	41	12	12	12	08	**143**
	40.56%	28.67%	08.39%	08.39%	08.39%	05.59%	**100%**

10. CONSUMER SATISFACTION

These tabulated results show an exceptionally strong positive feeling toward the manner in which cases have been handled. In consideration of the fact that these surveyed consumers were drawn randomly and include consumers who may not have prevailed in arbitration, it would seem that this signifies an overwhelming statement that the BBB AUTO LINE Program is doing an outstanding job in its role of consumer service!

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

27. How would you grade the BBB AUTO LINE Program Staff on objectivity and fairness?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
122	140	089	030	019	000	**400**
30.50%	35.00%	22.50%	07.60%	04.40%	00.00%	**100%**

28. How would you grade the BBB AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
142	144	059	040	015	000	**400**
35.50%	36.00%	14.75%	10.00%	03.75%	00.00%	**100%**

29. Overall, what grade would you give to the BBB AUTO LINE Program?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
155	133	060	035	017	000	**400**
38.75%	33.25%	15.00%	08.75%	04.25%	00.00%	**100%**

30. Would you recommend the BBB AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	TOTAL
297	103	000	**400**
74.25%	25.75%	00.00%	**100%**

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

B. Florida

As noted in the national segment, this segment is devoted to the statistical data provided to Morrison and Company by the BBB AUTO LINE Program in the statistical compilations and by the information from the consumer survey. It is required that one hundred consumers be surveyed in addition to those drawn for the national survey.

01. GENERAL INFORMATION

1. What is the year of the vehicle involved in the complaint you filed with the BBB AUTO LINE Program?

Year	Number of Vehicles	Percentage of Vehicles
Prior to and including 1997	16	16.00%
1998	32	32.00%
1999	41	41.00%
2000	11	11.00%
2001	00	00.00%
TOTAL	**100**	**100.00%**

02. CONSUMER KNOWLEDGE ABOUT PROGRAM

3. How did you first learn about the BBB AUTO LINE Program?

Method	Number	Percentage
BBB	20	20.00%
Friend/Family	11	11.00%
Attorney	05	05.00%
TV/Radio/Newspaper	05	05.00%
Dealer/Information in Dealership	17	17.00%
Manufacturer	17	17.00%
Warranty Booklet/Owner's Manual	20	20.00%
Other	11	11.00%
Don't Know/Don't Recall	05	05.00%
TOTAL	**100**	**100.00%**

4. Did you receive a brochure and materials from the BBB AUTO LINE Program explaining the program?

Yes	No	Don't Know/ Don't Recall	TOTAL
92	06	02	**100**
92.00%	06.00%	02.00%	**.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
47	35	08	10	**100**
47.00%	35.00%	08.00%	10.00%	**100%**

6. In preparing you for what would happen in your particular case, which statement best describes the information you received?

Gave Me A Good Understanding	Covered Information Relatively Well But Not Completely	Quite Difficult to Understand	Don't Know/ Don't Recall	TOTAL
46	36	07	11	**100**
46.00%	36.00%	07.00%	11.00%	**100%**

7. Did you receive the Customer Claim Form?

Received and Completed	Received but Not Completed	Don't Know/ Don't Recall	TOTAL
89	06	05	**100**
89.00%	06.00%	05.00%	**100%**

03. RESOLUTION OF CASE

8. Which statement best reflects the resolution in your case?

Claim Settled through Mediation	Claim went to Arbitration and Hearing was Conducted	Claim was Ineligible	Claim was Withdrawn by You	Don't Know/ Don't Recall	TOTAL
34	34	23	09	00	**100**
34.00%	34.00%	23.00%	09.00%	00.00%	**100%**

Table V
Method of Resolution of Cases
[Comparison]

Method of Resolution of Cases	Morrison and Company			BBB AUTO LINE Program		
	Number of Cases	Percent of Cases in Jurisdiction	Percent of All Disputes	Number of Cases	Percent of Cases in Jurisdiction	Percent of All Disputes
Mediation	34	50.00%	34.00%	1421	56.66%	41.25%
Arbitration	34	50.00%	34.00%	1087	43.34%	31.55%
Sub Total	**68**	**100.00%**	**68.00%**	**2508**	**100.00%**	**72.80%**
Withdrawn Ineligible	32	N/A	32.00%	0937	N/A	27.20%
TOTAL	**100**	**N/A**	**100.00%**	**3445**	**N/A**	**100.00%**

04. INELIGIBLE/WITHDRAWN CASES

9. What reason best describes why you either withdrew from, or were determined to be ineligible for, arbitration?

Vehicle Beyond Age/Mileage Limits	Problem was Repaired	No Longer in Possession	Other	Don't Know/ Don't Recall	TOTAL
21	07	03	01	00	**032**
65.63%	21.88%	09.39%	03.13%	00.00%	**100%**

05. MEDIATED CASES

10. After the mediation concluded, was a copy of the settlement mailed to you?

Yes	No	Don't Know Don't Recall	TOTAL
33	01	00	**34**
97.06%	02.94%	00.00%	**100%**

11. Did you talk to the BBB AUTO LINE Program staff or receive a letter about how the manufacturer carried out the mediation settlement?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/ Don't Recall	TOTAL
11	07	13	03	00	**034**
32.35%	20.59%	38.24%	08.82%	00.00%	**100%**

06. ARBITRATED CASES

12. Did you receive written notice of the scheduled date, time, and place of the arbitration hearing?

Yes	No	Don't Know/ Don't Recall	TOTAL
33	00	01	**34**
97.06%	00.00%	02.94%	**100%**

13. After the arbitration hearing, was the decision mailed to you?

Yes	No	Don't Know/ Don't Recall	TOTAL
33	00	01	**34**
97.06%	00.00%	02.94%	**100%**

14. Which statement best describes the decision?

Mfr. Should Replace the Vehicle	Mfr. Should Buy Back the Vehicle	Mfr. Should Repair the Vehicle	Mfr. Should Extend the Warranty	No Award Made	Other	Don't Know/ Don't Recall	TOTAL
10	08	04	04	08	00	00	**34**
29.41%	23.53%	11.76%	11.76%	23.53%	00.00%	00.00%	**100%**

15. Was the arbitration decision accepted or rejected?

Accepted	Rejected	Neither	Don't Know Don't Recall	TOTAL
23	09	02	00	**34**
67.65%	26.47%	05.88%	00.00%	**100%**

16. After the arbitration decision, did you pursue the dispute any further?

Yes	No	Don't Know Don't Recall	TOTAL
07	27	00	**34**
20.59%	79.41%	00.00%	**100%**

17. Which of the following did you do?

Worked Out Solution with Dealer/ Manufacturer	Contacted Legal Representation	Contacted State or Other Government Agency	Did Not Pursue	Don't Know/ Don't Recall	TOTAL
09	01	04	20	00	**34**
26.47%	02.94%	11.76%	58.82%	00.00%	**100%**

Table VI
Outcome of Arbitrated Cases
[Comparison]

Outcome of Arbitrated Cases	Morrison and Company		BBB AUTO LINE Program	
	Number Arbitrated	Percent Arbitrated	Number Arbitrated	Percent Arbitrated
Full Refund	08	23.53%	353	32.47%
Partial Refund	00	00.00%	026	02.39%
Replacement	10	29.41%	079	07.27%
Additional Repair Attempt	04	11.76%	181	16.65%
Reimbursement for Expenses	00	00.00%	000	00.00%
Trade Assists	04	11.76%	000	00.00%
Other	00	00.00%	015	01.38%
No Award	08	23.53%	430	39.56%
TOTAL	**34**	**100.00%**	**1087**	**100.00%**

07. 40 DAY TIME LIMIT

18. BBB AUTO LINE Program records show that your case was started on _____ and that the decision was returned on _____. Does that seem correct to you?

Yes	No	Don't Know/Don't Recall	TOTAL
27	02	05	**34**
79.41%	05.88%	14.71%	**100%**

19. Did it take more than 40 days?

Yes	No	Don't Know/ Don't Recall	TOTAL
12	64	26	**100**
12.00%	64.00%	26.00%	**100%**

20. The BBB AUTO LINE process should ordinarily take no more than 40 days. What was the reason for going beyond 40 days in your case?

Consumer	BBB AUTO LINE Program	Arbitrator	Manufacturer	N/A Don't Know/ Don't Recall	TOTAL
23	10	25	08	34	**100**
23.00%	10.00%	25.00%	08.00%	34.00%	**100%**

08. MANUFACTURER OBLIGATIONS

21. Did the manufacturer carry out the terms of the mediation settlement?

Yes	No	Don't Know Don't Recall	TOTAL
32	00	02	**34**
94.12%	00.00%	05.88%	**100%**

22. Did the manufacturer carry out the terms of the arbitration decision?

Yes	No	Don't Know/ Don't Recall	TOTAL
25	03	06	**34**
73.53%	08.82%	17.65%	**100%**

Table VII
Manufacturer Obligations re: Outcome of Mediated Cases
[Comparison]

Manufacturer Obligations re: Outcome of Mediated Cases	Morrison and Company		BBB AUTO LINE Program	
	Number	Percent	Number	Percent
Resolved: Compliance with Settlement	32	94.11%	1380	97.11%
Resolved: Non-Compliance with Settlement	00	00.00%	0026	01.83%
Non-Performance: Consumer	00	00.00%	0012	00.84%
Don't Know/Don't Recall/ Performance not due to be verified at time of audit	02	05.88%	0003	00.21%
TOTAL	**34**	**100.00%**	**1427**	**100.00%**

09. ARBITRATOR PERFORMANCE

23. How would you grade the arbitrator on understanding the facts?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
09	13	07	05	00	00	**34**
26.47%	38.23%	20.59%	14.71%	00.00%	00.00%	**100%**

24. How would you grade the arbitrator on objectivity and fairness?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
10	14	04	06	00	00	**34**
29.41%	41.18%	11.76%	17.65%	00.00%	00.00%	**100%**

25. How would you grade the arbitrator on rendering an impartial decision?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
13	09	03	07	02	00	**34**
38.24%	26.47%	08.82%	20.59%	05.88%	00.00%	**100%**

26. How would you grade the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
10	12	02	06	04	00	**34**
29.41%	35.30%	05.88%	17.65%	11.76%	00.00%	**100%**

Table VIII
Arbitrator Grade

How Would You Grade Your Arbitrator on the Following?:	A	B	C	D	F	Don't Know/ Don't Recall	Total
Understanding the Facts	09	13	07	05	00	00	**34**
	26.47%	38.23%	20.59%	14.71%	00.00%	00.00%	**100%**
Objectivity and Fairness	10	14	04	06	00	00	**34**
	29.41%	41.18%	11.76%	17.65%	00.00%	00.00%	**100%**
Rendering Impartial Decision	13	09	03	07	02	00	**34**
	38.24%	26.47%	08.82%	20.59%	05.88%	00.00%	**100%**
Rendering Reasonable and well thought-out Decision	10	12	02	06	04	00	**34**
	29.41%	35.30%	05.88%	17.65%	11.76%	00.00%	**100%**

10. CONSUMER SATISFACTION

27. How would you grade the BBB AUTO LINE Program Staff on objectivity and fairness?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
23	42	27	07	01	00	**100**
23.00%	42.00%	27.00%	07.00%	01.00%	00.00%	**100%**

28. How would you grade the BBB AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
35	34	15	13	01	02	**100**
35.00%	34.00%	15.00%	13.00%	01.00%	02.00%	**100%**

29. Overall, what grade would you give to the BBB AUTO LINE Program?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
35	34	18	10	10	02	**100**
35.00%	34.00%	18.00%	10.00%	10.00%	02.00%	**100%**

30. Would you recommend the BBB AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	TOTAL
76	22	02	**100**
76.00%	22.00%	02.00%	**100%**

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

C. Ohio

The BBB AUTO LINE Program provided the semi-annual reports and a yearly compilation of the statistics for the state of Ohio; Morrison and Company's survey statistics are also shown below.

01. GENERAL INFORMATION

1. What is the year of the vehicle involved in the complaint you filed with the BBB AUTO LINE Program?

Year	Number of Vehicles	Percentage of Vehicles
Prior to and including 1997	09	09.00%
1998	20	20.00%
1999	53	53.00%
2000	14	14.00%
2001	04	04.00%
TOTAL	**100**	**100.00%**

02. CONSUMER KNOWLEDGE ABOUT PROGRAM

3. How did you first learn about the BBB AUTO LINE Program?

Method	Number	Percentage
BBB	17	17.00%
Friend/Family	05	05.00%
Attorney	06	06.00%
TV/Radio/Newspaper	07	07.00%
Dealer/Information in Dealership	20	20.00%
Manufacturer	18	18.00%
Warranty Booklet/Owner's Manual	25	25.00%
Other	11	03.00%
Don't Know/Don't Recall	02	02.00%

TOTAL	**100**	**100.00%**

4. Did you receive a brochure and materials from the BBB AUTO LINE Program explaining the program?

Yes	No	Don't Know/ Don't Recall	TOTAL
86	14	00	**100**
86.00%	14.00%	00.00%	**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
65	28	02	05	**100**
65.00%	28.00%	02.00%	05.00%	**100%**

6. In preparing you for what would happen in your particular case, which statement best describes the information you received?

Gave Me A Good Understanding	Covered Information Relatively Well But Not Completely	Quite Difficult to Understand	Don't Know/ Don't Recall	TOTAL
23	53	04	20	**100**
23.00%	53.00%	04.00%	20.00%	**100%**

7. Did you receive the Customer Claim Form?

Received and Completed	Received but Not Completed	Don't Know/ Don't Recall	TOTAL
74	17	09	**100**

74.00%	17.00%	09.00%	**100%**

03. RESOLUTION OF CASE

8. Which statement best reflects the resolution in your case?

Claim Settled through Mediation	Claim went to Arbitration and Hearing was Conducted	Claim was Ineligible	Claim was Withdrawn by You	Don't Know/ Don't Recall	TOTAL
36	39	15	10	00	**100**
36.00%	39.00%	15.00%	10.00%	00.00%	**100%**

Table IX
Method of Resolution of Cases
[Comparison]

Method of Resolution of Cases	Morrison and Company			BBB AUTO LINE Program		
	Number of Cases	Percent of Cases in Jurisdiction	Percent of All Disputes	Number of Cases	Percent of Cases in Jurisdiction	Percent of All Disputes
Mediation	36	48.00%	36.00%	0583	46.01%	31.79%
Arbitration	39	52.00%	39.00%	0684	53.99%	37.30%
Sub Total	**75**	**100.00%**	**75.00%**	**1267**	**100.00%**	69.08%
Withdrawn/ Ineligible Cases	25	N/A	25.00%	0567	N/A	30.92%
TOTAL	**100**	**N/A**	**100.00 %**	**1834**	**N/A**	**100.00 %**

04. INELIGIBLE/WITHDRAWN CASES

9. What reason best describes why you either withdrew from, or were determined to be ineligible for, arbitration?

Vehicle Beyond Age/Mileage Limits	Problem was Repaired	No Longer in Possession	Other	Don't Know/ Don't Recall	TOTAL
09	06	10	00	00	**25**
36.00%	24.00%	40.00%	00.00%	00.00%	**100%**

05. MEDIATED CASES

10. After the mediation concluded, was a copy of the settlement mailed to you?

Yes	No	Don't Know Don't Recall	TOTAL
34	02	00	**36**
94.44%	05.56%	00.00%	**100%**

11. Did you talk to the BBB AUTO LINE Program staff or receive a letter about how the manufacturer carried out the mediation settlement?

Talked with Staff	Received a Letter	Both	Neither	Don't Know/ Don't Recall	TOTAL
12	08	15	01	00	**36**
33.33**%**	22.22**%**	41.67%	02.78%	00.00%	**100%**

06. ARBITRATED CASES

12. Did you receive written notice of the scheduled date, time, and place of the arbitration hearing?

Yes	No	Don't Know/ Don't Recall	TOTAL
36	03	00	**39**
92.30%	07.70%	00.00%	**100%**

13. After the arbitration hearing, was the decision mailed to you?

Yes	No	Don't Know/ Don't Recall	TOTAL
38	01	00	**39**
97.44%	02.56%	00.00%	**100%**

14. Which statement best describes the decision?

Mfr. Should Replace the Vehicle	Mfr. Should Buy Back the Vehicle	Mfr. Should Repair the Vehicle	Mfr. Should Extend the Warranty	No Award Made	Other	Don't Know/ Don't Recall	TOTAL
10	06	09	03	10	01	00	**39**
25.64%	15.38%	23.08%	07.72%	25.64%	02.54%	00.00%	**100%**

15. Was the arbitration decision accepted or rejected?

Accepted	Rejected	Neither	Don't Know Don't Recall	TOTAL
27	12	00	00	**39**

69.23%	30.77%	00.00%	00.00%	**100%**

16. After the arbitration decision, did you pursue the dispute any further?

Yes	No	Don't Know Don't Recall	TOTAL
06	28	05	**39**
15.38%	71.79%	12.83%	**100%**

17. Which of the following did you do?

Worked Out Solution with Dealer/ Manufacturer	Contacted Legal Representation	Contacted State or Other Government Agency	Did Not Pursue	Don't Know/ Don't Recall	TOTAL
10	04	01	24	00	**39**
25.64%	10.26%	02.56%	61.54%	00.00%	**100%**

Table X
Outcome of Arbitrated Cases
[Comparison]

Outcome of Arbitrated Cases	Morrison and Company		BBB AUTO LINE Program	
	Number Arbitrated	Percent Arbitrated	Number Arbitrated	Percent Arbitrated
Full Refund	06	15.38%	215	31.43%
Replacement	10	25.64%	069	10.09%
Additional Repair Attempt	09	23.08%	129	18.86%
Reimbursement for Expenses	03	07.70%	007	00.01%
Trade Assists	00	00.00%	000	00.00%
Other	01	02.56%	002	00.03%
No Award	10	25.64%	262	38.30%
TOTAL	**39**	**100.00%**	**684**	**100.00%**

07. 40 DAY TIME LIMIT

18. BBB AUTO LINE Program records show that your case was started on _____, and that the decision was returned on _____. Does that seem correct to you?

Yes	No	Don't Know/Don't Recall	TOTAL
31	02	06	**39**
79.49%	05.13%	15.38%	**100%**

19. Did it take more than 40 days?

Yes	No	Don't Know/ Don't Recall	TOTAL
22	58	10	**100**
22.00%	58.00%	10.00%	**100%**

20. The BBB AUTO LINE process should ordinarily take no more than 40 days. What was the reason for going beyond 40 days in your case?

Consumer	BBB AUTO LINE Program	Arbitrator	Manufacturer	N/A Don't Know/ Don't Recall	TOTAL
04	07	05	17	67	**100**
04.00%	07.00%	05.00%	17.00%	67.00%	**100%**

08. MANUFACTURER OBLIGATIONS

21. Did the manufacturer carry out the terms of the mediation settlement?

Yes	No	Don't Know Don't Recall	TOTAL
35	01	00	**36**
97.22%	02.78%	00.00%	**100%**

22. Did the manufacturer carry out the terms of the arbitration decision?

Yes	No	Don't Know/ Don't Recall	TOTAL
30	00	09	**39**
76.92%	00.00%	23.08%	**100%**

Table XI
Manufacturer Obligations re: Outcome of Mediated Cases
[Comparison]

Manufacturer Obligations re: Outcome of Mediated Cases	Morrison and Company		BBB AUTO LINE Program	
	Number	**Percent**	**Number**	**Percent**
Resolved: Compliance with Settlement	35	97.22%	548	94.00%
Resolved: Non-Compliance with Settlement	01	02.78%	025	04.29%
Non-Performance: Consumer	00	00.00%	010	01.71%
Don't Know/Don't Recall	00	00.00%	000	00.00%
TOTAL	**36**	**100.00%**	**583**	**100.00%**

09. ARBITRATOR PERFORMANCE

23. How would you grade the arbitrator on understanding the facts?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
16	08	06	06	03	00	**39**
41.03%	20.51%	15.38%	15.38%	07.70%	00.00%	**100%**

24. How would you grade the arbitrator on objectivity and fairness?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
14	10	10	03	02	00	**39**
35.90%	25.64%	25.64%	07.70%	05.14%	00.00%	**100%**

25. How would you grade the arbitrator on rendering an impartial decision?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
17	08	04	05	05	00	**39**
43.59%	20.51%	10.26%	12.82%	12.82%	00.00%	**100%**

26. How would you grade the arbitrator on coming to a reasoned and well thought-out decision?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
17	06	06	03	07	00	**39**
43.59%	15.38%	15.38%	07.70%	17.95%	00.00%	**100%**

Table XII
Arbitrator Grade

How Would You Grade Your Arbitrator on the Following?:	A	B	C	D	F	Don't Know/ Don't Recall	Total
Understanding the Facts	16	08	06	06	03	00	**39**
	41.03%	20.51%	15.38%	15.38%	07.70%	00.00%	**100%**
Objectivity and Fairness	14	10	10	03	02	00	**39**
	35.90%	25.64%	25.64%	07.70%	05.13%	00.00%	**100%**
Rendering Impartial Decision	17	08	04	05	05	00	**39**
	43.59%	20.51%	10.26%	12.82%	12.82%	00.00%	**100%**
Rendering Reasonable and well thought-out Decision	17	06	06	03	07	00	**39**
	43.59%	15.38%	15.38%	07.70%	17.95%	00.00%	**100%**

10. CONSUMER SATISFACTION

27. How would you grade the BBB AUTO LINE Program Staff on objectivity and fairness?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
30	29	15	10	16	00	**100**
30.00%	29.00%	15.00%	10.00%	16.00%	00.00%	**100%**

28. How would you grade the BBB AUTO LINE Program Staff on their efforts to assist you in resolving your claim?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
32	23	14	22	09	00	**100**
32.00%	23.00%	14.00%	22.00%	09.00%	00.00%	**100%**

29. Overall, what grade would you give to the BBB AUTO LINE Program?

A	B	C	D	F	Don't Know/ Don't Recall	TOTAL
42	25	11	11	11	00	**100**
42.00%	25.00%	11.00%	11.00%	11.00%	00.00%	**100%**

30. Would you recommend the BBB AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Yes	No	Don't Know	TOTAL
73	27	00	**100**
73.00%	27.00%	00.00%	**100%**

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

SECTION 5: RECOMMENDATIONS

The method of record-keeping implemented by the BBB AUTO LINE Program utilizes a computer system which has been programmed to provide the data needed for all states, while, at the same time, keeping statistics for each state separately. It is Morrison and Company's recommendation that the BBB AUTO LINE Program continue to utilize the program, and that they continue their efforts to provide hardware and software to every BBB AUTO LINE Program nation-wide; with this implementation, all offices could standardize record-keeping even more completely.

SECTION 6: CONCLUSIONS

In this audit, Morrison and Company was able to analyze the statistics from the BBB AUTO LINE Program in Arlington, VA. The program review disclosed that, in nearly every case, the BBB AUTO LINE Program data correlated with Morrison and Company's data. In those cases with a significant difference between the sets of data, Morrison and Company could find probable causes for the differences. The BBB AUTO LINE Program is be commended for its thorough record-keeping procedures!

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

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 Magnuson-Moss, Rule 703, the Florida Lemon Law, the Florida Administrative Code, the Ohio Lemon Law, and the Ohio Administrative Code. This audit covers cases which were closed during the 2000 calendar year.

SECTION 2: STATUTORY REQUIREMENTS

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

SECTION 3: CONDITIONS

All requirements for this audit have been completed by Morrison and Company as carefully as possible. Morrison and Company has proceeded with integrity, veracity, and accuracy, inasmuch as possible. Information has been thoroughly researched, and this document has been made as complete and as thorough as possible.

SECTION 4: FINDINGS

A. Manufacturer Warranty Materials

It has been a pleasure to find that the manufacturers have improved the quality of information provided to the consumer at the time of purchase of a new motor vehicle. As a whole, the warranty materials have improved over the last several years.

Many of the manufacturers have gone to great lengths to outline to the consumer a system of steps used to resolve warranty disputes when a problem first arises. Others have provided, in writing, a three-step procedure leading up to arbitration for the consumer. Others have taken another step by providing a supplemental booklet which gives the Lemon Law requirements of all the states and the procedures to follow for assistance in utilizing the BBB AUTO LINE Program. Morrison and Company found that some of the manufacturers have provided more than the required materials, and that these manufacturers exceeded the statutory requirements.

B. Office Practices and Procedures

In evaluating the Informal Dispute Settlement Procedures of the BBB AUTO LINE Program, Morrison and Company found that the program has operated very smoothly and efficiently within the requirements of the law. There were no incidents found where there existed a clear violation of rules or regulations. This is very commendable when one considers the complexity of the myriad of rules and regulations with which the BBB AUTO LINE Program must contend.

C. Record-Keeping Procedures

The work performed by the BBB AUTO LINE Program staff and by the BBB AUTO LINE Hearing Site staffs is extraordinary; BBB AUTO LINE Case Files have been handled promptly, for the most part, and consumers received sensitive and prompt attention. It should be remembered that only the most difficult cases ever even get to the BBB AUTO LINE Program.

The BBB AUTO LINE Program offices visited were staffed with personnel who were professional in demeanor, and who completed their tasks with skill, commitment, and dedication. From the direct observations of Morrison and Company, the record-keeping observed in the BBB AUTO LINE Program office in Arlington, VA, and in the BBB AUTO LINE Program offices have shown an extremely high standard of performance and competence.

D. Comparative Statistical Analysis

The quality of the information collected by the BBB AUTO LINE Program and the system with which it has been stored in its computer base is overwhelming. The detail of information, and the speed with which the BBB AUTO LINE Program is able to retrieve this information, places the BBB AUTO LINE Program in a position to continue its efforts of improving the quality of service in the future. All of this without the element of accuracy, would be of little value, but this program has raised the level of providing accurate information on a moment's notice to a new level.

SECTION 5: RECOMMENDATIONS

A. Manufacturer Warranty Materials

Morrison and Company recommends that the manufacturers continue their efforts to increase and to improve the quality and the usability of their warranty materials. Certain manufacturers also need to increase the avenues for

BBB AUTO LINE Program information dissemination so that it is more easily retrievable and more understandable by the average consumer. Morrison and Company also recommends that manufacturers continue their efforts to inform consumers about the program, particularly in regard to those consumers who contact the manufacturer directly.

B. Office Practices and Procedures

Morrison and Company recommends that the BBB AUTO LINE Program continue to expand its efforts to improve the quality of service in the conciliation stage. This would reduce the time required for resolution of cases. The new conciliation activity of the BBB AUTO LINE Program is being under-utilized.

Another area for potential improvement of service to the consumer would be a program to improve the reaction time of the BBB AUTO LINE Program, and of the manufacturers, when information and proposals or counter-proposals are communicated, and a response is necessary. Reducing time-delays in sending and receiving this information could play a very important role in reducing the time required for resolution of cases.

C. Record-Keeping Procedures

Morrison and Company recommends that the BBB AUTO LINE Program continue its efforts to reduce the time required to handle a case within the required 40 day limit. This standard is a regulatory requirement and will always be a difficult problem, but it is one which must be addressed.

D. Comparative Statistical Analysis

Morrison and Company recommends that the BBB AUTO LINE Program continue the development of centralization through even more extensive utilization of the already existing computer system.

SECTION 6: CONCLUSIONS

In every aspect of this review of the BBB AUTO LINE Program, only very minor irregularities have been found. Those which were discovered have been pointed out, and suggestions have been made of ways to correct them. Having said this, it is Morrison and Company's pleasure to state with confidence that the BBB AUTO LINE Program

IS IN COMPLIANCE
WITH ALL RELATED REQUIREMENTS
FOR THE PURPOSES OF
THE 2000 BBB AUTO LINE PROGRAM
AUDIT

APPENDICES

A - I

Appendix
A

APPENDIX A

MAGNUSON-MOSS WARRANTY ACT

Public Law 93-637
93rd 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.

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) a written warranty which

(i) contains an affirmation, promise, description, or representation which is either false or fraudulent, or which, in light of all of the circumstances, would mislead a reasonable individual exercising due care; or

(ii) fails to contain information which is necessary in light of all of the circumstances, to make the warranty not misleading to a reasonable individual exercising due care; or

(B) a written warranty created by the use of such terms as "guaranty" or "warranty", if the terms and conditions of such warranty so limit its scope and application as to deceive a reasonable individual.

(d) Civil action by consumer for damages, etc.; jurisdiction; recovery of costs and expenses; cognizable claims

(1) Subject to subsections(a)(3) and(e) of this section, a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief -

(A) in any court of competent jurisdiction in any State or the District of Columbia; or

(B) in an appropriate district court of the United States, subject to paragraph(3) of this subsection.

(2) If a consumer finally prevails in any action brought under paragraph(1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses(including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(3) No claim shall be cognizable in a suit brought under paragraph(1)(B)

of this subsection -

(A) if the amount in controversy of any individual claim is less than the sum or value of $25;

(B) if the amount in controversy is less than the sum or value of $50,000(exclusive of interests and costs) computed on the basis of all claims to be determined in this suit; or

(C) if the action is brought as a class action, and the number of named plaintiffs is less than one hundred.

(e) Class actions; conditions; procedures applicable No action(other than 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

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.--

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 by1987-88 OMR 437, eff. November 29, 11987
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 by1987-88 OMR 437, eff. November 29, 1987.
RULE PROMULGATED UNDER: RC Chapter 119.
RULE AUTHORIZED BY: RC 1345.77
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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 by1987-88 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 <u>Minimum requirements of the board</u>.

(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 by1987-88 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 by1987-88 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
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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 by1987-88 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 <u>Application for qualification.</u>

(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 by1987-88 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 by1987-88 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 by1987-88 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 by1987-88 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 by1987-88 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

BBB AUTO LINE PROGRAM CONSUMER SURVEY QUESTIONS NATIONAL, FLORIDA, AND OHIO

1. What is the year of the vehicle involved in the complaint you filed with the BBB AUTO LINE Program?
2. What is the manufacturer?
3. How did you first learn about the BBB AUTO LINE Program?
4. Did you receive a brochure and materials from the BBB 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 in your particular case, which statement best describes the information you received?
7. Did you receive the Customer Claim Form?
8. Which statement best reflects the resolution in your case?
9. What reason best describes why you either withdrew from, or were determined to be ineligible for, arbitration?
10. After the mediation concluded, was a copy of the settlement mailed to you?
11. Did you talk to the BBB AUTO LINE Program staff or receive a letter about how the manufacturer carried out the mediation settlement?
12. Did you receive written notice of the scheduled date, time, and place of the arbitration hearing?
13. After the arbitration hearing, was the decision mailed to you?
14. Which statement best describes the decision?
15. Was the arbitration decision accepted or rejected?
16. After the arbitration decision, did you pursue the dispute any further?
17. Which of the following did you do?
18. BBB AUTO LINE Program records show that your case was started on _____ and that the decision was returned on _____. Does this seem about right?
19. Did it take more than 40 days?
20. The BBB AUTO LINE process should ordinarily take no more than 40 days. What was the reason for going beyond 40 days in your case?
21. Did the manufacturer carry out the terms of the mediation settlement?
22. Did the manufacturer carry out the terms of the arbitration decision?
23. How would you grade the arbitrator on understanding the facts?
24. How would you grade the arbitrator on objectivity and fairness?
25. How would you grade the arbitrator on rendering an impartial decision?

26. How would you grade the arbitrator on coming to a reasoned and well thought-out decision?
27. How would you grade the BBB AUTO LINE Program Staff on objectivity and fairness?
28. How would you grade the BBB AUTO LINE Program Staff on their efforts to assist you in resolving your claim?
29. Overall, what grade would you give to the BBB AUTO LINE Program?
30. Would you recommend the BBB AUTO LINE Program to a friend or family member who is experiencing automotive problems?

Appendix H

APPENDIX H

BBB AUTO LINE PROGRAM CONSUMER SURVEY FORM
NATIONAL, FLORIDA, AND OHIO

HELLO, I'M CALLING ON BEHALF OF MORRISON AND COMPANY REGARDING THE BBB AUTO LINE PROGRAM.

YOU SHOULD HAVE RECEIVED A LETTER IN THE MAIL ABOUT OUR SURVEY TO DETERMINE HOW WELL THE BBB AUTO LINE PROGRAM HAS WORKED FOR YOU.

I'D LIKE TO ASK YOU A FEW QUESTIONS ABOUT YOUR EXPERIENCE, PLEASE.

CASE NUMBER

1. What is the year of the vehicle involved in the complaint you filed with the BBB AUTO LINE Program?
A. Prior to and including 1997
B. 1998
C. 1999
D. 2000
E. 2001

2. What is the manufacturer?
A. Acura
B. GM
C. Honda
D. Hyundai
E. Infiniti
F. Isuzu
G. Kia
H. Lexus
I. Nissan
J. Saturn
K. Toyota
L. Volkswagen

3. How did you first learn about the BBB AUTO LINE Program?
A. BBB AUTO LINE Program
B. Friend/Family
C. Attorney
D. TV/Radio/Newspaper

E. Dealer/Information in Dealership
F. Manufacturer
G. Warranty Booklet/Owner's Manual
H. Don't Know/Don't Recall

4. Did you receive a brochure and materials from the BBB AUTO LINE Program explaining the program?
A. Yes
B. No
C. Don't Know/Don't Recall

5. How would you describe the information in the materials you received?
A. Very Clear and Easy to Understand
B. A Little Difficult but Still Easy to Understand
C. Difficult to Understand
D. Don't Know/Don't Recall

6. In preparing you for what would happen in your particular case, which statement best describes the information you received?
A. Gave me A Good Understanding
B. Covered Information Relatively Well, But Not Completely
C. Quite Difficult to Understand
D. Don't Know/Don't Recall

7. Did you receive the Customer Claim Form?
A. Received and Completed
B. Received but Not Completed
C. Don't Know/Don't Recall

8. Which statement best reflects the resolution in your case?
A. Claim Settled through Mediation [Go to question 10]
B. Claim went to Arbitration and Hearing was Conducted [Go to question 13]
C. Claim was Ineligible [Go to question 9]
D. Claim was Withdrawn by You [Go to question 9]
E. Don't Know/Don't Recall

9. What reason best describes why you either withdrew from, or were determined to be ineligible for, arbitration? [Go to question 26]
A. Vehicle Beyond Age/Mileage limits
B. Problem was Repaired
C. No Longer in Possession
D. Other
E. Don't Know/Don't Recall

[THANK-YOU FOR YOUR TIME, I APPRECIATE YOUR HELP.]

10. After the mediation concluded, was a copy of the settlement mailed to you?
A. Yes
B. No
C. Don't Know/Don't Recall

11. Did you talk to the BBB AUTO LINE Program staff or receive a letter about how the manufacturer carried out the settlement? [Go to question 26]
A. Talked with Staff
B. Received a Letter
C. Both
D. Neither
E. Don't Know/Don't Recall

12. Did you receive written notice of the scheduled date, time and place of the arbitration hearing?
A. Yes
B. No
C. Don't Know/Don't Recall

13. After the arbitration hearing, was the decision mailed to you?
A. Yes
B. No
C. Don't Know/Don't Recall

14. Which statement best describes the decision?
A. Manufacturer Should Replace the Vehicle
B. Manufacturer Should buy Back the Vehicle
C. Manufacturer Should Repair the Vehicle
D. Manufacturer Should Extend the Warranty
E. No Award Made
F. Other . . .
G. Don't Know/Don't Recall

15. Was the arbitration decision accepted or rejected?
A. Accepted [Go to question 24]
B. Rejected [Go to question 22]
C. Neither [Go to question 22]
D. Don't Know/Don't Recall

16. After the arbitration decision, did you pursue the dispute any further?
A. Yes

B. No
C. Don't Know/Don't Recall

17. Which of the following did you do?
A. Worked Out Solution with Dealer/Manufacturer [Go to question 26]
B. Contacted Legal Representation [Go to question 26]
C. Contacted State or Other Government Agency [Go to question 26]
D. Did Not Pursue [Go to question 26]
E. Don't Know/Don't Recall [Go to question 26]

18. BBB AUTO LINE Program records show that your case was started on , and that the decision was returned on _____. Does that seem correct to you?
A. Yes
B. No
C. Don't Know/Don't Recall

19. Did it take more than 40 days?
A. Yes
B. No [Go to question 29]
C. Don't Know/Don't Recall

20. The BBB AUTO LINE process should ordinarily take no more than 40 days. What was the reason for going beyond 40 days in your case?
A. Consumer
B. BBB AUTO LINE Program
C. Arbitrator
C. Manufacturer
D. Don't Know/Don't Recall

21. Did the manufacturer carry out the terms of the mediation settlement?
A. Yes
B. No
C. Don't Know/Don't Recall

22. Did the manufacturer carry out the terms of the arbitration decision?
A. Yes
B. No
C. Don't Know/Don't Recall

23. How would you grade the arbitrator on understanding the facts?
A. A
B. B
C. C
D. D

E. F
F. Don't Know/Don't Recall

24. How would you grade the arbitrator on objectivity and fairness?
A. A
B. B
C. C
D. D
E. F
F. Don't Know/Don't Recall

25. How would you grade the arbitrator on rendering an impartial decision?
A. A
B. B
C. C
D. D
E. F
F. Don't Know/Don't Recall

26. How would you grade the arbitrator on coming to a reasoned and well thought-out decision?
A. A
B. B
C. C
D. D
E. F
F. Don't Know/Don't Recall

27. How would you grade the BBB AUTO LINE Program Staff on objectivity and fairness?
A. A
B. B
C. C
D. D
E. F
F. Don't Know/Don't Recall

28. How would you grade the BBB AUTO LINE Program Staff on their efforts to assist you in resolving your claim?
A. A
B. B
C. C
D. D
E. F
F. Don't Know/Don't Recall

29. Overall, what grade would you give to the BBB AUTO LINE Program?
A. A
B. B
C. C
D. D
E. F
F. Don't Know/Don't Recall

30. Would you recommend the BBB AUTO LINE Program to a friend or family member who is experiencing automotive problems?
A. Yes
B. No
C. Don't Know/Don't Recall

[THANK-YOU FOR YOUR TIME, I APPRECIATE YOUR HELP.]

APPENDIX
I

APPENDIX I

FORM NAMES

Agreement to Arbitrate Form
Automotive Case Record Form
BBB AUTO LINE Case File [not a form, but the entire file]
Call Record
Case File Notes
Checklist for Arbitration Hearing Form
Customer Claim Form
Decision Form
Manufacturer's Response Form
Notice of Hearing Form
Performance Verification Record
Program Summary [not a form, but program information]
Reasons for Decision Form
Record of Hearing Form