

***National Center for Dispute Settlement***

***Automobile Warranty Arbitration  
Program***

***United States Federal Trade Commission  
Audit***

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## *Introduction*

This 2003 audit of NCDS' Arbitration Process is performed pursuant to the 1975 federal warranty law, the Magnuson-Moss Warranty Federal Trade Commission Improvement Act and Rule on Informal Dispute Settlement Procedures, 16 C.F.R. Part 703 (hereafter referred to as Rule 703).

Claverhouse Associates, a firm specializing in arbitration, mediation, and program auditing, performed the audit, which was conducted under the supervision of Kent S. Wilcox, President and Senior Auditor. The statistical survey was conducted by the Center for Survey Research, a division of the Institute for Public Policy and Social Research at Michigan State University.

Arrangements to conduct the audit were initiated by an invoice submitted in early 2004. Claverhouse Associates coordinated field audits, statistical survey planning, and arbitration training with the program's independent administrator, The National Center for Dispute Settlement (NCDS). This year's report was performed as a review of the National Center for Dispute Settlement as an independent administrator for multiple automobile manufacturers. The manufacturers participating in the NCDS automobile warranty arbitration program included in this national audit are: Toyota, Lexus, DaimlerChrysler, Mitsubishi, and Porsche. There are a few exceptions, wherein our review is manufacturer-specific, such as the requirement for manufacturers to inform consumers of the availability of the dispute resolution program whenever a warranty dispute arises.

Hearings held in Kentucky, Michigan, and Texas were included in the on-site field inspections. Visits to these locations were arranged to coordinate with scheduled arbitration hearings. In addition, we audited arbitrator training conducted in Grapevine, Texas, August, 27-29, 2004. Thus, field audits of the arbitration hearings and arbitrator training are sometimes conducted in the current calendar year rather than in the audit year but are assumed to reflect operations as they existed in the audit year (2003). Performing the field audits during the actual audit year would require initiating the audit much earlier and using a two-phased format: one commencing during the actual audit period and the other in the following year, after all annual statistics had been compiled. All case files inspected were generated during 2003 as required.

## SECTION I

### *Compliance Summary*

This is the initial Claverhouse Associates independent annual audit of the National Center for Dispute Settlement (NCDS) national third-party informal dispute resolution mechanism, called the Automobile Warranty Arbitration Program (AWAP), as it is administered by the National Center for Dispute Settlement. We have conducted several audits of the NCDS administered warranty arbitration program, but these reviews were of manufacturer centered and were manufacturer-specific.

#### **Overall NCDS Dispute Settlement Program Evaluation**

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

The three regions audited, Kentucky, Michigan, and Texas, all function in compliance with FTC Rule 703. Details of the field audits and any minor irregularities found are discussed in Section III of this report.

Our random sample survey confirmed the overall validity of the statistical indexes created by the National Center for Dispute Settlement.<sup>1</sup> Our original survey sample consisted of 700 closed cases<sup>2</sup>, of which we completed surveys for 316 customers. As we have found in other audits, surveyed customers tended to report favorably on the program when the results of their cases were, in their view, positive. Conversely, those who received no award, or received less than they expected, were more likely to report dissatisfaction with the AWAP. As has been true in most audits we have conducted for various programs, the few statistically significant differences between the figures reported by the AWAP and the survey findings were deemed to be easily understandable and do not suggest unreliable reporting by the program. For a detailed discussion, see the survey section of this report.

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

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<sup>1</sup> There were, of course, discrepancies in some areas, as we have come to expect, but those we identified are either of no real consequence or are very understandable and without significant regulatory implications. Discrepancies are detailed in the survey section of the report.

<sup>2</sup> The sample was drawn from a universe of 3,722 closed cases.

## SECTION II

### *Detailed Findings*

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

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

This audit covers the full calendar year 2003. An important component of the audit is the survey of a randomly selected sample of 316<sup>3</sup> NCDS' Dispute Settlement Program applicants whose cases were closed in 2003 and found to be within the AWAP's jurisdiction.

We analyzed several NCDS generated statistical reports covering the AWAP operations in the United States. The reports were provided to us by Mr. Brian Dunn, Director of Dispute Settlement Services, National Center for Dispute Settlement, Dallas, Texas.

We performed field audits of the AWAP as it operates in Kentucky, Michigan, and Texas. We also examined a random sample of current (i.e., 2003) case files for accuracy and completeness. A random sample of case files was drawn from all case files for the years 2000-2003 and inspected them to ensure that these records are maintained for the required four-year period.<sup>4</sup> In the areas covered by each region, we surveyed several dealerships to see how effectively they carry out the information dissemination strategy developed by manufacturers to assist them in making customers aware of the AWAP.

In addition, we monitored arbitration hearings in Georgetown, Kentucky; Grand Blanc, Michigan; and Houston, Texas, and interviewed arbitrators and AWAP/NCDS administrative personnel.

To assess arbitrator training, we monitored the NCDS-sponsored training session held in Dallas/Ft. Worth, Texas, in August of 2004. In addition to monitoring the training itself, we interviewed the trainees (both before and after the training), the training staff, and reviewed the training materials.

#### REQUIREMENT: § 703.7 (a) [ Audits]

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

#### FINDINGS:

This is the initial (2003) Claverhouse Associates annual audit of NCDS AWAP informal dispute settlement program.

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<sup>3</sup> Our objective was to complete 300 interviews from our original sample of approximately 750. Experience demonstrates that completing exactly 300 is not likely. The precise sample size is discussed in detail in the Survey Section of this report.

<sup>4</sup> Some participating manufacturers are new to the NCDS program and therefore do not have case files covering the entire 4-year period.

Records pertaining to the NCDS' AWAP that are required to be maintained by 703. 6 (Record- keeping) are being kept and were made available for our review.

**REQUIREMENT:** § 703.6 (a) [Recordkeeping]

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

**FINDINGS:**

The information referenced in subsections 1 through 4 is available from the staff of the National Center for Dispute Settlement, who provided us with access to all pertinent information, which is maintained as required. Our inspection of randomly selected case files for each of the three regions validated these findings. The inspections of case files took place at the headquarters of the program's independent administrators. Our review of randomly selected cases drawn from the four-year period (2000-2003) demonstrated that the case files were maintained in 2003, as required.

**DISCREPANCIES:**

The few administrative irregularities found, while appropriately noted, are relatively inconsequential and do not pose any serious undermining of the program's *substantial compliance* status. The AWAP meets this regulatory requirement and any inconsistencies we found were of the minor and inconsequential variety likely to be found in any large administrative program. The minor inconsistencies are highlighted in the appropriate sections of the report.

**REQUIREMENT:** § 703.6 (a) (5)

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

**FINDINGS:**

Some case files contained, in addition to the various standard file entries, other communications submitted by the parties. Nothing in our findings suggests that any material submitted by a party was not included in the file, and every indication is that the files were complete. We made no attempt, however, to validate the existence of "summaries of relevant and material telephone calls" and other such information since

we had no way of knowing whether such telephone calls took place. This is also true for documents such as follow-up letters. A review of this type may be theoretically possible, but it is not practical without having some objective measure against which to compare the contents of the file. Even in the theoretical sense, such a review assumes customers keep exact files of all correspondence, notes, and phone calls pertaining to their AWAP cases. To validate this dimension, the audit would entail retrieving all such files as a first step. The obvious impracticality of that places such a review beyond the scope of the audit.

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

**DISCREPANCIES:**

None

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

**REQUIREMENT: § 703.6 (a) (9-12)**

- (9) A copy of the disclosure to the parties of the decision;**
- (10) A statement of the warrantor's intended action(s);**
- (11) Copies of follow - up letters ( or summaries of relevant and material portions of follow - up telephone calls) to the consumer, and responses thereto; and**
- (12) Any other documents and communications (or summaries of relevant and material portions of oral communications) relating to the dispute.**

**FINDINGS:**

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

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

**DISCREPANCIES:**

None

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

REQUIREMENT: § 703.6 (b)

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

FINDINGS:

These indices are maintained by Mr. Brian Dunn, Director of Dispute Settlement Services, housed at the NCDS headquarters in Dallas, Texas.

The audit includes a review and assessment of a data printout for the calendar year 2003.

The *AWAP Statistics* identifies 3,722 AWAP disputes filed for 2003. Of these, 2,626 were eligible for AWAP review, and 1,096 were determined by the AWAP to be out-of-jurisdiction. Of the in-jurisdiction closed cases, NCDS reports that 2,110 were arbitrated<sup>6</sup> and 472 were mediated.<sup>7</sup> There were 1,705 arbitrated decisions which were reported as "adverse to the consumer" per § 703.6 (E) representing 64.9% of all arbitrated cases.

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

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

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (c)

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

FINDINGS:

AWAP reports that there were no such cases in 2002. Concerning subsection 2, the auditors are advised by NCDS that there is no reported incidence in which an NCDS AWAP participating manufacturer failed or refused to abide by a panel or arbitrator decision. As a matter of general corporate policy, all AWAP participating

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<sup>6</sup> This number is not aggregated in the statistical reports provided for the audit. We arrived at this number by summing items (1- 4) listed on the AWAP mandated statistical report.

<sup>7</sup> The term "mediation" in the AWAP context does not necessarily imply that a neutral third-party assisted the parties in resolving a warranty dispute, but rather that the dispute was settled prior to an arbitrator rendering a decision.



manufacturers agree to comply with all AWAP decisions. This information is supplied as part of NCDS' Annual FTC -703.6 (c) (1) and (2) Report.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (d)

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

FINDINGS:

According to AWAP statistical index reports, as of December 2003, a total of 22 AWAP cases were delayed beyond 40 days. The Director of Dispute Settlement Services provided a comprehensive report of all individual cases delayed beyond 40 days during the 2003 period of the audit. This report includes the customer's name, case file number, and the number of days the case has been in process as of the date of the generation of the report. Our analysis indicates that this report meets the above requirement. Our review, however, is not designed to test the accuracy of the report. We merely determine that the mandated report is being generated. At the same time, we found nothing during our assessment review that calls into question the accuracy of any of the required statistical indexes.

DISCREPANCIES:

None

REQUIREMENT: § 703.6 (e)

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

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

**FINDINGS:**

NCDS collects and maintains the information required by § 703.6 (e) in the AWAP Statistics Report supplied to us by Mr. Brian Dunn, Director of Dispute Settlement Services.

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

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

**DISCREPANCIES:**

None

**REQUIREMENT: § 703.6 (f)**

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

**FINDINGS:**

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

We inspected the collection of all case files for each region during our on-site visit to the NCDS headquarters in Dallas, Texas, and inspected and evaluated a random selection of case files from the four-year period for completeness. The files were appropriately maintained and readily available for audit.

(b) The NCDS Director of Dispute Settlement Services provided us with the various 2003 indices and statistical reports required by Rule 703. The corresponding reports for the previous four years are not available from some NCDS participating manufacturers because they did not administer the manufacturer's program during that period. The records are probably available from each of those manufacturers directly.

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

(d) [Complaints beyond 40 days] This information is stored on computer in the NCDS Dallas, Texas, office and is housed with Mr. Brian Dunn, the Director of Dispute Settlement Services. Any required report can be obtained from Mr. Dunn. The information is maintained as required.

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

**DISCREPANCIES:**

None

REQUIREMENT: § 703.7 (b)

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

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

FINDINGS:

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

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

**Individual Participating Manufacturer's Efforts and Assessment**

*[Note: In this section of the audit report, we review each of the five participating manufacturer's programs for meeting this requirement. Readers will note that we repeat regulatory language and some pertinent comments in each division for the various manufacturers because some readers will be focused strictly on a given manufacturer and to make their reading easier, we repeat the applicable regulatory language rather than requiring such readers to engage in cross-referencing and searching for such language in some other section of the report.]*

**I. TOYOTA :**

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

- Toyota publishes a 32-page booklet, entitled *Owner's Warranty Information*, that briefly explains, among many other things, the NCDS process and how and where to file an application. The pamphlet is distributed in a variety of ways, but the principal method is by way of the dealer. Dealers are to provide the brochure as part of the initial information packet given to new customers as well as making them available in the dealership. Note: Our random audits of dealerships conducted for the national audit found no consistent and significant commitment by dealers to educate their employees to provide NCDS information to customers making general inquiries about warranty-related dissatisfactions or disputes.
- Toyota publishes a 51-page booklet, entitled *Owner's Warranty Rights Notification* booklet, that contains state-specific, warranty-related regulatory information (lemon law provisions) and an application form for accessing the NCDS. The booklet provides useful and accurate information. (DATED 5/04). Like the *Owner's Warranty Information* booklet, it is distributed, in the

main, by dealership sales personnel at the point of sale/delivery as part of the glove box kit.

- There is a NCDS pamphlet (one-page tri-fold) published by Toyota that is reasonably informative about the NCDS and how to access it. The pamphlet cross-references the *Owner's Warranty Rights Notification* booklet as one of two sources for obtaining a *Customer Claim Form*.<sup>8</sup> Those interested in knowing about the program are referred to a toll-free telephone number where they can request a NCDS pamphlet. This one-page document is distributed primarily by the Toyota Customer Assistance Center.

Despite the manufacturer's efforts, there remains a concern about NCDS information dissemination at the dealership level where most warranty disputes arise.

In 2003 we visited three Toyota dealerships.

Sterling McCall Toyota  
9400 Southwest Freeway  
Houston, Texas 77074

Walker Toyota  
8457 Springboro Pike  
Miamisburg, Ohio 45342

Kerry Toyota  
6050 Hopeful Road Lincoln Highway  
Florence, Kentucky 41042

None of the dealership personnel we interviewed during our Toyota dealership visits provided any useful information about the Toyota warranty dispute mechanism in response to our inquiry concerning customer options when the customer is experiencing warranty disputes. At one dealership, the service department representative gave incorrect information detailed in the state-specific audit for the state of Ohio. The dealers' performance in these three states is contrary to the underlying intent of federal requirements of Rule 703.

We said in last year's report that:

*Clearly, one of the principal reasons that the annual independent audit requirement was included in Rule 703 was to ensure that adequate consumer awareness was provided for by sponsoring manufacturers. That the original draft of Rule 703 was modified so as to require this audit was an outcome fostered by manufacturers who complained that the proposed alternatives were too onerous and in fact, "draconian." The Federal Trade Commission declined to mandate the national media campaigns and dealer incentives requirements, opting instead for voluntary efforts by the manufacturers, or their agent dealers, which*

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<sup>8</sup> The Toyota *Dispute Settlement Program* pamphlet actually refers here to the Toyota *Owner's Manual Supplement*, but it appears they mean the *Owner's Warranty Rights Notification* booklet. It's a mere administrative oversight, but customers could easily be confused. Fortunately the theoretical problem is mitigated by virtue of the second reference to a toll-free telephone number to Toyota's Customer Assistance Center where customers may obtain a *Customer Claim Form*.

*would then be audited annually to ensure compliance with the stated objective of ensuring consumer awareness of the availability of the program. In any event, it is abundantly clear that no audit findings are complete without an evaluation of this aspect of the arbitration program since it is specifically set forth in the administrative Rule requirements in that section identified as the "Proceedings." This extensive Federal Trade Commission commentary was promulgated as a fundamental part of the Rule, as is the case with all promulgated FTC Rules.*

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

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

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

The information dissemination methods employed by Toyota together with the number of applications filed nationally in 2003 (2,942) demonstrate that, unquestionably, many Toyota customers were made aware of the program, and for these customers, at least, access is obvious.

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

As with most programs, our visits to dealerships suggested that customers who seek assistance from their salespersons are also unlikely to receive any useful information about the NCDS. Few of the salespeople we interviewed appeared to have any knowledge of the NCDS or arbitration options in general.

We feel obligated to reiterate that the party who is in the best position to communicate with customers, at most junctures in the warranty repair context, is the servicing dealer. Unfortunately, dealers who wish to ignore their role in facilitating "fair and expeditious" warranty dispute resolution may do so with regulatory impunity, notwithstanding the efforts of Toyota.

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

#### DISCREPANCIES:

None, with the same qualifier given immediately above, and also in our last report, as an important caveat.

#### II. LEXUS:

- Lexus publishes a manual entitled, *2004 Lexus Owner's Manual Supplement*. The manual itself is outdated and lists on page 10 an arbitration program no longer in use by Lexus. To address this, an errata slip is inserted into each manual given to customers at the point of sale and delivery which identifies The National Center for Dispute Settlement (NCDS) as the current organization for Lexus customers to contact regarding arbitration. Included is a toll-free telephone number for NCDS.
- We were provided a copy of the NCDS tri-fold, *Rules & Procedures for the Informal Resolution of Automobile Warranty Disputes* pamphlet, but this document is distributed to Lexus customers after the customer has filed an application.

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

In 2004 we visited the following Lexus dealerships for the 2003 audit:

Sterling McCall Lexus  
10422 Southwest Freeway  
Houston, Texas 77074

Lexus of Toledo  
6109 W. Central Avenue  
Toledo, Ohio 43615

Harvey Lexus of Grand Rapids  
2550 28<sup>th</sup> Street  
Grand Rapids, Michigan 49512

Our experience at the Lexus dealers was extremely disappointing in that there was no apparent accurate understanding of the NCDS arbitration program. In both instances, the dealers attempted to persuade us that while there is some kind of program it is really not consumer friendly and is designed to drag things out and wear customers down. Moreover, one of the dealerships informed us that customers may not use the program unless they have had three identical repair attempts. It is difficult for us to believe that people who work in an automobile dealership service area could be so uninformed about the manufacturer's sponsored third-party dispute resolution program, but at another Lexus dealer we were told that you need six repair attempts to be able to go to arbitration.

