



# **Commercial Mediator Meeting**

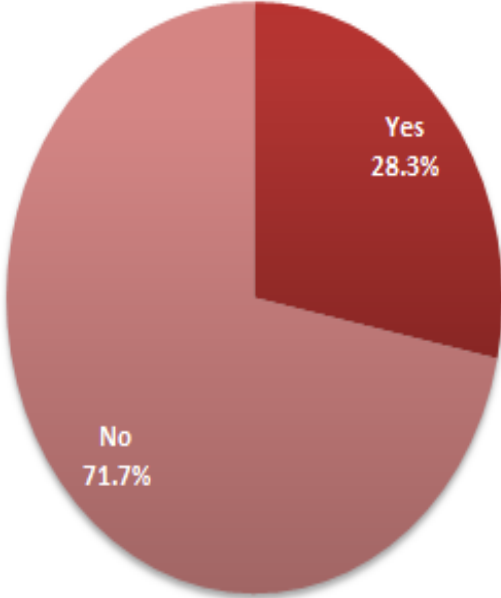
## **Lawyer Survey Results**

**June 2013**

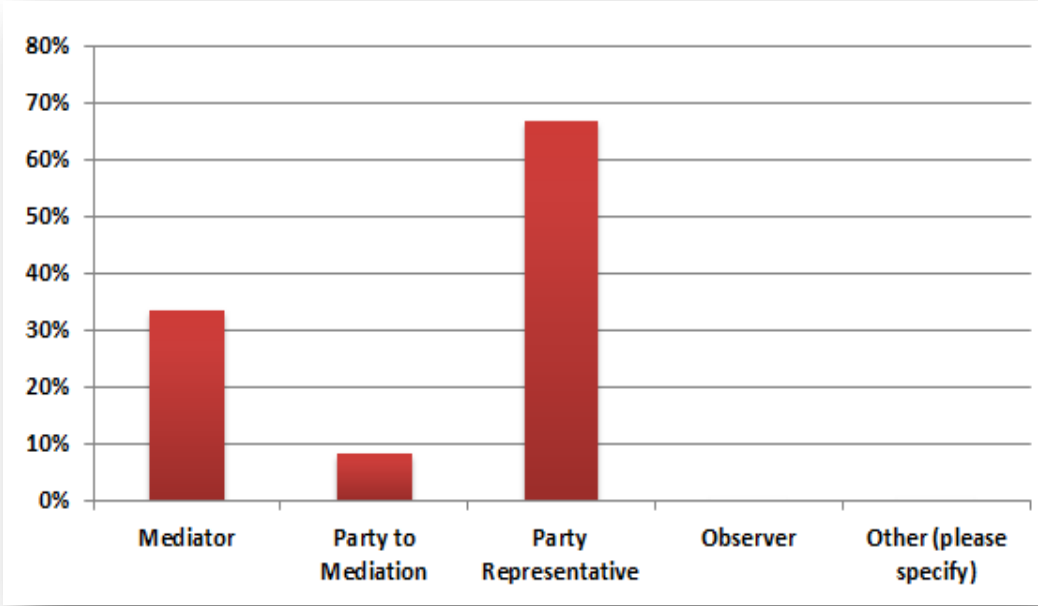
# Survey Background

- Since 2007 approximately 200 commercial mediators accredited by CD/ACDS\*, CEDR, ADR Group in SA.
- An online survey was sent to all 200 plus additional attorney contacts.
- 46 responses were received, vast majority in private practice.
- Slides presented are a summary of the responses

# Involvement in mediation



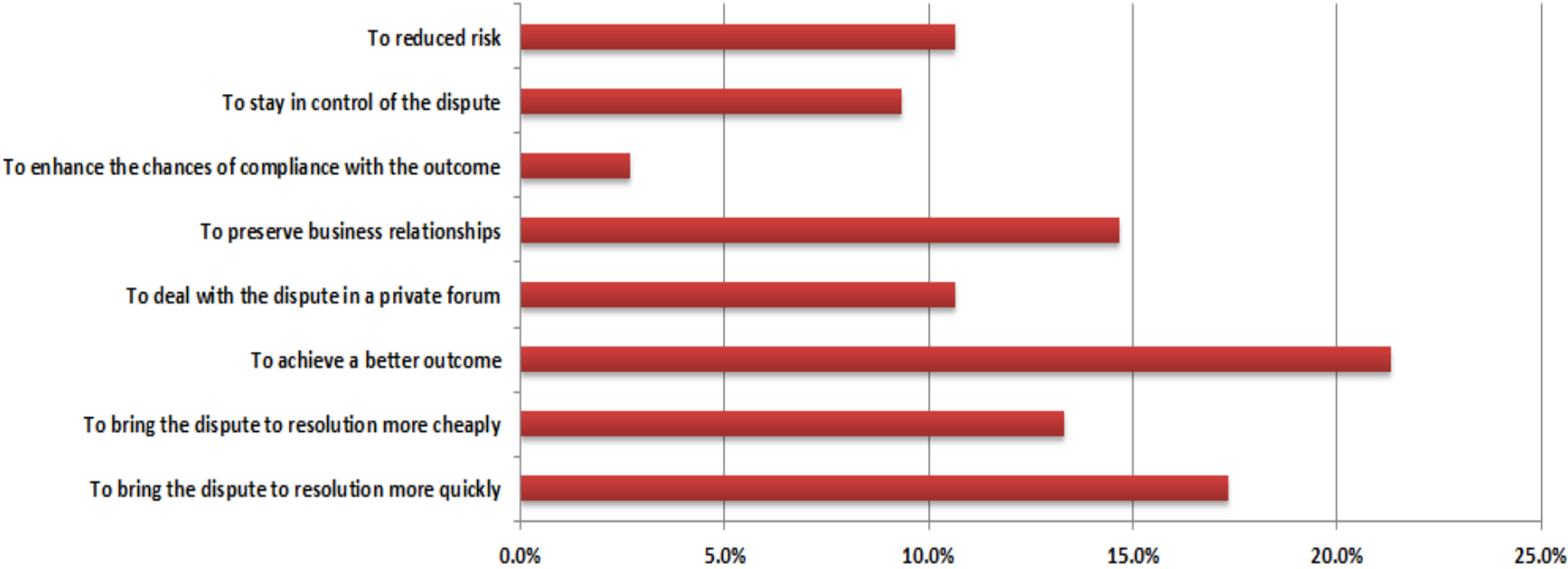
28% had been involved in a commercial mediation over the past year, most as representatives and a third as mediators.



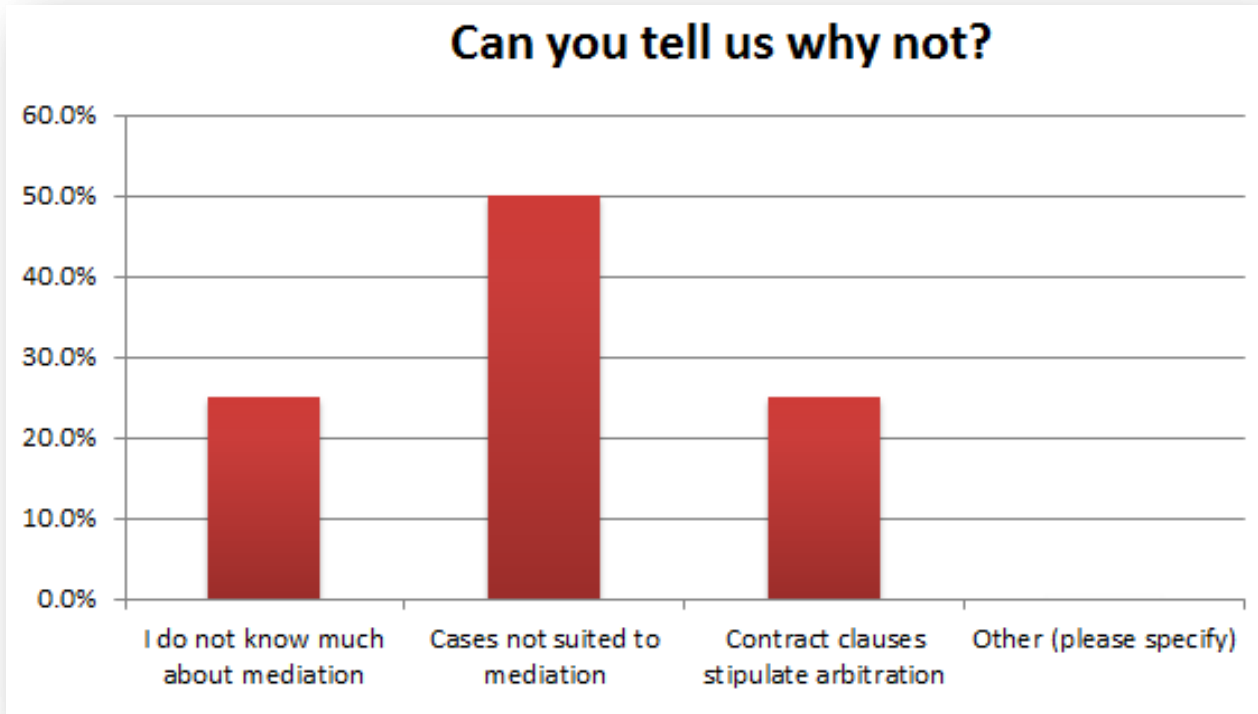
# Recommending mediation

Almost 90% recommended mediation to their clients, and it seems that this has increased in the last 3 years.

Mediation is recommended to clients by lawyers to...



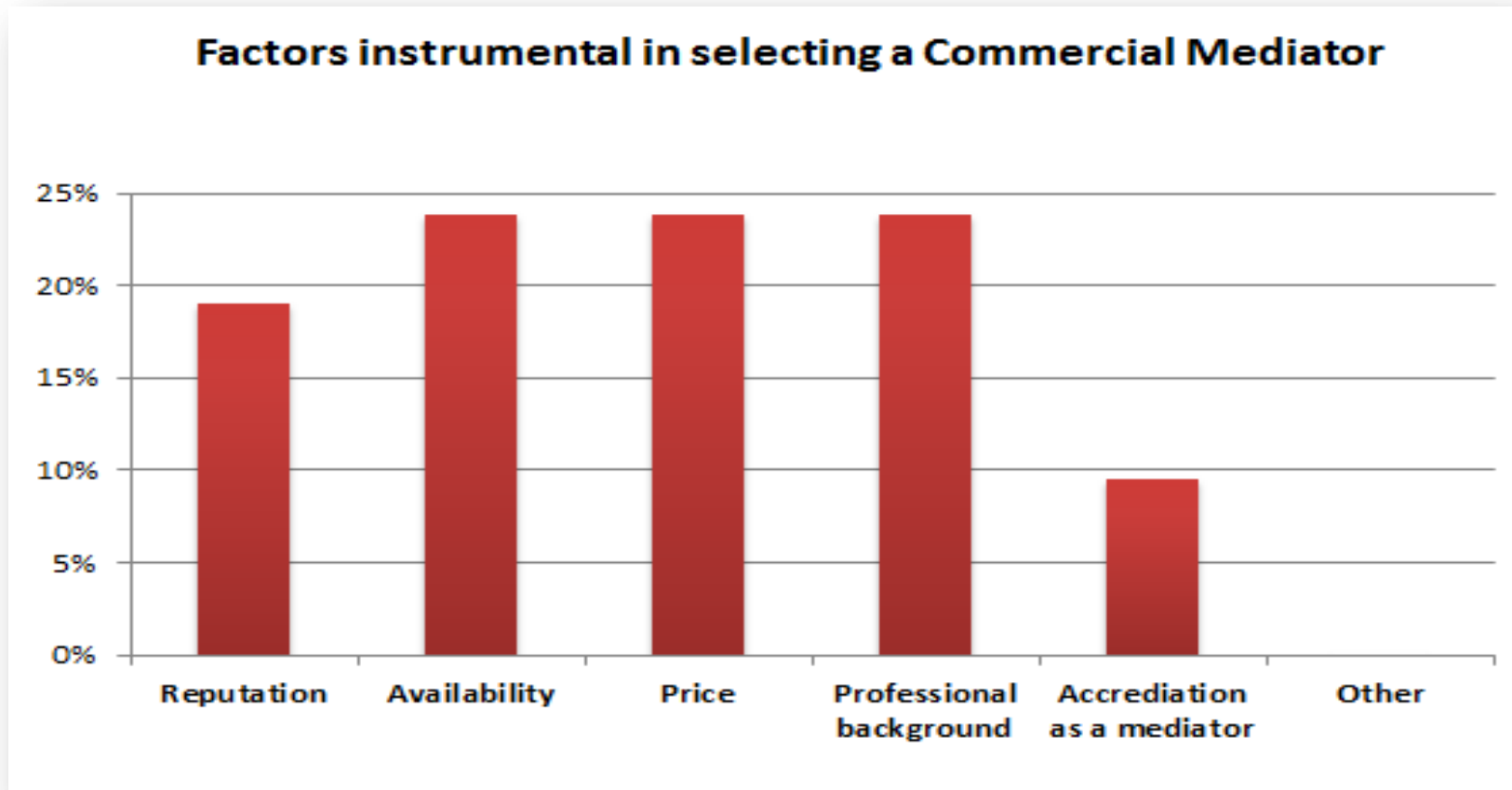
# Not recommending mediation



# About the mediations

- Most took place post commencement of action
- Most to settle disputes greater than R5m
- Most in Gauteng
- Most settled at mediation or shortly thereafter

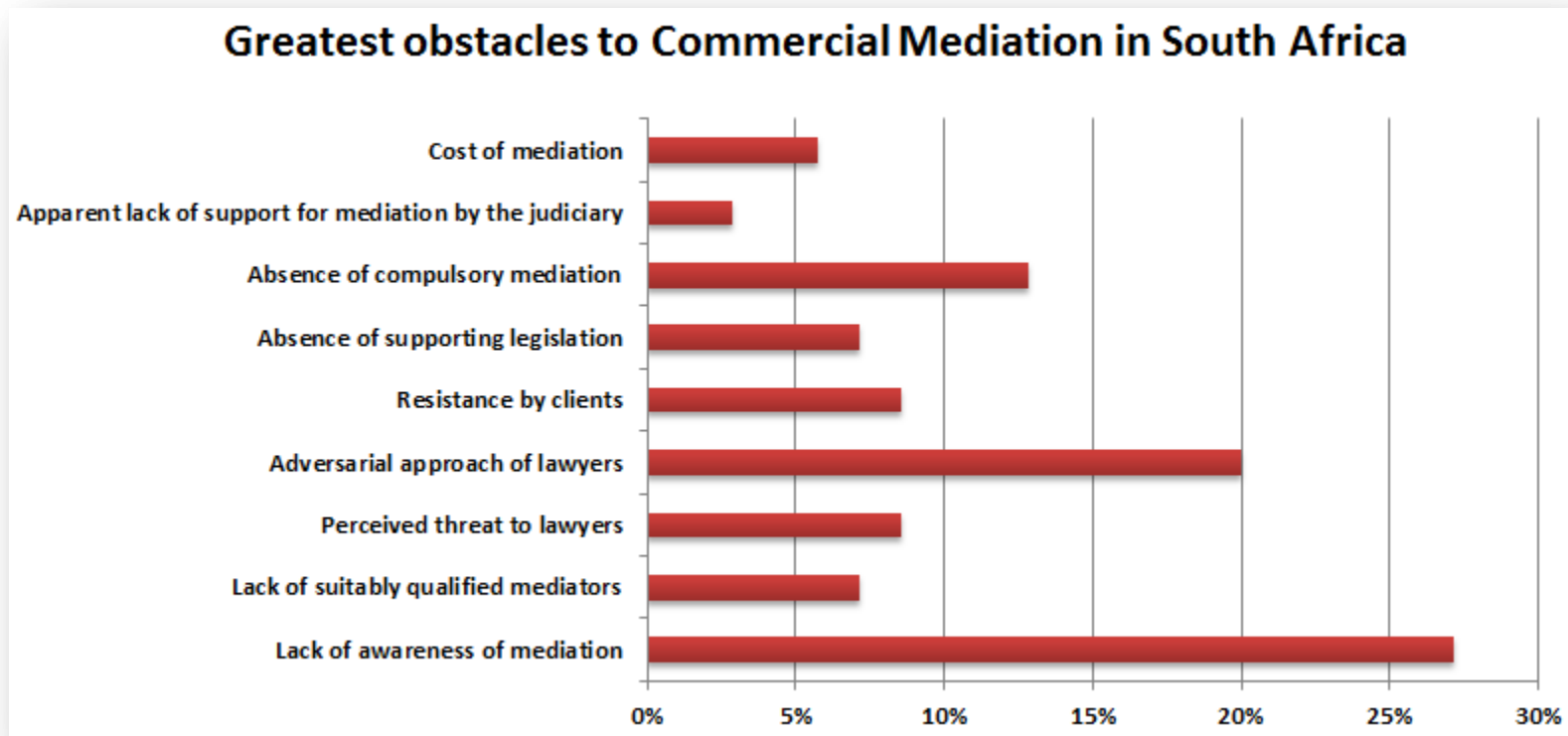
# Choosing a mediator



IMI 2013 corporate user survey showed that experience as a mediator, accreditation and reputation, personality of mediator is important in selection; legal qualification or experience appeared less significant.

# Obstacles to mediation

- 60% predicted that the new rules of court annexed mediation would result in an increased take up of mediation
- 100% said their law firm would consider signing a pledge to encourage their clients to seek out-of-court solutions before resorting to litigation





# Some tentative observations

- Response to survey was poor – a need to engage lawyers more effectively
- Main reasons for using mediation: prospect of better outcome, more cheaply and more swiftly than through litigation
- Arbitration more popular ADR process than mediation
- Lack of understanding about mediation and what cases are suitable for mediation
- Value of mediator accreditation under estimated
- Optimism about impact of rules