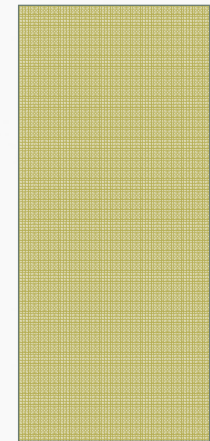


WHAT DO USERS WANT -
FACILITATIVE OR PROACTIVE
APPROACH?



LONG LASTING DEBATE...

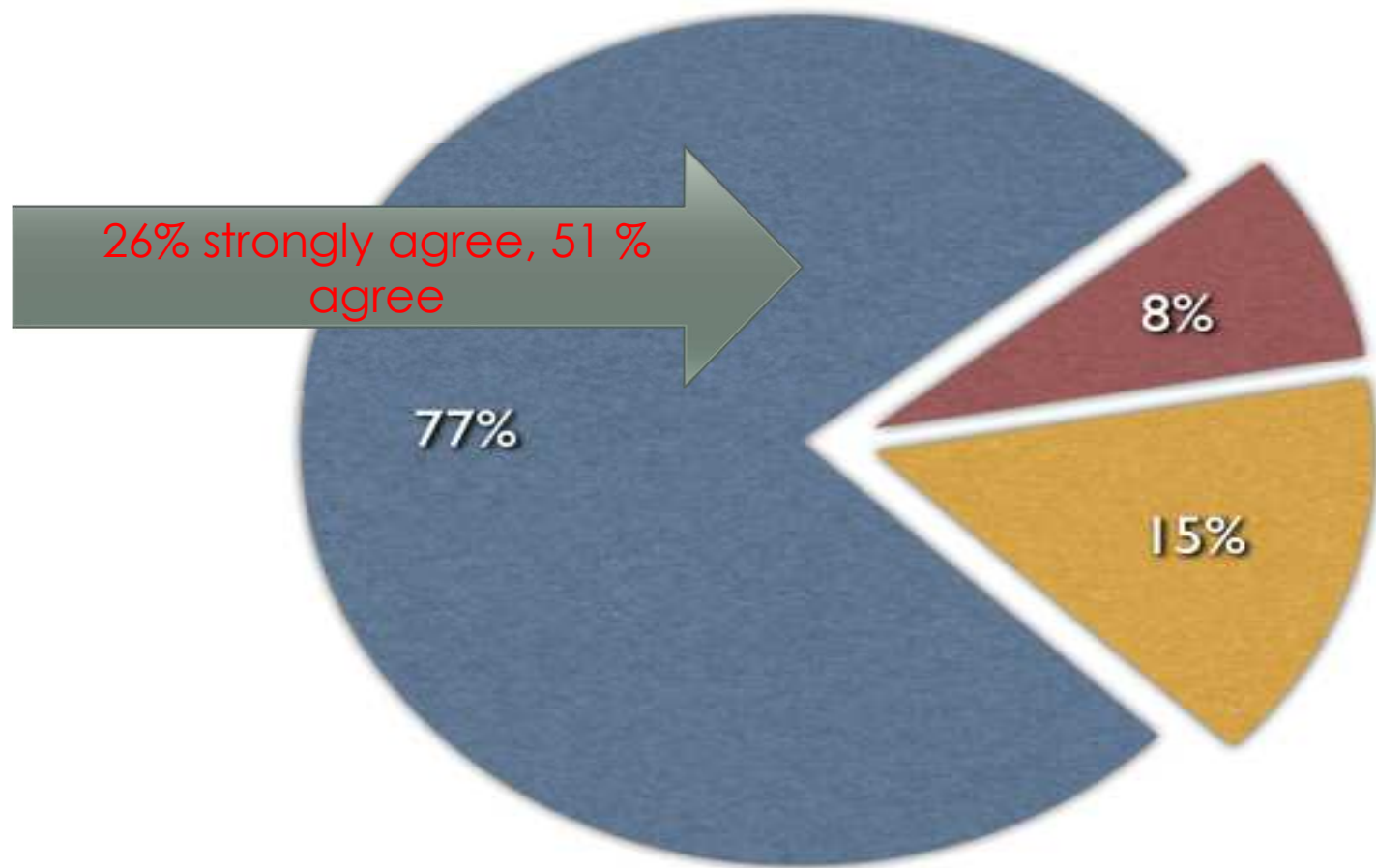
- In 60's, 70's: rather facilitative Mediation
- Came up with court annexed mediation, evaluative/pro-active mediation similar to settlement talks with judges

Mediators should not be purely facilitative, but adopt a proactive idea-generating role, including proposing solutions and settlement options

● Agree

● Neutral

● Disagree



IMI presentation on 2013 survey (IMI website)

IMI INTERNATIONAL CORPORATE USERS SURVEY JANUARY-MARCH 2013

- 76 Respondents from North America & Europe
- 64% had arbitration and mediation experience
- 14% had experience of arbitration, not mediation
- 8% had no experience of arbitration or mediation
- 63% - senior in-house counsel
- 20% - senior management
- 17% - engaged in other roles
- 71% - from companies with over 10,000 employees
- 18% - from companies with 1,000 – 10,000 employees



22% no mediation
experience

IMI survey 2013, presentation taken from IMI website

USERS WANT...

- 1)... a flexible procedure – adjustable to each case.
-
- 2)... a non-judicial procedure.
- 3)... an open-minded and fair mediator.
- 4) ... to know what to expect and what kind of knowledge the mediator can offer.

LEGISLATION

- ... not dealing with the question. E.g. the UNCITRAL Model Law on International Commercial Conciliation
- BUT: Would the enforceability change the mediators' role, in the sense that he should be less proactive and more facilitative?