

Mileage of used vehicles

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This guidance is for England, Scotland and Wales

It is a criminal offence for a trader to engage in a commercial practice that is misleading with respect to goods and services. Therefore traders should carry out necessary checks to confirm the mileage when selling used vehicles. There are specific guidelines in relation to the use of any disclaimers.

This guide specifically deals with how the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) affect the motor trade with regard to odometer readings.

The CPRs are a wide-ranging piece of legislation that make it a criminal offence for a trader to engage in commercial practices that mislead in respect of goods and services. The misleading element could be in the form of an action (such as a statement or description) or in the omission of facts (such as failing to disclose information) about the goods or services. An action or omission may be seen as misleading if it affects or is likely to affect the consumer's decision to purchase (or make any other 'transactional decision', as it is known in the CPRs).

See 'Consumer protection from unfair trading' for more detailed information on the workings of the CPRs.

Odometer readings

The mileage indicated by the odometer of a car is a description, and as such it will be regarded as an accurate indication of the distance travelled by the vehicle. Traders are expected to carry out checks to make sure the description is accurate, as it is likely to be information that would affect a consumer's decision whether or not to purchase the vehicle. If the odometer reading is incorrect you must not refer to it in any description - for example, on business paperwork, websites or advertisements.

Displaying an incorrect odometer reading may be a misleading action. In addition, you must tell the consumer the true mileage if known, as failure to do this may be a 'misleading omission' (another CPRs term).

What are the offences in relation to mileage descriptions?

There are a number of practices that would undoubtedly constitute a misleading action or omission and are therefore prohibited, including:

- making a misleading statement by any means. This could include altering an odometer reading (for example, from a higher to lower figure or to zero) or making other false claims (written or oral) about a vehicle's mileage
- supplying or offering to supply a vehicle that has been subject to a misleading action or omission. This could include simply having the vehicle on the forecourt, selling it with an incorrect odometer reading or not informing the consumer of the true mileage if known
- it is also an offence to include a false mileage in an advertisement on or near the vehicle - for example, 'low mileage' stickers

Failing to disclose the odometer reading or the fact that an odometer unit was found to be faulty and has been replaced (either with a new or second-hand unit) may be a misleading omission.

What action can a trader take to avoid committing offences?

The offences contained in the CPRs would apply even if a trader did not know that the indicated mileage was incorrect. However, the Regulations also provide for a defence to the criminal charges.

To use the defence the trader would have to show that they took all reasonable precautions and exercised all due diligence. This means a trader should be able to show that they have checks in place to verify the mileage and also show that these checks are carried out. Reasonable checks would include the following:

- when buying motor vehicles always ask about the mileage and make sure it is written on the purchase document. Obtain the signature of the seller declaring whether or not the mileage is correct, incorrect or unknown. Do not rely on verbal statements
- do not rely solely on a statement by the seller as to the mileage unless they have owned the car from new. Only when the full mileage history is known should a vehicle be offered for sale as genuine mileage
- check that the general condition of the car is both mechanically and bodily consistent with a vehicle of that mileage and age. Look at the service history, and if the car is accompanied by all previous MOT certificates consider whether they show a likely progressive mileage history
- if the vehicle comes with a service history contact the garages and make enquiries about the mileage
- the check MOT history page of the GOV.UK website allows you to check the mileage shown on the MOT history (if the vehicle is more than three years old)
- some commercial companies also offer a mileage and history research service
- ensure that all staff who may come into contact with customers are properly trained and instructed in these matters, and have access to all relevant details (for example, purchase invoices and results of any checks made)

It is likely that any professionally diligent business would apply the above checks and maintain a record of the checks made. However, despite these checks it may still not be possible to verify the mileage recorded and you should state this to customers.

Disclaimers

If the accuracy of the odometer reading is in doubt, you must make this clear to prospective customers. This is usually done by the use of disclaimers (which obscure the entire odometer reading). Although they

are not a specific legal requirement it is always advisable to use disclaimers to avoid the potential false mileage description being read by consumers. Disclaimers are an attempt to remove or negate the description of the mileage given by the odometer to prevent the misleading action occurring. However, it isn't sufficient to disclaim all mileages without carrying out checks to confirm their accuracy. At best, it may be possible to indicate, using a disclaimer, that you have been unable to verify the mileage.

Penalties

Failure to comply with trading standards law can lead to enforcement action and to sanctions, which may include a fine and/or imprisonment. For more information please see 'Trading standards: powers, enforcement and penalties'.

Further information

For further information see *Car traders and consumer law*, Part A, in Business Companion's Business in Focus section.

Key legislation

Consumer Protection from Unfair Trading Regulations 2008

Last reviewed / updated: November 2020

In this update

Link added to Business in Focus guidance

Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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