



“Car-Pass” or how to be sure of a vehicle’s mileage

***A good practice from our European neighbors
to develop in the EU to reinforce consumer
confidence in the single market***

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The European problem of odometer manipulation

To significantly increase the vehicle's value, certain used car vendors will not hesitate to decrease the mileage shown on the odometer with the help of tools easily purchased on the internet.

Problems:

- It is not always technically possible to detect odometer manipulation, as maintenance books can be easily falsified.
- It is not possible to obtain information on the vehicle from competent organizations without already being the owner or without the vendor's consent for data protection reasons.
- Even when odometer manipulation is detected, frauds often remain unpunished.

Consumer safety risks and economic damages

According to the European Parliament¹ “studies estimate the share of tampered vehicles between 5 % and 12 % of used cars in national sales and between 30 % and 50 % in cross-border sales, accumulating to a total economic damage between EUR 5,6 and 9,6 billion in the whole Union.”

The manipulation of mileage meters is widespread for example in Germany where it affects more than 1 out of every 3 vehicles and causes **approx. 6 billion euros worth of damage per year**². This practice in Germany is especially harmful to the many foreign consumers who cross the Rhine to find the car of their dreams. The internet is also full of used vehicle offers at discounted prices.

Beyond the fraud on the price of the vehicle³, the mileage manipulation raises **safety concerns for consumers** on European roads. Without knowledge of the real condition of the vehicle, the consumer is less attentive to the wear of the brakes, tires, or any other technical or electronic equipment, resulting in a greater risk of a breakdown or accident.

¹ <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-615.366&format=PDF&language=EN&secondRef=01>

² source ADAC & <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2016-009208+0+DOC+XML+V0//EN>

³ ⁶ 3,000 euro on average whose mileage has been tampered with according to the German auto club ADAC

Unequal punishment in Europe

While the manipulation of mileage meters is illegal in 26 European countries, the penalties vary considerably from one state to another. In France, if you prove that the actual mileage of the vehicle does not correspond with that announced in the sale contract; you may claim cancellation of sale for hidden defect. The cancellation may be ordered by the court even if the seller was not aware of this problem. In Germany, such recourse is highly hypothetical; you must prove that the odometer was tampered with AND that the vendor had the intention of deceit. This is all the more difficult because, in practice, vendors include standard clauses such as “displayed mileage = estimated mileage, actual mileage not known” in sales contracts.

Criminally, fraudsters are not worried in Germany. Only the successful modification of the odometer can be considered as a fraud offense, punishable by a year imprisonment or a fine, compared to 2 years of imprisonment and 37,000 Euros under French law.

European reflections and regulations

The European Parliament, in its CARS 2020 resolution⁴ (action plan for a strong automobile industry, competitive and lasting in Europe), “calls on the Commission to take measures, in cooperation with the Member States, to ensure a high level of consumer protection, transparency and safety in the second-hand car market, and to work towards a gradual phasing-out of polluting and less safe vehicles; commends the Commission’s recommendation in the roadworthiness testing regulation to require mileage recording at each test; considers that initiatives such as the ‘Car Pass’ scheme in Belgium could be encouraged by a European standard; notes that re-registration procedures for vehicle transfers must also discourage cross-border mileage fraud”.

⁴ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P7-TA-2013-0547+0+DOC+PDF+V0//EN>

- The **directive 2014/45/EU of April 29th, 2014 on periodic roadworthiness tests for motor vehicles** and their trailers indicates in its recital 25 that “Odometer fraud should be regarded as an offence liable to a penalty, because manipulation of an odometer may lead to an incorrect evaluation of the roadworthiness of a vehicle.⁵ The recording of mileage in the roadworthiness certificate and access for inspectors to that information should facilitate the detection of odometer tampering or manipulation. The exchange of information on odometer readings between the competent authorities of Member States should be examined by the Commission”. The directive also states in article 8.5 that “As from 20 May 2018 and at the latest by 20 May 2021, testing centres shall communicate electronically, to the competent authority of the Member State concerned, the information mentioned in the roadworthiness certificates which they issue.” and in article 8.6 that “Member States shall ensure that, for the purposes of checking the odometer, where an odometer is normally fitted, **the information included in the previous roadworthiness test is made available to the inspectors** as soon as it is available electronically. In cases where an odometer is found to have been manipulated with the aim of reducing or misrepresenting the distance record of a vehicle, such manipulation shall be punishable by effective, proportionate, dissuasive and non-discriminatory penalties.
- The **regulation (EU) 2017/1151** of June 1st, 2017 supplementing Regulation (EC) No 715/2007 **on type-approval of motor vehicles imposes since September 1st, 2017** that “manufacturers shall effectively deter reprogramming of the odometer readings” of newly purchased vehicles.⁶
- The **European Parliament** in its **resolution of 14 November 2017** on saving lives: boosting car safety in the EU “recalls that odometer fraud remains an untackled problem, especially in the second- hand car market” and “urges the Commission and the Member States to address the issue of manipulation of or tampering with odometers through effective measures and legislation”.⁷
- A **research study for the TRAN Committee of the European Parliament from November 2017** “Odometer tampering: measures to prevent it” recommends the car-pass system as it has “proved to be very effective in tackling odometer tampering” and “could be adapted to the specific markets and legislative frameworks in various Member states”.⁸
- Following this study, on December 19th 2017, the TRAN committee has published a draft report with recommendations to the Commission on odometer manipulation in motor vehicles.⁹ In this report the TRAN committee “Calls on the Commission to pursue the overall goal of creating legal, technical and operational barriers to make manipulations either impossible or so time consuming, difficult and expensive that it is no longer lucrative” and “Emphasises in this regard that national registers are not sufficient and that cross border data exchange is a crucial precondition for tackling mileage fraud in the European Union”.

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0045&from=EN>

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1151&from=EN>

⁷ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0423+0+DOC+XML+V0//EN>

⁸ [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/602012/IPOL_STU\(2017\)602012_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/602012/IPOL_STU(2017)602012_EN.pdf)

⁹ <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPART&reference=PE-615.366&format=PDF&language=EN&secondRef=01>

A report¹⁰ published in 2016 by the European Consumer Centres Network (ECC-Net) already revealed that even though odometer manipulation is prohibited in 26 European countries, only 10 of them have proposed a solution to verify a vehicle's mileage **before its purchase**. Out of these 10 countries, 8 propose that the buyer consults a national mileage registry of registered vehicles.¹¹ Belgium and the Netherlands are the only two countries to suggest that a certificate be given to the buyer at the time of sale, specifying the vehicle's mileage.

A European Commission study¹² shows that dealers who sell used vehicles often fail to fulfill their information obligation and do not check mileage before the sale. For the consumer, it is therefore extremely difficult to obtain or to verify the mileage displayed on the meter.

Preventative measures like the Car-Pass, allowing a consumer to easily check the mileage of a car before purchase, reinforce transaction transparency in Europe

Putting in place a simple system like the Car-pass helps rapidly creating trust in the internal market.

¹⁰ Cross-border car purchases – [What to look out for when you are bargain hunting](#):

¹¹ United Kingdom, Sweden, Slovakia, Norway, Iceland, Hungary, Croatia, Poland

¹² https://ec.europa.eu/info/strategy/consumers/consumer-protection/evidence-based-consumer-policy_en

An already existing solution in Europe: Car-Pass

To fight against tampering with used car odometers, certain European countries implemented a certificate called “Car-Pass” to be given to the buyer at the time of the sale.

1- Car-Pass exists in which European countries?

- Belgium
- Netherlands

At the end of 2016, the government of Lower Saxony region of Germany proposed to the federal government the introduction of a Car-Pass throughout Germany to combat the electronic tampering with used-vehicle odometers.

2- What is the Car-Pass?

A Car-Pass is a document that shows the distance travelled by a vehicle and the date on which it was recorded during a technical inspection, repair, etc. It certifies the vehicle’s mileage accuracy to the buyer who can verify, at the time of sale, if the mileage shown corresponds to reality.

In Belgium, the Car-Pass was created by a 2004 law seeking to combat dishonest practices. In the Netherlands, where a similar system exists, the Nationale AutoPas (NAP) records the vehicle’s mileage at each technical inspection.

3- Who gives the Car-Pass?

In Belgium, it is the vendor (private or professional) who gives the Car-Pass to the buyer when selling a used vehicle. It must be less than two months old. In the Netherlands, the buyer may also verify the mileage of the vehicle on the site of the transport authority (RDW) or ask the vendor.

4- What are the consequences in the failure to present Car-Pass?

In Belgium, the Car-Pass is one of the obligatory documents given to the buyer at the time of the vehicle purchase. A buyer who does not receive the Car-Pass may request the cancellation of the sale contract. More information on the Car-Pass in Belgium on the site <http://economie.fgov.be/fr/consommateurs/Car-Pass/#.VcSppvmNNv0>

5- Where does the Car-Pass data come from?

In Belgium, the mileage data for all vehicles are collected by a single organization: ASBL Car-Pass. The mileage is provided by all automobile professionals: garages, manufacturers, tire centers, technical control centres. The Registrations Committee of the Mobility and Transport Ministry also communicates all vehicle registrations in Belgium. By combining all of this data, it is possible to establish the “mileage past” of a vehicle. In the Netherlands since January 2014, it is the Dutch transport authority, *Rijksdienst voor Wegverkeer (RDW)*, which organizes mileage data for NAP.

6- Why develop a Car-Pass in Europe?

The implementation of such a certificate would have the immediate effect of increasing consumer confidence in the automobile market, thus increasing used-car sales. The “Car-Pass” would also have the effect of decreasing odometer manipulation on used cars, and will therefore combat fraud. As the 2016 European study “cross-border car purchase-what to look out for when bargain hunting?” from the ECC-Net has shown, many Europeans purchase their vehicle in a country other than their own. An ordinary transaction can quickly turn into an uphill battle: is the seller reliable? Does the vehicle really exist? Is it in good condition? What documents must be given from the seller to the buyer? By enforcing this practice on a European level, Europeans’ doubts about sellers and vehicles located in another country than their own would be eliminated. Confident in the European automobile market, they would no longer hesitate to cross the border to buy a used vehicle in another European member state.

7- Why not an electronic chip?

Mileage recorded in electronic chips built into the vehicle is seen by some as an alternative solution to the Car-Pass, but raises the problem of the personal data protection. The vehicle’s information would be collected and managed by car manufacturers and not by an independent public authority, as with Car-Pass. This data could be transmitted to third parties for commercial purposes when the vehicle reaches a certain mileage. Also, this solution would only benefit newly developed cars equipped with this technology and not all cars available on the market including second hand cars. And how can an EU citizen purchasing a car from a private owner verify on the spot data stored in a chip? This solution only seems efficient for purchases from professional sellers equipped with chip reading tools. As the research study from the ECC-Net has shown, cultural and linguistic barriers, differences in legislation between EU countries and opportunities to assert their rights are all factors that influence consumers in their decisions to buy vehicles abroad. It should be reminded also that the non-presentation of a Car-pass in Belgium allows the consumer to ask for the cancellation of the sale.

Developing Car-Pass in all EU countries is to:

- offer equal protection to consumers who wish to buy a used vehicle in another European member state;
- reinforce confidence in the internal market and Europe as a whole;
- demonstrate concrete measures and the benefits of a Europe that listens to its citizens.

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