

Ruling

Push Dr Ltd t/a Push Doctor t/a Push Doctor

4th Floor Queens Chambers, 5 John Dalton Street, Manchester, M2 6ET

Media:	Internet (on own site), Internet (search engine), Television, Transport, Internet (social networking)
Agency:	We Are Brave
Complaint Ref:	A17-397389
Complaints:	31



BACKGROUND

Summary of Council decision:

Six issues were investigated, four of which were Upheld and two of which were Not Upheld.



AD DESCRIPTION

A poster, a website, a paid-for Google ad, a TV ad and a YouTube video for Push Doctor:

a. A poster displayed on London Underground trains, seen in August 2017, stated “You will never go to the doctor’s[sic] again. See a doctor online in 6 minutes Prescriptions. Fit notes. Referrals. Amazing customer service”. Smaller text stated “Now you can use Push Doctor. The UK’s most popular online doctor service is open 6am - 11pm, 7 days a week, allowing you to access an NHS GP whenever you want. Gone are the days of making endless calls to a surgery just as it opens, only to have to explain yourself to get an appointment - then having to travel some more, just to join another queue to get to see someone. Now you can see a doctor online in under 6 minutes. With 9 out of 10 customers getting a resolution in their first consultation, you can be back on your feet in no time. Try it today”. The ad featured the Trustpilot logo underneath five boxes, each with a star inside (‘the five-star graphic’).

b. The homepage of the Push Doctor website, www.pushdoctor.co.uk, seen on 11 September 2017, stated “SEE A DOCTOR ONLINE [...] THE WAIT IS OVER. Whether you’re unwell, looking to improve your fitness, have a specific aspiration in mind, or just have a quick question - you can talk face-to-face with a professional, caring UK doctor in as little as six minutes. 1. BOOK AN APPOINTMENT [...] 2. SEE A DOCTOR ONLINE [...] 3. START FEELING BETTER”. The Trustpilot logo and five-star graphic was displayed towards the top of the webpage. Further down the page text included “Our UK doctors treat almost everything your normal GP can, but quicker. No waiting, no travelling”. Four small blue boxes arranged vertically at the right-hand side of the webpage, which remained visible when users scrolled down the page, contained white text that stated “CHAT”, “HELP”, “CALL” and “PRICING”, with relevant symbols. That ‘widget’ was visible on all pages of the website.

Clicking on the Trustpilot logo and five-star graphic brought up a box which showed Trustpilot reviews. On 19 September 2017 it was headed “Great”, underneath which was a

four-star graphic and the text “Based on 861 reviews. See some of the reviews here”. 20 Trustpilot reviews were shown below, dating from 25 August to 19 September 2017, all of which were five-star reviews.

A button on the homepage, labelled “See a doctor” linked to a page headed “Appointments available for Today” which listed available appointment times and a “Book” button next to each appointment. The webpage also featured the Trustpilot logo and five-star graphic.

A link in the header bar of the homepage, labelled “NHS” linked to a page headed “NHS & PUSH DOCTOR”, under which text stated “Feeling unwell? Looking for advice? Speak with an NHS trained doctor in as little as 6 minutes”, followed by the NHS and Push Doctor logos. Further text stated “How it works Get the advice and treatment you need in three simple steps: 1. Book an online appointment at a time that suits you [...] 2. Talk face-to-face with a doctor using our app or website. 3. Get medical advice, prescriptions, sick notes and more. All of our doctors are NHS trained and can treat almost everything your own GP can. No travelling, no waiting, no worrying”. Approximately half-way down the webpage text stated “See a doctor today for just £20”. Further text stated “Why our GPs like being a Push Doctor: - It gives patients more options when it comes to their healthcare - It’s completely safe and secure - It’s flexible, offering out-of-hours services - Patients don’t need to leave their house and doctors can work from a safe environment - It’s quick, simple and convenient.” At the bottom of the page, under the heading “CONTACT US”, text included “Are you an NHS CCG or Foundation Trust, a GP practice or GP Federation interested in exploring whether Push Doctor could work for you and your patients?”.

Text on the “NHS & PUSH DOCTOR” webpage was later amended. When seen on 20 October 2017, under the heading text now stated “Revolutionising healthcare with online video consultations See an NHS-trained GP at a time that suits you”. The Push Doctor and NHS logos no longer appeared. In place of the section headed “How it works” text stated “Better together All of our GPs are NHS-trained and work in NHS or private clinics in their regular jobs. We’ve developed cutting-edge technology that lets them fit Push Doctor consultations seamlessly into their out-of-hours work. Our online video consultations deliver a fully immersive, smart-consulting experience. They can improve efficiency, offer better access for patients and encourage a more proactive approach to health - lowering costs, both today and in the long term”. The text “See a doctor today for just £20” was replaced by text which stated “Experience our service for yourself Book your first appointment today for just £20”. Other minor amendments had been made to the section titled “Why our GPs like being a Push Doctor”. The “CONTACT US” section remained the same.

c. The paid-for Google ad, seen on 26 June 2017, included the claims “Join The Thousands Of People Turning To Online Healthcare Daily. [...] NHS Commisioned[sic] Proud To Be An NHS Commisioned[sic] Technology Provider [...] See A Doctor Online Appointments Available 7 Days A Week [...] No Waiting, No Worrying We Can Do Everything a Regular GP Can Do Except Much Faster”.

d. The TV ad, seen on 27 August 2017, featured shots of a number of different people as a voice-over stated “With thousands of UK GPs in our smart network, you could see a doctor in six minutes on any device.” A man, depicted on a mobile screen headed with the Push Doctor logo, stated “Your prescription is ready”. Small print displayed at the bottom of the screen stated “See website for costs. T&Cs apply. Under 18s seek permission. Not for emergencies”. The Trustpilot logo and five-star graphic then appeared. The voice-over continued “Nine out of ten people get the help they need first time”. Large on-screen text then stated “[...] No waiting room No time off work Things just got better”. The voice-over concluded “Push Doctor. The wait is over”.

e. The YouTube video, seen on Push Doctor's YouTube channel on 30 August 2017, was the same as the TV ad.



ISSUE

The ASA received 31 complaints, including from Doctors in Unite, six doctors, and the campaign organisation 38Degrees, who represented a large number of petitioners.

1. 18 complainants, who felt ads (a), (b), and (d) did not make clear that a cost was associated with the service, challenged whether the ads were misleading.
2. 23 complainants, who believed that ads (a), (b), (c) and (d) implied that the advertised service was provided by the NHS, challenged whether the ads were misleading.
3. 21 complainants, who understood there were some medical conditions or emergencies that required face-to-face evaluation and/or access to a patient's medical notes, challenged whether ad (a), and particularly the claim "You will never go to the doctor's[sic] again", was misleading.
4. 21 complainants also challenged whether ad (a), and particularly the claim "You will never go to the doctor's[sic] again", was irresponsible, for the same reasons referenced at point 3.
5. Three complainants, who understood that Push Doctor had an overall four-star Trustpilot 'TrustScore' rating, challenged whether the five-star graphic in ads (a), (b) and (e) was misleading.
6. One complainant, who understood the box showing Trustpilot reviews in ad (b) omitted negative/low-rated reviews which had been written during the same period of time as those featured in the box, challenged whether the ad was misleading.



RESPONSE

1. Push Dr Ltd, trading as Push Doctor (Push Doctor), said they were a private healthcare provider regulated by the Care Quality Commission (CQC). They said they had no intention to conceal that they offered a paid-for service and that it was not in their interests to mislead consumers into that understanding. They said that a ten-minute consultation was charged at £20, referrals to specialists cost £15, and an £8 administration fee was charged for prescriptions.

Push Doctor considered consumers were already sufficiently aware of their brand that they would know that it related to a paid-for, non-NHS service. They provided data from a brand awareness survey conducted quarterly in 2017, which they said showed that they had a high level of awareness in the sector amongst consumers, including having higher brand awareness than two well-established brands that did not feature price in the way the complainants suggested Push Doctor should. They further said that most visitors to their website arrived as the result of an online search. They believed the data demonstrated that consumers would be aware they were a private healthcare service and would therefore approach all the ads from that perspective.

They said they tried to make pricing very clear throughout their service. Their website (ad (b)) contained a prominent pricing section under the menu heading “HOW IT WORKS”, and any attempt to engage in the service led to a checkout procedure which gave information about the pricing structure before checkout. They said that all material information was therefore made clearly available before customers decided whether to book the service. They added that a widget was visible on every page of the website (the small boxes on the right-hand side of the webpage, which included a box with a “£” symbol and the text “PRICING”) which linked to their pricing information. They said the “£” symbol was larger than the body copy text on the webpage, and provided Google Analytics data from 11 September 2017 which they considered showed that a high proportion of visitors to their website viewed pricing information before they entered the booking process.

Push Doctor said they had tested how long it took for people who went straight into the booking process from the homepage to arrive at the page with pricing information, and provided details of how they had run those tests. They said people were very quickly presented with pricing information and they highlighted that website visitors were not required to provide any information or to sign up or register before seeing that information. They considered that even if website users had been misled it was only for a very brief time period.

They also highlighted that the website homepage included a section headed “Our most watched customer reviews”, which they considered indicated, through the use of the term “customer”, that they provided a paid service. They also noted that the logos of credit and debit cards were featured in the footer of every page of their website, which they also considered indicated that they provided a paid service.

With regard to the poster (ad (a)) and TV ad (ad (d)), which did not include pricing information, Push Doctor said it was common practice, including in the healthcare industry, not to feature pricing information. They felt that because private healthcare services were well known to the general public, consumers would reasonably expect that access to such a medical consultation and related services would come with a charge.

Responding in relation to the TV ad (ad (d)), Clearcast said there were no claims in the ad that the service was free, and they did not consider it gave that impression. However they had asked the agency to include the on-screen text “See website for costs” to remove any doubt. They felt it was not necessary to include pricing information in the ad as it wasn’t material information relevant to the service as presented. They considered it would be clear to viewers that there was a cost involved.

2. Push Doctor said they did not attempt to mislead consumers into thinking that they were a service run by the NHS, and that none of the Trustpilot reviews they had received over the period in question had made any reference to customers thinking that they provided an NHS service. They said that neither their website nor the TV ad used the term “NHS GPs”; rather those ads referred to “GPs” or “UK GPs”. They said they used the word “NHS” in two different ways. One was to describe the GPs who provided the Push Doctor service, all of whom were NHS trained or accredited, and either current NHS GPs or on the NHS National Performers list. They accepted that it would be clearer to refer to “NHS-accredited” or “NHS-approved” GPs rather than “NHS GPs” and said they would make that alteration to their advertising, although they did not accept that the context in which they had used that phrase in the ads was misleading.

The second way they used “NHS” was to show that they worked with the NHS, that they were a technology provider to the NHS, and that the NHS trusted them. They said they had

a broad, ongoing relationship with the NHS in that they built and part-operated a mobile consultation solution for the NHS in 2014 (the “Push NHS” app). They used that sense of the word “NHS” in order to engender trust in consumers for their consumer-facing Push Doctor service.

In relation to ad (a), the poster, they highlighted that the text “allowing you access to an NHS GP whenever you want” appeared in the context of the headline “You will never go to the doctor’s[sic] again”, which they considered was a way of comparing Push Doctor’s better customer service with access to a traditional GP surgery.

They explained that the text “NHS Commissioned Technology Provider” in ad (c), the paid-for Google ad, related to the Push NHS app. They said that text was not in the ad copy but rather was in a sitelink underneath the ad, which linked through to the “NHS & PUSH DOCTOR” page on their website, and appeared alongside five other sitelinks. They wrote the copy contained within a sitelink but a Google algorithm determined whether and which sitelinks were shown. They said that sitelinks only appeared in ads that were displayed when users searched for “Push Doctor” (or variations on the spelling or as part of a broader search term specified by Push Doctor). Therefore the sitelink was only presented to consumers who had prior knowledge of the brand and wanted to search for it. They believed that was relevant to whether or not consumers would be aware of the relationship between Push Doctor and the NHS. They further stated that three days before the complainant saw the ad, on 23 June 2017, it had appeared 61 times and on 47 of those occasions the sitelink “NHS Commissioned Technology Provider” appeared alongside another sitelink which stated “Appointments For £20 We Offer affordable Private Doctor appointments Online & via our app”, which linked directly through to their pricing page. However, to avoid confusion with their private healthcare service they had removed the “NHS Commissioned Technology Provider” claim from the ad.

In relation to the TV ad, Clearcast considered there were no claims or implications that Push Doctor GPs were associated with the NHS. The agency had confirmed that Push Doctor operated a network of thousands of GPs in the UK, which they considered supported the claim “Thousands of UK based GPs”.

3. & 4. Push Doctor said the CAP Code allowed advertisers to use obvious exaggerations (“puffery”) and claims that consumers would be unlikely to take literally, provided they did not materially mislead. They believed the line “You will never go to the doctor’s[sic] again” reflected the better experience their customers received compared to visiting a doctor’s surgery.

They felt that consumers would understand that an online consultation would not be a substitute for a conventional, in-person consultation in all circumstances. They said that the ad referred to “9 out of 10 customers getting a resolution in their first consultation”, and therefore they did not claim that they were able to treat all conditions, and did not trivialize the importance of a physical consultation. They explained that they classed a resolution as when a patient would not need to consult another health professional about their presenting complaint following their Push Doctor consultation; that included providing a prescription for repeat medication, provision of advice, treatment or referral for onward specialist care. Situations where patients required an in-person appointment or emergency care were not classed as a resolution. Resolutions were only reached by UK-registered and practicing GPs and were only ever completed post-consultation. They said that doctors were best-placed to judge whether a resolution had been reached (as opposed to patients), and that it was the standard way in which resolutions were tracked within the general practice of the medical profession.

They said the figure relating to the number of customers getting a resolution was based on data taken from regular and systematic audits of their consultations, which were carried out by registered GPs who were independent of Push Doctor's consulting GPs. They reviewed diagnoses and outcomes, and every prescription issued by their doctors. They said that they typically saw patients who were aware of what they could treat and who had sensible expectations as to what would be treatable without a physical examination. They provided data showing the number of consultations per day from 4 to 11 January 2018 and the percentage of those consultations on each day that were concluded without any onward need for face-to-face care; over the full eight days 98.9% of consultations concluded without need for onward face-to-face care. They also later provided daily figures for the percentage of resolutions during January and February 2018, and said that even if they didn't class a referral for onward specialist care as a resolution the figures still showed that over 90% of remaining cases ended in a resolution.

They added that it was made clear throughout their website and app that Push Doctor was not to be used in emergency situations or for assessing certain specified symptoms, in which circumstances users were advised to call 999 or seek alternative urgent medical care. If during the course of a consultation the GP considered that urgent treatment or an in-person assessment was required they would advise the customer accordingly, with support provided in contacting the customer's own GP and/or in seeking alternative care in line with standard GP practices.

Responding in relation to Point 4 only, Exterion Media said they reviewed the ad and felt it was suitable for display. They said the text "Prescriptions. Fit notes. Referrals. Amazing customer service." made clear that a possible outcome of a Push Doctor consultation was a referral, and they considered that would involve providing advice to seek alternative help or specialist advice in relation to certain medical conditions.

5. Push Doctor said they had previously had a five-star Trustpilot 'TrustScore', and the poster clearly stated the date when that rating was achieved. They noted that over time the rating had adjusted to four-stars. They said they operated a policy of not displaying rating references older than a year old and were therefore constantly in the process of updating relevant content on a rolling yearly basis.

6. Push Doctor acknowledged that the box (provided through a Trustpilot widget) omitted reviews where the customer had rated them with one, two or three stars, but said they were not aware of any requirements that they must feature negative reviews on their website. They said the Trustpilot widget included the feature and it therefore must be a widespread device on many websites. The widget was a navigational tool they used to highlight positive reviews left by their customers, but all reviews, both positive and negative, were available one click away on the Trustpilot website. They also felt that by engaging with review sites like Trustpilot and asking their customers to review their services on those sites they were behaving transparently and in the interests of consumers.



ASSESSMENT

1. & 2. Upheld in relation to ads (a), (b) and (c) only

The ASA noted Push Doctor's view that private healthcare services were well-known to the public and that consumers would therefore reasonably expect that access to services such as those advertised by Push Doctor would come with a cost. However we considered that consumer expectations around payment for healthcare and a company's links to the NHS were likely to be strongly affected by their level of recognition of a company and its position

as a private healthcare provider, as well as the particular context and content of ads for its services.

The brand awareness data provided by Push Doctor showed that the percentage of respondents who said they had heard of the brand when they saw it in a list of companies described as “online doctor services” increased was quite small. We considered that demonstrated consumers were generally not aware of Push Doctor as a brand during the period the advertising appeared. We further noted that the survey question did not address whether consumers knew that Push Doctor was a private healthcare provider, nor did it address whether consumers could recall the Push Doctor brand without prompting. We therefore considered that many consumers would be unfamiliar with Push Doctor’s position as a private healthcare provider, and considered consumers’ likely interpretation of each of the ads in that context.

We considered that most consumers who saw ad (a), the poster, were unlikely to be familiar with Push Doctor, its position as a private healthcare provider or its links with the NHS. The poster included a reference to Push Doctor “allowing you access to an NHS GP whenever you want” and described the situation of having difficulty in accessing a doctor’s appointment, a situation which we considered consumers were likely to associate with the experience of securing an appointment with some NHS GPs. In the context of those statements and the headline “You will never go to the doctor’s[sic] again”, and in the absence of information making clear that Push Doctor was a private healthcare provider, we considered consumers were likely to understand that Push Doctor offered an online method of consulting an NHS GP via the NHS and therefore without any associated cost. We considered ad (a) misleadingly implied the advertised service was provided by the NHS and, as a result, that it was misleading because it did not make clear that a cost was associated with the service.

We considered consumers were likely to have arrived on Push Doctor’s website (ad (b)) as a result of seeing an ad in other media (including via the Google ad (c)), or through natural search listings. While Push Doctor had said that the majority of visitors to their website arrived via online searches and therefore were aware of their brand, we noted that both natural and paid-for search results for Push Doctor were returned when consumers used search terms which did not include the Push Doctor brand name or any variations on it (eg, “online doctor”, “see a doctor online” and “app doctor”). We also considered that even consumers who searched for them using “Push Doctor” as a search term may not have a complete understanding of the service offered, or on what terms it was offered. We considered Push Doctor had therefore not demonstrated that the majority of visitors to their website were already aware of the services they offered and in what context. We considered that while some consumers might have some understanding of the service provided by Push Doctor they would not necessarily be aware that Push Doctor was a private healthcare provider and that there was therefore a cost associated with that service. We reviewed ad (b) on that basis.

The homepage did not include information making clear that Push Doctor was a private healthcare provider and did not state that a cost was associated with the service, although it did provide a three-point summary of the service available. The menu bar at the top of the page included the menu option “NHS”. We acknowledged that the ‘widget’ that appeared at the right-hand side of the homepage (and every other page of the website) included a pound symbol and smaller text which stated “PRICING”, but we considered that many consumers were likely to overlook it. We considered the use of the term “customer” in “Customer reviews” and the logos of payment methods in the footer of the webpage were not sufficient to alert consumers that Push Doctor was a paid service.

We considered consumers were most likely to respond to the prominent “See a doctor” buttons which took website users into the appointment booking process. We reviewed the click-through data provided by Push Doctor and noted that the widget featured four elements (‘Chat’, ‘Call’, ‘Help’ and ‘Pricing’) but the data related to the widget as a whole and it was therefore not clear what percentage of users specifically clicked through to the Pricing element. Additionally, the data showed that more website visitors went straight into the booking process from the homepage than viewed pricing information first. Because pricing information was not presented upfront on the website homepage we considered consumers were likely to understand that Push Doctor offered an alternative method of consulting an NHS GP via the NHS and therefore without any associated cost. We acknowledged that information about the cost of the service was presented to consumers if they clicked into the widget, to other pages on the website (for example on a “Pricing” page and on the “NHS & PUSH DOCTOR” webpage), or into the booking process, but we considered that doing so constituted a transactional decision which some consumers would not have taken had the homepage made clear that Push Doctor was a paid service.

We understood the webpage headed “NHS & PUSH DOCTOR” was intended to make clear the relationship between Push Doctor and the NHS. At the time it was seen by the complainants it included the Push Doctor and NHS logos side-by-side at the top of the page as well as various statements referring to NHS trained doctors and the service available, and a statement encouraging NHS representatives to contact Push Doctor if they were “interested in exploring whether Push Doctor could work for you and your patients”. Notwithstanding that we considered website users were unlikely to view it before entering the appointment booking process, we considered that those consumers who did visit that webpage were unlikely to understand from its contents that the Push Doctor service/app was not an NHS service. We noted that some amendments had been made to that webpage since it was first seen by the complainants. We considered that the body copy provided a clearer explanation of Push Doctor’s links to the NHS in that its GPs had been trained in the NHS and that many GPs who worked for Push Doctor worked primarily in the NHS. However, we considered that the heading “NHS & PUSH DOCTOR” implied that the Push Doctor service/app was an NHS service, which was not the case. We considered the body copy was not sufficient to alleviate the impression created by the heading, and that consumers who saw the amended version of the webpage were also unlikely to understand from its contents that the Push Doctor service/app was not an NHS service

Because we considered consumers were likely to understand from the website homepage that the service offered was an NHS service provided free of charge, and were likely to start the booking process under that impression, we concluded ad (b) was likely to mislead.

The paid-for Google ad (c) was challenged in relation to the issue at Point 2 only (whether it implied that the advertised service was provided by the NHS). While we understood from Push Doctor that the sitelinks appeared only in paid-for ads returned in response to search terms that included “Push Doctor” or some variant on it, we considered that did not demonstrate that consumers who made such a search were familiar with Push Doctor or its position as a private healthcare provider. We understood that a Google algorithm determined which sitelinks appeared in any particular ad, but we also understood that sitelinks would only appear for pages for which an advertiser had actively chosen to provide a description to Google for the purpose of including them in their ads. We therefore understood that Push Doctor had chosen the wording “Proud To Be An NHS Commissioned Technology Provider” and that, by submitting it to Google, Push Doctor was responsible for it (and the associated sitelink) appearing in some of their ads. We considered that wording implied Push Doctor provided an NHS service and, in combination

with the other information in the ad about the service provided by Push Doctor, we concluded the ad misleadingly implied the advertised service was provided by the NHS.

With regard to the TV ad (d), we noted the voice-over referred to “UK GPs” rather than “NHS GPs”, and did not make any reference to the NHS. We further noted that the text “See website for costs” appeared in small print displayed on-screen throughout most of the ad. We considered that most consumers who saw the TV ad were unlikely to be familiar with Push Doctor or its position as a private healthcare provider but, because the ad did not reference the NHS and it included a statement which made clear there were costs involved, we considered consumers would not be misled into understanding that the service was provided by the NHS or was free. We therefore concluded that ad (d) did not breach the Code.

We concluded that ads (a), (b) and (c) misleadingly implied that Push Doctor’s service was provided by the NHS, and that ads (a) and (b) also were misleading because they did not make clear that a cost was associated with the service. We concluded that ad (d) did not breach the Code.

On point 1, ads (a) and (b) breached CAP Code (Edition 12) rules 3.1 and 3.3 (Misleading advertising).

On point 2, ads (a), (b) and (c) breached CAP Code (Edition 12) rules 3.1 and 3.3 (Misleading advertising).

On points 1 and 2, we investigated ad (d) under BCAP Code rules 3.1 and 3.2 (Misleading advertising), but did not find it in breach.

3. Not upheld

We considered consumers would be aware that many medical conditions could only be assessed and/or treated by a doctor in person and that they would therefore approach the claim on that basis. We acknowledged that the claim “You will never go to the doctor’s[sic] again” in the poster ad was a broad statement, and we considered consumers were unlikely to take it literally to mean they could use Push Doctor’s service in relation to every single medical issue they might experience without ever needing to see a doctor face-to-face again. However we considered they were nonetheless likely to understand it as an objective claim that the advertised service would provide an effective resolution in the vast majority of instances in which they would otherwise have visited their GP; we considered that was particularly the case in the context of the other claims in the ad: “Prescriptions. Fit notes. Referrals” and the reference to nine out of ten patients getting a resolution.

Push Doctor had stated that their internal audits showed that 95% of patient’s issues were resolved in one consultation, and provided a pie chart to demonstrate that, with headline totals showing the percentage of issues resolved, partially resolved, and not resolved, and additional data relating to January and February 2018 which also showed that over 90% of consultations ended in a resolution. We noted that resolutions were determined by doctors, and considered the categories of what was counted as a resolution were in line with what patients might expect. We understood that regular and systematic audits were conducted by GPs who were independent of Push Doctor’s consulting GPs. We further understood that those audits and the processes under which they were conducted were reviewed by the CQC during regular inspections of Push Doctor’s service. We therefore concluded that the claim “You will never go to the doctor’s[sic] again”, as consumers were likely to interpret it, had been adequately substantiated and was unlikely to mislead consumers.

On that point, we investigated ad (a) under CAP Code (Edition 12) rules 3.1 (Misleading advertising) and 3.7 (Substantiation) but did not find it in breach.

4. Not upheld

As referenced above, we considered consumers would be aware that many medical conditions could only be assessed and/or treated by a doctor in person, and that those who saw the poster would be unlikely to interpret the claim “You will never go to the doctor’s[sic] again” literally, but rather to mean that Push Doctor could be used as an alternative in other instances in which they would have visited their GP. We further noted that Push Doctor consultations were with fully qualified GPs who were able to refer patients to other health professionals, including to emergency services, if necessary. In that context, we considered the claim was not socially irresponsible.

On that point, we investigated ad (a) under CAP Code (Edition 12) rule 1.3 (Responsible advertising), but did not find it in breach.

5. Upheld

We understood that Trustpilot recalculated a company’s ‘TrustScore’ every time a new review was posted, and that because they considered that recent reviews were more relevant to customers than older reviews, older reviews counted less towards the TrustScore than newer reviews. We noted that Push Doctor actively encouraged its customers to post Trustpilot reviews and that it regularly received multiple reviews per day (for example in July 2017 it received a total of 34 reviews). We noted there was therefore the potential for the overall TrustScore rating to fluctuate over fairly short periods of time.

We considered that while consumers were unlikely to be aware of the specific method by which TrustScore ratings were calculated, they would nonetheless expect that where a Trustpilot TrustScore was displayed in an ad it would reflect the advertiser’s current or very recent overall rating, depending on the medium in which the ad was published.

We considered consumers would understand that the TrustScore featured in ad (a), the poster ad, would not necessarily reflect the TrustScore at the time they viewed the ad because of the particular nature of the media. However, we considered that consumers would expect that the TrustScore would reflect the most recent rating prior to publication of the ad. We noted the poster ad was first displayed at the beginning of August 2017, and the five-star rating it featured dated from 7 September 2016. While the date on which the rating was achieved was stated in the small print of the ad we considered that was not sufficient to avoid misleading consumers, because the five-star rating did not reflect the most recent rating before the ad was published. We concluded the rating as displayed in ad (a) was therefore misleading to consumers.

We considered consumers would expect that the TrustScore displayed on Push Doctor’s website would be the rating current at the time they were viewing the website, because it would be possible for that rating to be pulled directly from Trustpilot’s website. However we noted that when the complainants viewed the website it displayed a five-star rating rather than the four-star rating which was current at that time. We concluded the rating as displayed in ad (b) was therefore misleading to consumers.

Ad (e) was originally posted on Push Doctor’s YouTube channel on 5 October 2016. The webpage for the video featured the text “Published on 5 Oct 2016” underneath the video. The video was also the ‘featured’ video at the top of Push Doctor’s YouTube channel page, where text next to it stated “1 year ago”. Further versions of the ad featuring the Trustpilot five-star TrustScore had been posted regularly by Push Doctor since October 2016. All the

versions of the ad were visible, in chronological order, on the “Videos” page of Push Doctor’s channel, with text indicating the number of months or years ago the video was uploaded directly underneath a thumbnail of the video.

We considered that consumers who first saw the video where it appeared on its own webpage (for example if they had arrived on the webpage via a search), were likely to note the date on which it had been published and expect that the Trustpilot score related to that date rather than thinking it would be up-to-date; we considered in that particular context consumers were unlikely to be misled. We also considered that consumers who saw the ad on the “Videos” page, where it appeared in chronological order with other videos uploaded by Push Doctor, were also likely to have the same understanding.

However, we noted that Push Doctor had also made the video its featured video on their channel homepage. While text next to the ad referenced that it had been uploaded one year ago, we considered that consumers were likely to expect that information in the featured video on Push Doctor’s YouTube channel homepage would be accurate and up-to-date. Because the Trustpilot TrustScore in the featured video was not accurate or up-to-date at the time the complainant viewed the ad, we concluded it was misleading. We further understood that some of the versions of the ad were uploaded featuring a Trustpilot TrustScore which was not current at the time they were uploaded; we considered the references to the five-star score in those ads was also therefore likely to mislead.

On this point, ads (a), (b) and (e) breached CAP Code (Edition 12) rule 3.1 (Misleading advertising).

6. Upheld

We considered that customer reviews were often useful for consumers considering whether to use a product or service, and that negative reviews were as useful as positive reviews in that decision-making process. The pop-up box on Push Doctor’s website included text which stated “Based on 861 reviews. See some of the reviews here”. We considered consumers would interpret that to mean that the overall TrustScore rating was based on 861 reviews, and that the box featured organic content pulled from Trustpilot’s website - in other words, that it contained all the most recent reviews which contributed to that rating, rather than that it contained only the most favourable of recent reviews.

We considered that by omitting reviews of less than four stars, and not making clear to consumers that that was what they done, Push Doctor created a favourable impression of the experiences of recent customers that was likely to mislead consumers into using Push Doctor’s service. We concluded that ad (b) was therefore misleading.

On this point, ad (b) breached CAP Code (Edition 12) rules 3.1 and 3.3 (Misleading advertising).



ACTION

Ads (a), (b), (c) and (e) must not appear again in the form complained about. We told Push Dr Ltd t/a Push Doctor to ensure their ads did not imply that they provided an NHS service or that their service was free of cost. We further told them that where their ads included an overall rating of their service, such as a Trustpilot TrustScore, they should ensure that it reflected their current or very recent rating. We told them that if they were selective about which reviews to reproduce on their website they should ensure it was clear to consumers that it was not organic content reflective of all recent reviews.