



**Appeal number: EA/2019/0170**

**V<sup>1</sup>**

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(DATA PROTECTION)**

**TRUE VISION PRODUCTIONS LTD**

**Appellant**

**- and -**

**THE INFORMATION COMMISSIONER**

**Respondent**

**Before:**

**JUDGE Edward Jacobs**

**Sitting in public on 23 and 24 November 2020**

**Appearances:**

**Antony White QC and Aidan Eardley of counsel for the Appellant**

**Christopher Knight for the Respondent**

**SUPPLEMENTARY REASONS FOR DECISION**

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<sup>1</sup> *V: video whether partly (someone physically in a hearing centre) or fully (all remote)*

1. I am sorry that, on tidying up my files for this case, I noticed that I had omitted a paragraph from my reasons. This seems to have occurred when I copied my decision from one template to another. Either I failed to copy it at all or I overwrote it. Either way, I do not consider that this comes within the slip rule, which is why I am issuing it as supplementary reasons. It should come immediately after paragraph 28 of my decision.

**How section 55A applies**

2. I have found that there was a contravention of section 4(4). It was serious in view of the intimate and personal nature of the data that was recorded, the indiscriminate way in which it was collected, and the lack of any effective attempt to alert mothers to the filming. Even making allowance for all the points that I have accepted in TVP's favour, this was serious. TVP should have known that there was a risk of contravention and that this would be likely to cause substantial distress. TVP cannot claim in aid that it did not realise it was contravening section 4(4). It had sufficient experience in the industry that should have made it aware of the data protection issues, just as it should have known that doing what it did was likely to cause substantial distress to mothers who learned of what had happened, albeit not perhaps to all the mothers. The media response when the filming became known is some evidence of the potential for mothers to have been distressed. More significant in my judgment is the mothers' mental state, the nature of the material being gathered and the way it was recorded. I have found that the use of a hand held camera was a reasonable step that TVP failed to take. For those reasons, section 55A was satisfied. That leaves the amount of the penalty.

**Authorised for issue**

**Judge of the Upper Tribunal sitting in the First-tier Tribunal**

**Date: 15 January 2021**

**Date Promulgated: 18 January 2021**