Yahoo! granted reprieve in French court's attempt to block access

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The August 11 judgement by a French court, widely anticipated, ordering Internet portal *Yahoo!* to block access to its US web site from France has been delayed for a further two months, pending reports on its technical feasibility.

Judge Jean-Jacques Gomez set a dangerous precedent on May 22 when he ordered *Yahoo!* to prevent Internet users in France from accessing auctions of items of Nazi memorabilia. The judgement was the result of a case brought jointly by the International League Against Racism and Anti-Semitism (LICRA) and the Union of French Jewish Students (UEJF). The two organisations also asked the judge to fine *Yahoo!* 400,000 euros ($360,000) for each day the company refused to comply.

In Friday's judgement, Gomez also refused to level any fines until more technical information is available.

French law prohibits the sale or exhibit of objects with racist overtones. The French version of *Yahoo!* complies with this and does not display the auctions. In the US, no such law exists and *Yahoo!* maintains that it is simply the medium for material posted by users of the services. In much the same way as *Yahoo!* builds its content by allowing other sites to submit material to its news areas, the auctions are run as a public service in which users can post items for sale on which other users then bid.

Yahoo! argues that although software exists to block 95 percent of access to the site from France, it takes only a basic knowledge of the Internet to bypass this. By simply connecting to the site via an American proxy server, the user assumes a US identity as far as the *Yahoo!* site is concerned.

Whatever the outcome of the technical arguments, the case has major implications for Internet freedom and democratic rights. The initial question raised in the French case is that of the responsibility of the provider for the content carried upon a server. In Britain recent cases have established that the Internet Service Provider (ISP) is liable and ISPs frequently pull the plug on web sites or remove content from discussion groups after receiving legal notices. In contrast, recent cases in the US have upheld the notion that the ISP is not liable for the content held on a server. This law would apply equally to *Yahoo!* as an Internet portal.

Of equal significance is the attempt of the French courts to establish their jurisdiction over a US web site. The case establishes dangerous precedents that undermine the international character of the Internet and seriously diminish its democratic content as a medium.

If one country's law can be imposed upon another in this way, what are the implications for human rights activists, political exiles and others? If the French courts are allowed to block access to a US web site in the case of the *Yahoo!* auctions, what is to stop the same action being taken against other sites deemed to go against the interests of the French ruling elite?

The action by LICRA and the UEJF transfers to the sphere of the Internet what has long been a problem with the politics of the radical middle class. In seeking to oppose the emergence of right-wing and fascistic tendencies, these organisations appeal to the political representatives of big business to introduce repressive legislation that will ultimately be used far more aggressively against left-wing and democratic forces.

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