

Yahoo bans sale of Nazi memorabilia from its Internet auctions

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The Internet portal Yahoo has decided to ban the sale of Nazi memorabilia from its on-line auctions. The company has denied that the move was in response to a court ruling in France that it must prevent Internet users in that country from accessing Yahoo websites that sell such material.

In November last year a French court said Yahoo must block French users from accessing sales of Nazi memorabilia on its US-based auction pages. The decision set a precedent that Web companies operating on the global Internet can be required to tailor their practices to the laws of a particular country.

Anti-racist groups in France brought the case, arguing that French law made it illegal to sell anything that can be deemed to promote racism, glorify the Nazis, or deny the holocaust. Yahoo countered that under American law it is not illegal to sell such items, and the act of removing them from the auction pages would breach the US's constitutionally guaranteed freedom of speech.

Yahoo has correctly stated that the ruling would have a "significant chilling effect on the freedom of expression for users of Yahoo and other US-based ISPs". One of the company's lawyers, Michael Traynor, said, "The case continues because there's an important issue at stake. Its one thing to do something voluntary, but it's another to be ordered to do something." Traynor said that Yahoo had barred the auctions of Nazi memorabilia because "the company shared a general concern about hate speech," adding, "But the company also is concerned about freedom of speech, which is why we will continue to fight the French court's order."

Yahoo's argument is that self-censorship is not the same as imposed censorship. But the end result is the same. Regardless of the outcome of legal proceedings in the US, what has been established is the principal

that a national court, on the basis of national laws, can intervene against a website hosted in another country and determine what content it may make available via the Internet. Regardless of the character of the material concerned in this case, its censorship must be opposed. If such action can be taken against Nazi memorabilia, it can easily be applied against other material in the future.

The possibility that Yahoo could end up having to pay the \$13,000 a day fine as long as the items remained on its site, as required by the French court, is an obvious factor that may explain the decision to remove the material from its auctions. The company's "concern about hate speech" is also an entirely laudable sentiment. It is possible that Yahoo just did not want to be seen to be supporting the cause of the extreme right wing.

Whatever the intentions of the French anti racists who brought the case, or Yahoo in acceding to their demands, its consequences further limit the Internet as a free and democratic mass medium. As many commentators have pointed out, with the legal precedent this case sets, it will not be long before it is cited by some right wing despot demanding that material deemed adverse to the national interest be made inaccessible to his citizens.

Actions such as the banning of right wing groups or parties, or the suppression of racist literature, have always been precursors to moves against the left and the opponents of fascism. Moreover, the existence of laws preventing the distribution of Nazi memorabilia in both France and Germany has done nothing to prevent the rise of extreme right wing and fascist forces, both outside and inside mainstream politics.

Yahoo has said that from January 10 this year, it will screen items before they are listed for sale in its

auctions. As well as Nazi memorabilia, items said to promote white supremacists such as the Ku Klux Klan will also be banned.

Software programmes will reject any items deemed in breach of the new policy, with users having the right to appeal against bans.

However distasteful some may find such material, Yahoo is making a big mistake in assuming the role of censor. As the company pointed out in the French court, such action could place it in breach of the First Amendment to the American Constitution, which guarantees freedom of speech. More importantly, by accepting responsibility for what may be submitted to the auctions pages, Yahoo is opened up for a similar liability to be imposed upon the contents of the entire portal.

One of the great values of the present Yahoo portal is its "Full Coverage" news area, which accepts readers' suggestions for articles from a host of different web sites. This gives the site's news coverage an unparalleled breadth and diversity of opinion. The French case, and Yahoo's response to it, opens up the danger that Yahoo will now assume, by default, editorial responsibility for any site it links to.

With many countries outlawing material the state considers of an "inflammatory nature," for example, accepting the French court's ruling means Yahoo and other Internet Service Providers are in danger of becoming the executors of state censorship.



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