

Italian judge says profit behind Google verdict

April 12 2010, By COLLEEN BARRY , Associated Press Writer

(AP) -- A Milan judge convicted three Google employees of violating the privacy of an autistic teen because the Internet giant sought profit when it hosted an online video of him being bullied, according to the judicial reasoning obtained Monday by The Associated Press.

Judge Oscar Magi said he believes [Google](#) employees bore responsibility because the Internet giant intended to profit by selling advertising on the site where the footage was posted.

"In simple words, it is not the writing on the wall that constitutes a crime for the owner of the wall, but its commercial exploitation can," Magi wrote in the 111-page document.

The three employees were given suspended six-month sentences in a criminal verdict that drew swift condemnation from defenders of Internet freedom. Google said it was studying the decision.

"But as we said when the verdict was announced, this conviction attacks the very principles of freedom on which the Internet is built," Google said in a statement. "If these principles are swept aside, then the Web as we know it will cease to exist, and many of the economic, social, political and technological benefits it brings could disappear. These are important points of principle, which is why we and our employees will vigorously appeal this decision."

The judge said the decision should be interpreted as a requirement that

Internet service providers must screen the enormous amount of video that passes through their sites, Magi said.

"But on the other hand, there also is no such thing as the endless prairie of the Internet where everything is allowed and nothing can be banned," Magi wrote.

The trial, he said, should be read as an "important signal" that a danger zone is being reached for criminal responsibility for Web masters.

"There is no doubt that the overwhelming speed of technical progress will allow, sooner or later, ever more stringent controls on uploaded data on the part of Web site managers," Magi said. And more refined filters, he said, would place more responsibility on Internet providers, making it much easier to find criminal liability for the lack of controls than currently exist.

Those convicted of violating Italy's privacy laws were Google's global privacy counsel Peter Fleischer, its senior vice president and chief legal officer David Drummond and retired chief financial officer George Reyes. Magi said the three convicted bore responsibility due to their "administrative and managerial roles" at Google.

The charges stemmed from a complaint by Vivi Down, an advocacy group for people with Down syndrome that the bullies named in the 2006 video posted on a video-sharing service Google ran before acquiring YouTube later that year.

The footage showed an autistic student in Turin being pushed, pummeled with objects, including a pack of tissues, and insulted by classmates, who called him a "mongoloid."

The prosecutor's case emphasized that the video had been viewed 5,500

times over the two months it was online, when it climbed to the top of Google Italy's "most entertaining" video list and had more than 80 comments, including users urging its removal.

Google argued that it was unaware of the offensive material and acted swiftly to remove it after being notified by authorities, taking the video down within two hours.

The four responsible for the video were sentenced by a juvenile court, thanks to the footage and Google's cooperation.

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