

## Do Italian Courts have Unreasonable Expectations?

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Hitting the news today is a report that an Italian court has convicted three Google executives in connection with a video that was posted on Google Video (Google's version of YouTube before Google bought YouTube). In case you haven't been following this story, the video showed four Italian teenagers bullying an autistic youth. The video was posted on Google Video for a couple months, at which point police authorities contacted Google. Once notified, Google removed the video within a couple of hours and provided information about who posted the video, which led to the juvenile sentencing of the four teenagers.

Even though the teenagers were convicted, the Italian prosecutor also brought charges against four Google executives, arguing both defamation and violation of privacy rights. The defamation claims were dismissed, but the prosecutor prevailed on the privacy violations, arguing that Google should have sought permission from everyone in the video before allowing it to be posted. It's not clear to me how Google could in any practical way do that—especially with the volume of videos that get posted on its YouTube site on a daily basis. It seems to me the better target for criminal prosecution is the person who posted the video, as that is the person who would be in the best position to obtain permission from participants and who should be exercising judgment as to whether the video is offensive or not.

While U.S. law generally shields website operators from this kind of liability, anyone who operates a website with social networking features should be concerned about this ruling. If someone can post content to your website that others might find objectionable, are you at risk in Italy? I don't think anybody's going to hit the panic button yet and pull out of Italy over this, but I think they're going to keep an eye on Google's appeal to see what happens. And if this decision is upheld, I think people will definitely re-evaluate whether its still worth doing business in Italy.

If you have questions about international privacy laws, Warner can help. Give us a call!