As we have seen, censorship is a real and serious problem when it comes to the tech giants. However, when they use the word “censorship” themselves, they often have something completely different in mind. That other something is copyright. Not surprisingly, the tech giants oppose copyright protections, since they wish to attract users by offering free access to a world of alluring content. Thus, by praising copyright infringements as though they were a matter of practicing free speech, they end up abusing the honorable name and reputation of free speech itself.

In the early years of the Internet, the push for the free exchange of information and software boasted the motto “Information wants to be free.” But the word “free” may mean both “without restraint” and “without cost,” and on tech platforms, free information tends to be interpreted as the right to access films, music and text without cost. Oftentimes, it is in the very name of free speech that popular content is uploaded and made available. The call for free access to a world of information may come off as a blessing for knowledge. It has never been as easy to get a hold of so much knowledge and treasured material as it is today—without even having to pay for it. But the dogma of no cost has enabled the tech giants to neutralize the economic value of knowledge and art. First, the traditional paid media have grown desperately dependent on the platforms of these giants. Second, the intellectual property of musicians, writers and other content makers has been
robbed from them. The latter consequence has already claimed its first victims: the digital losers. The success of the motto “move fast and break things” has drained the income sources of many artists.\textsuperscript{1} It is the consequence of the tech giants’ powerful position to dictate the rules of how to access and share content. For many years, Silicon Valley has waged war on copyright legislations, propagandizing the issue by framing these laws as a kind of censorship machine which aims to put an end to freedom of expression. However, this is Orwellian doublespeak—as a form of rhetoric, it plays on fear sentiments in an attempt to stir up resistance against political intervention. This line of thought puts writers who want an income for their work up there with totalitarian regimes curbing free speech. The truth of the matter is that these laws serve to protect the incomes of content makers and their opportunity to create new and valuable material.

Large chunks of the traffic toward traditional media sites run through Google. Pieces of writing are easily and quickly accessed via social media, especially Facebook’s news feed. As mentioned earlier, a Reuters mapping of news consumption in 2017 showed that a little over half the Danish population go to social media weekly for their news. The Internet has changed our behavioral patterns as news consumers. Newspapers and magazines have tried to rethink their business strategies to adapt to the changes brought on by the advent of the Internet. The Internet was, after all, this information superhighway that would open the door to a huge readership hitherto out of reach, back when traditional marketing strategies were applied. Wanting to fit in and adjust, many articles were published online for free, while the media were waiting for new and better online business model to emerge. Charging for these articles would mean letting a revolutionary opportunity slip by. Their hope was to reach a larger readership and then generate more traffic on their own websites—and thus more advertising income. That was just

\textsuperscript{1}The first major elaboration of this problem is found in Taplin’s \textit{Move Fast and Break Things} (2017).
not what happened. As an unforeseen consequence of this strategy, many newspapers and magazines burst into pieces. They had to abandon large parts of the editorial line and accept the role of simple piles of decomposed and decontextualized articles. In the traditional print versions of newspapers, the editorial layout of articles represented a strong strategy: readers interested in the cultural section only of, for instance, Washington Post, would also have to pay for international politics, sports, local news, cartoons, op-eds and the rest of the obligatory package that came with the newspaper. This was the classic “omnibus” newspaper, catering to all kinds of readers, which practically sold itself with its optimal “mix” of many kinds of news and features. But online, many articles were now accessible individually, à la carte and, let us not forget, for free. Users no longer needed to pay subscription fees or even buy an entire copy. Thus, readers became used to jumping from page to page and from one link to the next. The result was that online news outlets and magazines ceased to exist in the form of coherent anthologies of articles offered by the classic general-interest daily newspaper. Now each individual article was to be self-sustaining, measurable by its numbers of clicks.\(^2\) Articles may no longer be sheltered by the more or less coherent editorial line of an entire newspaper. In came new and powerful gatekeepers such as Facebook, Amazon and Google, who opened the gates to a full supply of news articles, books and videos, gathered in bundles. Out of the many fragmented parts, they made a useful and somewhat coherent product. Obviously, this is a hugely successful business model for the tech giants: Google and Facebook never pay for the articles they offer to their users, and they can offer a much larger selection than traditional media outlets, and even customized to the individual user.

Most of the media organizations that were not seduced by the Internet mantra of free information were punished by the

\(^2\)Foer (2017) pp. 86–87.
algorithms run by Facebook and Google.\(^3\) Newspapers and magazines charging a subscription for access to their product tend to drown in the enormous supply of information controlled by the algorithms. The articles do not generate the decisive likes, comments and shares that are rewarded with promotion and exposure. In other words, articles hidden behind paywalls tend to lose the online popularity contest. In 2006, Jonathan Rosenberg, then Senior Vice President of Products at Google, said that his company should “pressure premium content providers to change their model to free.”\(^4\) This is a clever business strategy, since the value of the giants depend upon offering a free shortcut to an enormous supply of valuable information and entertainment.

The problem today is that journalism and newspapers have become unhealthily if not pathologically dependent on Google and Facebook, which have made them financially vulnerable. The news media have entered into anti-competitive agreements, which initially seemed essential to their survival. Unfortunately, however, these agreements have made the giants even more powerful. The media outlets have accepted that Facebook sells accompanying ads, traditionally the media’s own main source of revenue, and Google has been allowed to publish the articles quickly and directly on their own platform rather than allowing traffic to go through the media’s web sites. The agreements are particularly sensitive because of the well-known capriciousness of the giants: they quickly change direction if it benefits their bottom lines or reputations. The problem is that such changes may have major consequences for the media, who now depend upon the traffic flowing from the platforms.\(^5\) For example, in January 2018, Zuckerberg changed the news feed algorithm radically, so that content from “friends” and family took priority over news content, and more local news was

\(^3\)Foer (2017) p. 90.

\(^4\)Cleland, S. “Grand Theft Auto-mated! Online Ad-Economics Fuel Piracy &amp; SOPA Opposition” *Forbes*. 11-30-11.

\(^5\)Foer (2017) p. 132.
given higher priority. The purpose of this radical change was to create more “meaningful interactions” and avoid inappropriate content such as misinformation and hateful comments. As a result, the disempowered media naturally saw a sharp drop in traffic and in revenues derived from it.

In 2014, Mathias Döpfner, CEO of the large German media group Axel Springer, wrote an open letter to Google CEO Eric Smidt expressing his concern that Google’s dominant position as a search engine has lead to companies small and large living in constant “fear of Google.” Frequent changes to the search algorithm unpredictably affect all businesses that have become dependent on the heavy traffic flowing through the platform. Döpfner wrote: “Our business relationship is that of the Goliath of Google to the David of Axel Springer. When Google changed an algorithm, one of our subsidiaries lost 70 percent of its traffic within a few days.” With bitter irony that is possibly lost on Google, Döpfner added: “The fact that this subsidiary is a competitor of Google’s is certainly a coincidence.” Reaching $14 billion, Google’s annual profits are about twenty times bigger than Axel Springer’s. Financially, they do not compare; even as a giant in Germany, Springer is a dwarf as compared to Google. One could say that Google does not need Springer, while Springer—and with them all other larger and smaller media companies—most definitely need Google.

Besides causing financial vulnerability, the giants even dictate the actual work patterns of journalism. Journalism is increasingly subject to Google’s and Facebook’s algorithms. If a story is important, it must be shared at exactly the right time, have exactly the right headline and the right status update to go with it. And still it is not certain that the article will get attention. The point is that stories important in themselves do not gain popularity unless they are also curated to fit into the model of each tech giant. Pandering to the

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6 "Facebooks News Feed Algorithm History" Wallaroo Media. 06-04-18.
7 Döpfner, M. “Why we fear Google” Frankfurter Allgemeine. 04-17-14.
algorithms may affect the quality of the news. In his book *World Without a Mind* (2017), Franklin Foer writes about his time at American political magazine *New Republic*. The magazine’s growing dependence on tech giants gradually undermined the integrity of its journalism. In the pursuit of clicks—of survival—even major news providers began to embrace sensationalism, publish more or less dubious stories and give attention to propagandists and conspiracy theorists, including Donald Trump.8

Journalists are continuously and instantly measured by how many clicks their stories generate, sometimes openly, via a single screen in the editorial office. An infinite cycle of feedback is established: priority is given to stories that spread online, all other material is downgraded even if it is supposed to be important according to classical journalistic news criteria. Easily digestible content has become a whole new genre that appeals to people who are bored at work or on the train. It includes various top-ten lists, videos, and short, quick reads.9 The subject may be serious, but it is published in a fast and entertaining way so that it may generate reactions on Facebook and thus be shared. Another side effect is that many media outlets get caught in the clickbait trap, preferring to high click rates over solid news. Headlines such as “you’ll never guess …” have become commonplace online. These mischievous teaser headlines activate in the reader an almost primal hunger for the information suggested, which is quickly and easily accessed with a click or two. Contrary to traditional print media, the headline no longer contains the gist of the article but may be enigmatic and inspire curiosity, act as bait, and keep the user busy clicking, sometimes generating a whole series of clicks, which increases both the time spent by the user and the number of possible companion ads. The classic journalistic criterion that the headline should condense the most important information in the article is abandoned in favor of riddle-like headlines. The result is that the reader

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8 Foer (2017) pp. 6–7.
9 Ibid. pp. 139–140.
loses the freedom to determine the relevance of the article based on the headline. In the United States, *Upworthy*, *Buzzfeed* and *Vox* gained incredible success by developing insights, through the analysis of data, into how audience-winning content is created. Since then, most of the media community has followed suit—even highly respected media outlets like *Time* and *Washington Post*.

In general, tech giants have created a novel news system that aims to offer products pandering to the tastes of users. This may ultimately lead to a homogenization of the news industry through a leveling of opinion and taste. The founder of *Vox Media* and *The Verge*, Joshua Topolsky, bemoans this tendency: “Everything looks the same, reads the same, and seems to be competing for the same eyeballs.”\(^{10}\) Most media outlets write about the same scandals and cling to the hot topics of the day. Foer gives a spot-on example in his book. Many people may remember the rather inconsequential story of Cecil the lion. The story became very influential online, with its picture of a smiling hunter posing proudly in front of his prey, which he had shot with his bow and arrow in Africa. It had social media in a frenzy. The American dentist and hobby hunter became the object of hatred on Twitter under the hashtag #WalterPalmer, and the story generated more than 3.2 million other pieces of content from both private users and from major media outlets. Everyone tried to steer traffic in their direction. It was almost comical to witness the many clumsy attempts to find new angles on the weak and hackneyed story. Most media outlets made an honest attempt. The news outlet *Vox* wrote: “Eating Chicken is morally worse than killing Cecil the lion” and *BuzzFeed*: “A Psychic Says She Spoke With Cecil The Lion After His Death.” Even a more traditional magazine like *The Atlantic* wrote “From Cecil the Lion to Climate Change: A Perfect Storm of Outrage”.\(^{11}\) The list goes on, and international media also followed suit. The unhealthy dependence of journalism on the

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\(^{10}\)Topolsky, J. “Hello again” *Joshua Topolsky blog*. 07-11-15.

\(^{11}\)Foer (2017) p. 148.
tech giants causes them to be in constant danger of losing control. If the ethos of journalism is to be protected, no-cost content and data fetishism is not the right way to go.

Not only journalism suffers under the giant idea that the word “free” in “Information wants to be free” should be understood as “free of charge”. It is even worse for other content creators such as authors and musicians. Back in 2004–05, Google discreetly launched its digitization project. The goal was to create the largest collection of knowledge ever seen on the Internet, by scanning millions of library books and indexing them in one massive digital archive; Google Books. It was part of their mission to “organize world information.” A Google spokesperson said: “Google was founded on the principle of making information more accessible to more people. From the beginning, we’ve envisioned a future where students, researchers, and book lovers could all discover and access the world’s books online. We believe that this agreement represents a giant step toward realizing that vision.”

Many international universities participated in the project, which has indeed provided useful access to a vast amount of literature from before 1900. The digitalization project sounds so magnificently philanthropic that we almost miss the fact that this philanthropy turns into piracy when moving into the literature of the twentieth century.

In Google’s opinion, copyright rules should not hold anyone back. Google’s chief lawyer once described the company’s attitude as follows: “Google’s leadership does not care terribly much about precedence or law.” This statement alluded to the traditional protection of intellectual property. This reckless attitude has the power to destroy the publishing industry, and it will obviously be disastrous to writers

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12 Pilkington, E. “Google’s book project faces growing opposition” The Guardian. 08-19-09.

13 Most countries’ copyright legislations operate with an expiration date, for example 70 years after the death of the author. Thus, the copyright restrictions of most texts from before 1900 have expired and they are now free to be used by anyone.

14 Foer (2017) p. 54.
dependent on that industry. Put bluntly, with its digitization project Google was planning an intellectual coup of historical dimensions. By 2015, 25 million of the estimated 130 million existing books (2010 numbers) were scanned, but the ambitious goal to finish scanning all of them by 2020 disappears on the horizon due to copyright conflicts that have significantly reduced the scanning pace.

The interesting thing is that Google’s path to success was created by copying material without asking or paying for permission to do so. The pattern consists of a “Don’t ask permission” strategy and, subsequently, confidence that users will love the results as soon as they see them. Ergo, Google will do whatever it wants. Better to ask for forgiveness than permission. Just think of Gmail, with which Google offered free email and storage. Would users have accepted the terms as easily if Google at the same time had asked them permission to scan all emails in order to sell the content for custom-made ads? Or what about Google Street View, taking photos of everyone’s front yards and matching them with people’s addresses? If Google had asked permission to do this, the streets would most likely be dotted with pixelated houses due to the many rejections they would receive.

The “Don’t ask permission” strategy is also why virtually any song in the world is available for free on the video-sharing website YouTube. The platform is the largest music streaming service in the world with a market share of 52%, even though YouTube only pays 13% of the total music streaming royalty costs paid by the music industry. Co-founder of YouTube Chad Hurley wrote the following email regarding one of the company’s early copyright disputes: “So, a way to avoid the copyright bastards might be to remove the ‘No copyrighted or obscene material’ line and let

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15 Heyman, S. “Google Books: A Complex and Controversial Experiment” *New York Times*. 10-28-15.
16 Jackson, J. “Google: 129 Million Different Books Have Been Published” *PC World*. 08-06-10.
17 Taplin (2017) p. 99.
the users moderate the videos themselves. Legally, this will probably be better for us, as we’ll make the case we can review all videos and tell them if they’re concerned they have the tools to do it themselves.”18 He seems well aware that he is building his business on illegal material. YouTube has a consistently lax attitude towards pirated material. It has been able to get away with this for years. Due to the United States’ Safe Harbor provision and the EU’s Electronic Commerce Directive (2000), the giants can move under the radar when it comes to copyright politics because legislation places the legal responsibility for the material with the users who share it and not with the companies that provide the platforms. This legislation was originally adopted with the reasonable aim of finding a balance between the rights of copyright-holders and the interests in transmitting content of the internet companies. The exemption of the companies from legal responsibility was counterbalanced by their duty to shut down accounts that contained unauthorized copyrighted material. However, the companies did not regard these two aspects of the law with equal seriousness. They do not police their platforms for illegal uploads, and they rarely remove accounts that violate copyright laws unless repeated complaints have been made. Therefore, without much difficulty, YouTube has been able to employ a strategy in which they simply close their eyes to illegal content uploaded by users, removing it only if reported by the copyright holders. Legislation in this area is outdated and as a consequence, the content owners are left alone with the responsibility of finding out if a website in some corner of the Internet is violating their copyright. Today, YouTube has made agreements with most copyright owners, but what it is paying is almost symbolic when looking at the profit the company gains from the use of the material, see figures above.

One is easily seduced by the arguments that information should be free and cultural products should be shared. Professor of Law and copyright expert Lawrence Lessig exposes the tech giant philosophy when he describes how the

18Taplin (2017) p. 100.
Internet is disrupting a long era in which greedy publishers, film studios, and record companies have “robbed the people of culture”, reducing them to mere consumers, passive sofa-ridden recipients of movies, television and music. From this point of view, the Internet was supposed to be a showdown against the professionalization of creativity. And through this showdown, the creativity of millions of ordinary people would be released online, and all information and other content should become free, understood as “free of charge”. This is a new interpretation of the old idea that “good artists copy, while great artists steal”. Lessig thinks it is an established fact that every artist borrows, references and creates original works only on the basis on the work of others. Lessig wants to dilute copyright rules, which, in his opinion, are based on a quaint, romantic, illusory idea of originality. He is seconded by Google and most of Silicon Valley because he strikes an important chord with tech giants: creativity is based on collaboration.

It may sound alluring and beautiful, and it is tempting to be seduced by the idea when tech giant representatives talk about cooperation as opposed to the illusion of the romantic genius. But strangely enough, this point is put forward by the very same VIPs who honor Ayn Rand-like worship of the lonesome, heroic entrepreneur who creates a tech giant all by himself. When it comes to writers, thinkers and artists, collaboration is considered wonderful, as long as it does not demand remuneration. On the other hand, when it comes to programming, tech development, and funding, the solitary genius is worshipped, and the tech giants zealously defend the copyright on their own patents, algorithms and programs. All of a sudden, copyright legislation is a thing! In addition, it is important to keep in mind—even though it may seem counter-intuitive—that professionalism actually makes writing more democratic. It becomes more diverse because content producers are actually paid for their work by the very

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19 Lessig, L. “Laws that choke creativity” TEDtalk 2007.
20 Foer (2017) p. 160.
companies Lessig attacks—unlike those he defends. Writing and artistic expression may become a way of life and a profession for a larger part of the population and thus not just a hobby reserved for the privileged class.21

Silicon Valley has long waged war against professional writers. It is a deliberate tactic to weaken the copyright laws that allow authors, musicians and artists to live off their profession. Consider Google—copyright protection is one of the company’s biggest concerns because the company links to millions of copyrighted newspaper articles, books, magazines, etc. In 2012, the US House of Representatives discussed the Stop Online Piracy Act (SOPA). The intention behind the law was to curb copyright infringement by limiting access to pages that helped the exchange of pirated content. The law specifically targeted search engines like Google, which links to pirate pages. In response, Google put a picture on its homepage with the Google icon blocked by a black box that read “Tell Congress: Please don’t censor the web!” with an accompanying link to a list of email addresses for all members of congress. In the 24 hours the icon and link were up on the search portal, this display of force was seen by 1.8 billion users. An overwhelming number of people responded to it and two days later, the proposal was withdrawn.22 Misusing the “censorship” concept to attack legitimate rights holders proved effective.

Google deploys tremendous lobbying to moderate copyright legislation. In 2017, Wall Street Journal reported: “Over the past decade, Google has helped finance hundreds of research papers to defend against regulatory challenges of its market dominance, paying $5,000 to $400,000 for the work.”23 Academic experts can play a key role in supporting the policies promoted by specific stakeholders. During the Obama

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21 Foer (2017) p. 166.
22 Taplin, J. “Why is Google spending record sums on lobbying Washington?” The Guardian. 07-30-17.
23 Mullins, B. & Nicas, J. “Paying Professors: Inside Google’s Academic Influence Campaign” The Wall Street Journal. 07-14-17.
administration, Google appears to have encouraged the firing of US Register of Copyrights Maria Pallente, who supported an update of the copyright legislation and thus opposed Google’s efforts to weaken copyright protection for musicians, writers and artists. Google’s lobbying was so massive that the Obama administration was sometimes referred to as “the Google administration.” The odd part is that when it comes to Google’s own intellectual property, the double standard shines as clear as the sun: “Our patents, trademarks, trade secrets, copyrights and all of other intellectual property rights are important assets for us ... any significant impairment to our intellectual property rights could harm our business or our ability to compete.” World information is to be organized and made available to all for free, but of course there is one exception: Google itself. Google and Facebook’s algorithms are among the best kept secrets in the world and have never been subject to successful hacker attacks.

It is untenable to claim that information should not only be free but also free of charge. Journalism and art are part of what challenges the powers that be every day, developing new experiences and knowledge, pushing boundaries. But today, content makers have seen a significant shrinkage in their opportunities to create new art and content and make a living on it. Their revenues have simply been channeled into the swelling money bins of the tech giants. Google tries to frame copyright legislation as a censorship machine that will suffocate freedom of speech, but that is simply wrong. On the contrary, the purpose of copyright legislation is to protect the rights of artists and other content creators on the Internet—and their continued opportunity to investigate the world and express themselves.

Since 2016, the EU Commission has been working on a new and disputed copyright legislation. At the core is an

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24 Pridham, D. “How Google Tries to Buy Government” Forbes. 07-19-17.
25 Lanchester, J. “Googled: The End of the World as We Know It by Ken Auletta” The Guardian. 02-21-10.
attempt to modify the lucrative business model of the tech giants, which sneaks advertising sales into user-uploaded content like music, movies and books, not to mention allowing free access to original journalism content—in a certain sense providing it all without charge.

The proposal is controversial and its critics specifically focus on Article 11 and Article 13. The former grants news outlets copyright over the sharing of their content online and it is aimed at websites such as Google and Facebook, which use links to journalistic content as part of their business models. The proposal would require such websites to pay an amount for each link they post. Something critics claim is an effective “tax” on links. The latter article concerns websites such as YouTube and Instagram, which under the Safe Harbor provision have not been liable for the copyrighted material uploaded by their users. The users themselves are responsible. According to Article 13, the platforms would be responsible for the copyright infringement of the users unless they proactively prevent offending uploads. It is a call for content recognition systems or upload filters like Google’s Content ID-system, which according Article 13 should be used to block copyrighted content such as images and videos that violate the rights of copyright holders.

However, the visions for copyright legislation has entered troubled waters. In July 2018, parliamentarians would cast their votes on the new and updated EU copyright directive—very similar to the one first proposed by the European Commission. But in the meantime, the directive was massively criticized. Particularly, Article 13 was dubbed nothing short of a censorship machine. Such rhetoric raised suspicions that the EU intended to undermine a free and open Internet. Seventy high-profile internet professionals, start-ups and tech companies got together to form a critical coalition and drafted an open letter asking European Parliament President Antonio Tajani to vote down the proposal. Among the activists opposing the proposal were Wikipedia founder Jimmy Wales, founder of the Internet Tim Berners-Lee, and net neutrality expert Tim Wu. In the letter, they said that “Article
13 takes an unprecedented step towards the transformation of the Internet from an open platform for sharing and innovation, into a tool for the automated surveillance and control of its users.”26 But this conclusion is too radical. The proposal from Parliament includes no general surveillance of uploads. Rather, it focuses on the right of authors and artists to have their works monitored.

There is real need for legislation that breaks with the unreasonable free rein given to the tech giants and the subsequent distortion of the market for art and journalism. There is no doubt that this is no easy task, and therefore it is important to listen to critical voices. In the open letter, the critical coalition sought more clarity and consistency in the proposal’s attempt to define which tech platforms would have to comply with the provision and which could be exempted. First, they accused the law of hitting small- and medium-sized tech companies economically harder than the big ones, as the required automatic filtering technology would be both expensive and burdensome for the smaller players on the market. Second, the law would affect ordinary users who not only upload music and video, but also text, images and computer coding used in open collaboration on, for example, Wikipedia. Third, according to the coalition, the law would restrict freedom of expression and information because it would, in practice, have a much broader effect than what was intended, restricting how users share information.27 These are all reasonable critical points and they must be taken into account in the ongoing work to modify the directive.

The mandate for the copyright directive in the European Parliament was voted down in July 2018—with 318 voters against and 278 in favour of the mandate. The European lawmakers did not vote against the proposal, but they wanted to have the opportunity to discuss more amendments and

26 Cerf, V., Berners-Lee, T. m.fl. Open letter “Article 13 of the EU Copyright Directive Threatens the Internet” Electronic Frontier Foundation.
27 Ibid.
details in plenary. When the proposal comes up for a final vote in early 2019, it is unlikely to lose.

The controversial proposal is not without its backers. In 2018, thirty thousand artists from all over Europe signed a statement of support for the EU proposal. French electronic music pioneer Jean-Michel Jarre, who was in charge of collecting signatures, said: “The biggest crime against freedom of expression would be to remove the artists’ income—and thus their ability to create new art.”

28 Lassen, A. “På med sølvpapirshatten - copyright-monstrene kommer!” Jyllands-Posten. 06-20-18.