New UK copyright law will do nothing to help young designers

You probably don’t think much about the derivation of that lovely shelving in your living room, or that sleek, stylish lamp. But many of them will be copies of designs from the 20s, 60s, 80s. And despite the fact that many of their designers are dead, the cheap reproduction of them is soon to be outlawed in the UK.

Last year the UK Government introduced the Enterprise and Regulatory Reform Act 2013 (ERRA), which included a provision intended to extend the protections of copyright law to mass-produced artistic works, which includes things like chairs, lamps and sofas. This means that these sorts of design objects will enjoy extremely broad protection from copying for “the life of the creator plus 70 years”, a period which usually averages out around 120 years from the date of creation. Before this, industrial designs were covered by laws that protected these objects for 25 years.

The beneficiaries of what is effectively a 90+ year extension — a range of name brand designers like Tom Dixon, Edward Barber and Jay Ogersby, retailer-magnate Sir Terence Conran, and the CEOs of high-end furniture manufacturers like Vitra and Flos — were understandably delighted at the prospect of stamping out the scourge of low-rent replicas of modernist design.

The reasons for this are not as self evident as you would think. It’s not so much that if you or I can’t buy a £100 replica Eileen Gray side table we’ll buy the licensed version for £500. It’s more that the ubiquitous presence of so many knockoffs reduces the desirability and status value of the licensed version.

Slowing things down

However, the government has recently announced a consultation process aimed at assessing the effect of the ERRA and proposed a phase-in of this change in the law. Over the next few weeks, they will accept responses to various aspects of the implementation of the law, including a proposed three-year period for the phase-in, in order to balance the interests of both the high end and low end purveyors.

Understandably, the industry figures are crying foul and high-end design brands like Vitra, Artek and Flos have formed a coalition to lobby the government and ensure that ordinary consumers can’t get access to designs that will be brought back into their exclusive control under the new law. The spokesman for this group, the managing director of the high end manufacturer Vitra, has suggested that the government’s delay has made the UK “a laughing stock”.

Just one of the designs you’ll no longer be able to get cheaply. nickwade, CC BY

Naked self interest

Well-funded lobbyists and self-interested designers make it seem like they have the interests of the UK consumer at heart. Back when the act was being mooted, Mark Adams, of the furniture manufacturer Vitsoe, said:

The copying of furniture is out of hand and, ultimately, it is the customer who loses out. Vitsoe would be able to support and service its long-term customers much better if its market position was not constantly being eroded by products that copy the look (of its shelving system) but fail to give the high product quality and careful service which genuinely allow customers to live better, with less, that lasts longer.
Statements like these are disingenuous. The new act promises to give high-end manufacturers more or less complete monopoly over iconic designs like Dieter Rams’s 606 shelving system or Achille Castiglioni’s Arco lamp. Both of these were designed in the 1960s and under the old law were free for others to reproduce without cost. But no longer. The new act creates a monopoly that will significantly reduce consumer choice and drive prices up. The government estimates that replicas of such well-known designs sell for around one-seventh of the price of the licensed versions. But after the implementation of the new law there won’t be any stores selling you cheap-and-cheerful versions of these designs.

These designs were produced at a time when there was no copyright in them. Their designers did not need copyright to ensure they would be produced. And, most of these iconic designers are dead anyway, so aren’t going to see a penny from this newly granted monopoly.

Perhaps the worst part of this change is that struggling British designers think that it will help them. It won’t. Copyright always favours the wealthy few creators and the commercial producers of their work. What this act does is reduce competition and access to good design at a reasonable price – and provide a big payday to a small number of people.

It’s just another example of the rampant expansion of the reach of intellectual property rights, driven by the interests of big business.

There is, unfortunately, little chance that the government will repeal the relevant section of the ERRA. It’s committed to expanding the reach of intellectual property: earlier this year it introduced a new Intellectual Property Act 2014, which made the system even more draconian and included a provision making design infringement a criminal act.

The best that we can hope for now is a reasonably long changeover period to allow the high street retailers to sell off their replica stock. And, of course, for you to pick up a decent version of Mies van der Rohe’s Barcelona chair at a reasonable price. Get it before it’s gone.