

# Implementing derivative use within TC 440 - FAQs

## Introduction

This document seeks to answer some of the most common questions, which have come from the CEN/TC 440 community whilst discussing the concept of derivative use. The answers to these questions must be read in conjunction with the CCMC note “Implementing derivative use within TC 440”.

## Questions and answers

### 1. What is derivative use?

- a. Derivative use implies that specific parts of a CEN deliverable can be copied and replicated into another deliverable published under its own IPR (intellectual property right).
- b. Through a derivative use license CEN gives permission to the copying of content from a CEN/TC 440 deliverable, in addition to what is generally allowed under the CEN licensing regime (CEN-CENELEC Guide 10 Policy on dissemination, sales and copyright of CEN-CENELEC Publications).<sup>1</sup>
- c. Derivative use may only be used for reproduction which is within the intended use of the deliverable. Any use that falls outside of the use of the deliverable will not be considered valid use for the reproduction. In addition, clauses/figures that are subject to derivative use, will be identified in the deliverable itself.
- d. A typical application of derivative use is where a section of the CEN deliverable, such the semantic definition for an information element, is copied and replicated into software. Another application can be that the cardinality and usage rules for information elements are copied into an explanatory document published by a national authority, industry association or other entity (such as OpenPEPPOL) to further enhance and/or refine the deliverable from CEN/TC 440 for local use.

### 2. What is meant by the intended use of the deliverable?

- a. The CCMC note defines intended use as *“the intended purpose of the Publication as defined by the relevant technical committee under conditions, which can be reasonably foreseen”*. In other words, the intended use are the use cases that the CEN deliverable is designed to support.
- b. This means that the derivative use cannot be applied to use cases other than those CEN/TC 440 deliverables are designed to support.

### 3. Which use cases are the CEN/TC 440 deliverables designed to support?

- a. The objective of CEN/TC 440 deliverables is to *ensure interoperability in the sharing and exchange of information between actors involved in supply chain activities of public and private e-procurement*.
- b. The deliverables of CEN/TC 440 are developed with a view to support:
  - i. implementation in software solutions offered to market, or
  - ii. development of further enhanced and/or refined specifications for local use within defined territories or industry sectors, such as a national authority responsible for public procurement tailoring the deliverable in line with national legislation

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<sup>1</sup> <https://www.cencenelec.eu/standards/Guides/Pages/default.aspx>

- c. Although the primary objective of the deliverables from CEN/TC 440 are aimed at the implementation into software solutions and local specifications, the derivative use licensing will also allow for reusing parts of the deliverable in material aimed at educational and training purposes (in line with the provision of the CEN-CENELEC Guide 10, which foresees the use of standards for educational and training purposes).
- d. Each CEN/TC 440 deliverable will make clear what the intended use of the deliverable is and (if relevant) who the intended users of the deliverable are.

**4. How will I know which parts of the deliverable fall under derivative use and which do not?**

- a. The parts of the deliverable that are subject to the “derivative use” license will be explicitly identified in each deliverable.
- b. In the introductory section of each deliverable, CEN/TC 440 will provide an overview of the sections of the deliverable that fall under derivative use. It will also be made clear throughout the deliverable, which sections fall under derivative use.
- c. The section which fall under derivative use will typically be those parts of the deliverable that are needed to correctly implement and use the deliverable, such as the definition of the information content of business transactions.
- d. Explanatory text, including examples, aimed at increased understanding is generally not covered by the “derivative use” license, i.e. only normative content will be subject to and relevant for derivative use.
- e. National standardization bodies (NSBs) are encouraged to indicate at the point of sale that the deliverable purchased falls under derivative use licensing.

**5. Can content which fall under derivative use be modified?**

- a. It is expected that the content of CEN/TC 440 deliverables will be re-used as is (i.e. without modifications).
- b. Any modifications to the content of the TC440 deliverable that makes the resulting software or enhanced/refined specification non-conformant would not fall under the derivative use licensing.
- c. The resulting software or enhanced/refined specification must respect the conditions outlined in the TC 440 deliverable in such a way that the result provided is conformant to the TC440 deliverable.

**6. Can the parts of the deliverable which fall under derivative use be incorporated into commercial products?**

- a. Those part of the CEN deliverables identified as available for derivative use can be copied into software.
- b. There are no constraints as to the further licensing of the resulting product, as long as the reproduction is within the intended use of the publication (see questions 2 and 3 above).

**7. Who is responsible for purchasing the license?**

- a. The derivative use license is granted with the acquisition of the CEN deliverable from one of the CEN members. The acquisition of the CEN deliverable is a prerequisite for any entity who wants to make use of derivative use.
- b. In cases where part of the deliverable from CEN/TC 440 is re-used, e.g. in software or in a local specification, the derivative use license does not place any additional constraint on the licensing used for the software or local specification.

- c. There is no need for the end user of a software products/services which has implemented part of the CEN deliverable to acquire a copy of the CEN deliverable itself.
- d. Any software or enhanced/refined specifications making use of a derivative license must include:
  - i. a reference to the deliverable(s),
  - ii. the fact that the reproduction is permitted by CEN and the relevant National Standardization Body (NSB),
  - iii. the fact that CEN and the relevant NSB bear no liability from the content and implementation of such derivative applications and that, in case of doubt, users shall always refer to the official authoritative content of the deliverables as provided by the relevant NSB, and
  - iv. display of the CEN copyright notice.

**8. How do the licensing requirements work outside Europe?**

- a. The derivative use license is granted by CEN-CENELEC to the deliverables of CEN/TC 440 and is granted with the acquisition of a copy of the CEN deliverable.
- b. There are no territorial constraints on the acquisition, use or implementation of the deliverable – nor are there any territorial constraints on the derivative use license.

**9. What if the CEN/TC 440 deliverable itself reuses material from an external source?**

- a. Any reuse of material from another publication in a deliverable developed by CEN/TC 440, such as the reuse of semantic definitions from the eProcurement Ontology published by the European Commission, will be subject to agreement between CEN and the external organization, which owns the copyright of the publication that CEN/TC 440 would like to reproduce.
- b. In case where the deliverable from CEN/TC 440 references or make use of material from another source that is completely open, the derivative use licensing will not imply any restrictions on the original work. The original work will still be available in parallel to the deliverable from CEN/TC 440.