



Consultation Document

Amendments to subsidiary legislation concerning the licensing of radiocommunications apparatus

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1. INTRODUCTION

This Consultation document highlights a number of proposed changes to be carried out to the General Authorisations (Radiocommunications Apparatus) Regulations (S.L.399.40)¹. As a consequence, the Fees (Radiocommunications) Regulations (S.L.35.01)² will also need to be modified.

It should be noted that revisions that arise from international obligations will not form part of this consultation. The draft instrument amending the General Authorisations (Radiocommunications Apparatus) (Amendment) Regulations is being attached with this consultation document.

In accordance with its obligations under Article 4A of the Malta Communications Authority Act (Chapter 418 of the Laws of Malta), the Authority welcomes written comments and representations from interested parties and stakeholders during the national consultation period. Responses received will assist the Malta Communications Authority (MCA) to finalise its proposals to Government with respect to the licensing of radiocommunications apparatus.

¹ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11475&l=1>.

² <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=9065&l=1>.

2. PURPOSE

In accordance with Part IV of the Electronic Communications (Regulation) Act (Chapter 399) an individual licence is required for the installation or use of radiocommunications apparatus, unless the apparatus is either licence exempt or regulated by a general authorisation.

The MCA is proposing a number of amendments to the general authorisation licensing framework as applicable to radiocommunications apparatus, namely, the General Authorisations (Radiocommunications Apparatus) Regulations (S.L.399.40). Whilst most of the amendments need to be adopted in order for Malta to meet its international spectrum-management obligations, other amendments are being proposed for adoption as a national initiative. These initiatives include the establishment of new licensing frameworks for certain radiobeacons, such as Personal Locator Beacons, and specific satellite earth stations.

The MCA believes that the general authorisation licensing framework as provided for in the aforesaid regulations provides a flexible licensing regime which allows radiocommunications apparatus compliant with the set technical conditions to proliferate. Hence, this regime provides opportunities for growth to economic operators as well as to the general public in terms of availability of different wireless solutions which could be used for a variety of applications.

The proposed legal instrument amending the General Authorisations (Radiocommunications Apparatus) Regulations is attached to this consultation document and reflects the proposals being described herein. Section 3 is introducing the main elements of the said legal instrument, and is seeking for the written comments and representations from stakeholders on those proposed amendments which are not intended to implement any international spectrum harmonisation measure.

3. THE SALIENT AMENDMENTS TO THE GENERAL AUTHORISATIONS (RADIOCOMMUNICATIONS APPARATUS) REGULATIONS (S.L.399.40)³

As stated earlier in this document the MCA will not be consulting on those amendments deriving from international obligations which Malta needs to implement. For ease of reference, the term “Principal regulations” refers to the General Authorisations (Radiocommunications Apparatus) Regulations (S.L.399.40).

3.1 Amendments to Part I and Part II of the Principal Regulations

In order to improve clarity, the MCA is proposing to introduce a number of new definitions under Part I of the Principal regulations. It should be noted that most of these definitions are already included in these regulations, but under specific Schedules. A re-organisation of the definitions was considered appropriate in order to the inclusion of the same definitions under different Schedules.

Question 1: *Do you agree with the consolidation of the definitions under Part I of the Principal regulations?
Please provide justifications in case of disagreement.*

Question 2: *Do you agree that the proposed new definition of “detachable antenna”?
Please provide justifications and alternative text in case of disagreement.*

Under Part II, the MCA is proposing the deletion of regulation 8 of the principal regulations concerning the R&TTE Regulations. The MCA considers that this regulation is not required since the relevant legal obligations are already included in a separate legal document.

3.2 Amendments to the First Schedule of the Principal Regulations

This Schedule currently applies to VHF maritime apparatus and Emergency Positioning-Indicating Radio Beacon (EPIRB) stations that are installed or used from ships registered with the competent Maltese authorities. The MCA is introducing a number of amendments to this Schedule. Primarily, the MCA is proposing to have the First Schedule focused solely on VHF maritime apparatus, whilst those provisions concerning EPIRBs be transferred to a new Schedule (please refer to 33rd Schedule). As a consequence, the First Schedule will be renamed to as “General Authorisation for VHF Maritime Apparatus”.

³ Proposed amendments deriving from international obligations which Malta needs to implement are not being consulted upon. Proposals which were already subject to a public consultation process are also not being consulted upon.

The proposed amendments to this Schedule also have the objective to fully implement the decisions adopted by the 2015 World Radiocommunication Conference (WRC-15) as published in the latest edition of the Radio Regulations of the International Telecommunication union (ITU).

In this regard a number of changes to the First Annex of this Schedule are being proposed for implementation, and are being summarised as hereunder:

- A number of channels can be operated as single frequency channels;
- A number of channels have been identified for VHF Data Exchange Systems (VDES);
- A number of new simplex channels have been identified for digital modulated emissions only;
- As from January 2019 a number of channels shall be split into simplex channels for the application of application specific messages (ASM).

The MCA considers in Malta there is no congestion in the VHF maritime mobile band and consequently it is proposing to retain the channelling arrangement of the VHF maritime mobile band based on 25 kHz channel spacing.

Question 3: *Do you agree with MCA's proposal to retain a 25 kHz channelling arrangement for the VHF maritime mobile band?
Please provide justifications in case of disagreement.*

As can be noted from the proposed modifications to the Annex of this Schedule, those channels marked as *mm*) are designated for use by Coast stations. The Radio Regulations provide the possibility to also make these channels available for ship stations' transmissions. The MCA is proposing to make these channels available for both type of stations.

Question 4: *Do you agree with MCA's proposal to make the channels marked as *mm*) available to both coast stations as well as to ship stations?
Please provide justifications in case of disagreement.*

The Radio Regulations designated a number of channels for the operation of the VHF Data Exchange Service (VDES). Whilst a number of channels were identified for the operation of this service on a global level, a number of other channels were also made available for regional VDES. This designation, at an ITU level, became effective in 2017.

Discussions held within the Electronic Communications Committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT) identified a number of issues concerning the designation of certain channels to VDES. In this regard studies are currently ongoing to develop a harmonised approach on the designation of maritime mobile channels to VDES for Europe. These studies are currently ongoing and are expected to be completed in May 2018⁴.

⁴ <http://eccwp.cept.org/default.aspx?groupid=23>.

In the circumstances the MCA is proposing to make available certain maritime mobile channels for VDES on a date which still needs to be determined by the MCA following adoption of the aforesaid harmonisation measure by the ECC.

Question 5: *Do you agree with MCA's proposal to delay the availability of channels for VDES?
Please provide justifications in case of disagreement.*

3.3 Amendments to the Second Schedule of the Principal Regulations

The MCA is proposing to modify the title of the Second Schedule from Wireless Access Systems to Wireless Data Transmission Systems as well the associated definitions. The technical parameters of this Schedule are being modified in order to make available the frequency band 863-868 MHz for such systems, in accordance with Commission Implementing Decision (EU) 2017/1483⁵.

3.4 Amendments to the Fourth Schedule of the Principal Regulations

The Fourth Schedule regulates the installation / use of short range devices.

The MCA is proposing to replace the reference of the term "R&TTE Regulations" with "Directive 2014/53/EU"⁶ and is also proposing to modify certain technical parameters as set out in the Annex to this Schedule in order to be fully in line with Commission Implementing Decision (EU) 2017/1483.

3.5 Amendments to the Sixth and Twenty-seventh Schedules of the Principal Regulations

The MCA is proposing the deletion of provisions under these Schedules concerning the R&TTE Regulations. The MCA considers that these provisions are not required since the relevant legal obligations are already included in a separate legal instrument.

3.6 Amendments to the Seventh Schedule of the Principal Regulations

Through the attached legal instrument, the MCA is proposing to substitute the Seventh Schedule. The proposed modifications include a change in the title of this Schedule from "Wireless alarm systems"

⁵ Commission Implementing Decision (EU) 2017/1483 of 8 August 2017 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices and repealing Decision 2006/804/EC.

⁶ Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC.

to “Low duty cycle/high reliability devices”. The technical conditions included in this Schedule are not being modified.

The proposed modifications are in accordance with Commission Decision 2006/771/EC⁷, as amended.

3.7 Amendments to the Eighth Schedule of the Principal Regulations

The MCA is proposing to substitute the Eighth Schedule. The proposed modifications include a change in the title of this Schedule from “Wireless audio systems” to “High duty cycle/continuous transmission devices”.

The technical conditions included in this Schedule are being modified and are in accordance with Commission Decision 2006/771/EC, as amended.

3.8 Amendments to the Tenth Schedule of the Principal Regulations

The Tenth Schedule regulates the installation / use of PMR446 radiocommunications apparatus. A number of modifications are being proposed in order to reflect the relevant provisions set out in Commission Implementing Decision (EU) 2017/1483. Amongst other things it is being proposed to make available the frequency band between 446.0 and 446.2 MHz for PMR446 radiocommunications apparatus on a technology neutral basis.

3.9 Amendments to the Eleventh Schedule of the Principal Regulations

The Eleventh Schedule regulates the installation / use of apparatus using ultra-wideband (UWB) technology. The purpose of the modifications is to revise two definitions and to include, in the Annex thereto, provisions concerning material sensing devices.

These modifications are in line with Commission Decision 2007/131/EC⁸, as amended.

3.10 Amendments to the Twelfth Schedule of the Principal Regulations

This Schedule regulates Radio Frequency Identification Devices (RFIDs). The proposed modifications are required to align the operating technical parameters of RFIDs with the relevant provisions as contained in the Annex to Commission Implementing Decision (EU) 2017/1483.

⁷ Commission Decision of 9 November 2016 on harmonisation of the radio spectrum for use by short-range devices.

⁸ Commission Decision of 21 February 2007 on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community.

3.11 Amendments to the Thirteenth, Sixteenth and Eighteenth Schedules of the Principal Regulations

The Thirteenth Schedule regulates radiocommunications apparatus for tracking, tracing and data acquisition, the Sixteenth Schedule regulates intelligent transport systems and the Eighteenth Schedule regulates apparatus used for radiodetermination applications.

The proposed modifications are considered to be of an editorial nature and are required to replace the reference of the “R&TTE Regulations” with “Directive 2014/53/EU”.

3.12 Amendments to the Fourteenth Schedule of the Principal Regulations

The conditions associated with radiocommunications apparatus used for the provision of mobile communications services on aircraft are established under the Fourteenth Schedule. The proposed amendments are required to align the national regime for this type of apparatus with those established in Commission Implementing Decision (EU) 2016/2317⁹.

3.13 Amendments to the Fifteenth Schedule of the Principal Regulations

The Schedule regulating assistive listening devices is being modified in order to make available the band 173.965-216 MHz for these devices. This modification is required to align Malta’s regulations with Commission Implementing Decision (EU) 2017/1483.

3.14 Amendments to the Seventeenth Schedule of the Principal Regulations

The Seventeenth Schedule regulates the installation / use of earth stations on mobile platforms (ESOMPs). The proposed changes are considered to be of an editorial nature and are required to clarify that this Schedule applies to ESOMPs operating with Geostationary Satellite Orbit (GSO) Fixed Satellite Systems (FSS). It is also being proposed to replace the reference of the term “R&TTE Regulations” with “Directive 2014/53/EU”.

The technical conditions applicable to these type of stations is not being altered and will remain compliant with ECC/DEC/(13)01¹⁰.

⁹ Commission Implementing Decision (EU) 2016/2317 of 16 December 2016 amending Decision 2008/294/EC and Implementing Decision 2013/654/EU, in order to simplify the operation of mobile communications on board aircraft (MCA services) in the Union.

¹⁰ ECC Decision of 8 March 2013 on the harmonised use, free circulation and exemption from individual licensing of Earth Stations on Mobile Platforms (ESOMPs) within the frequency ranges 17.3-20.2 GHz and 27.5-30.0 GHz.

3.15 Amendments to the Nineteenth Schedule of the Principal Regulations

The MCA is also proposing modifications to the Schedule under reference concerning radiocommunications apparatus used in healthcare. These modifications are required to substitute the reference of “R&TTE Regulations” with “Directive 2014/53/EU”, and to align the technical conditions relating to the 2483.5-2500 MHz band with those contained in Commission Implementing Decision (EU) 2017/1483.

3.16 Amendments to the Twenty-first Schedule of the Principal Regulations

This Schedule applies to very small aperture terminals (VSAT) operating in the 11/12/14 GHz frequency bands. The MCA is proposing a modification to the definition of “EN 302 428”, which modification is considered to be of an editorial nature.

3.17 Amendments to the Twenty-fourth Schedule of the Principal Regulations

This schedule regulates aircraft earth stations (AES) operating in the 11/12/14 GHz bands. The MCA is proposing a modification to the definition of “EN 302 186”, and is considered to be of an editorial nature.

The MCA is also proposing the addition of a new sub-paragraph (3) under paragraph 4 which give the right to the MCA and to the competent authority responsible for the aviation sector to impose conditions on the operation of the AES whilst the aircraft is on the ground.

Question 6: *Do you have any reservation to the addition of the new sub-paragraph 4(3), as described in the attached draft legal instrument?
Please provide justifications and alternative text in case of disagreement.*

3.18 Amendments to the Twenty-fifth Schedule of the Principal Regulations

The Twenty-fifth Schedule regulates the installation/use of earth stations on board vessels (ESV). This Schedule requires that the operation of ESVs shall be in accordance with ITU Resolution 902¹¹. Due to possible harmful interference scenarios with terrestrial systems, this Resolution requires that ESVs be switched off when a vessel equipped with an ESV is located at a certain distance from land.

Although this condition is already imposed on the operation of ESVs, the MCA would like to emphasise on the importance of this condition and is therefore proposing to explicitly include this condition as a limitation under this Schedule.

¹¹ Resolution 902 (WRC-03) - Provisions relating to earth stations located on board vessels which operate in fixed-satellite service networks in the uplink bands 5925-6425 MHz and 14.0-14.5 GHz.

The MCA is also effecting a correction to the units corresponding to the e.i.r.p. spectrum density limits that are currently described in the Annex to this Schedule.

3.19 Amendments to the Twenty-sixth Schedule of the Principal Regulations

The Twenty-sixth Schedule regulates the installation/use of systems used for road transport and traffic telematics (RTTT).

The MCA is proposing to substitute the reference of “R&TTE Regulations” with “Directive 2014/53/EU”, and to align the technical conditions of RTTT systems operating in the 5.8 GHz and 76 GHz frequency bands with those established in Commission Implementing Decision (EU) 2017/1483.

3.20 Amendments to the Twenty-ninth Schedule of the Principal Regulations

Any person who engages in a commercial activity to sell radiocommunications apparatus falls within the scope of this Schedule. The MCA is proposing to replace paragraph 3(1) concerning the R&TTE Regulations with a new paragraph requiring dealers to programme radiocommunications apparatus with those radio frequencies assigned in writing by the MCA.

It should be noted that this proposal should be considered as a spectrum efficiency measure to address situations where apparatus is found to be programmed on radio frequencies not assigned by the MCA.

Question 7: *Do you have any reservation to the addition of the new condition in the twenty-ninth Schedule, as described in the attached draft legal instrument?
Please provide justifications in case of disagreement.*

3.21 Amendments to the Thirty-first Schedule of the Principal Regulations

Radiocommunications apparatus used for wireless audio programme making and special events (PMSE) is regulated by this Schedule. Paragraph 2 of this Schedule defines Wireless audio PMSE apparatus as radiocommunications transmission apparatus used for short range transmission of analogue or digital audio signals among a limited number of emitters and, or receivers, such as radio microphones, in-ear monitor systems or audio links, used in particular for the production of broadcast programs and private or public social and cultural events capturing real-time presentation of audio information.

The MCA is proposing to delete paragraph (4) concerning the R&TTE Regulations and to modify the current paragraph 5 and the Annex to this Schedule. A brief description of the proposed modifications to this paragraph is being provided hereunder:

- a) Sub-paragraph 5(1) concerning the use of the 854-862 MHz band by wireless audio PMSE is no longer relevant and can be deleted.
- b) In accordance with Decision (EU) 2017/899¹², Member States are required to make available the 694-790 MHz (700 MHz) band for wireless broadband electronic communications services as from 30 June 2020. The availability of this band for such services may be extended for a term up to two years on the basis of the justified reasons established in the same Decision.

The MCA is therefore proposing to add a new limitation to prohibit the use of wireless audio PMSE apparatus from using the 694-790 MHz band as from 1 January 2021, due to harmful interference problems.

- c) The first paragraph of sub-paragraph 5(3) is being proposed for deletion since this paragraph is no longer relevant.

The proposed modifications to the Annex of this Schedule are considered to be of an editorial nature.

Question 8: *Malta is required to designate and make available the 700 MHz band for wireless broadband electronic communications services by 30 June 2020 with a possible extension of two years. In the circumstances do you have any concerns concerning the proposed date of 1 January 2021 representing the deadline by when wireless audio PMSE apparatus can no longer make use of this band?*

Question 9: *In case you have wireless audio PMSE apparatus operating in this band, is your apparatus tunable to radio spectrum below the 700 MHz band?
Please provide the details (make and type) of the wireless audio PMSE apparatus being used by you.*

Question 10: *In case your apparatus is not tunable to radio spectrum below the 700 MHz band, what costs you foresee to incur to replace your apparatus?*

3.22 Amendments to the Thirty-second Schedule of the Principal Regulations

This Schedule regulates the installation / use of radiocommunications apparatus for mobile communication services on board vessels. The proposed modifications are required to align the national regime for this type of apparatus with those established in Commission Implementing Decision (EU) 2017/191¹³.

¹² Decision (EU) 2017/899 of the European Parliament and of the Council of 17 May 2017 on the use of the 470-790 MHz frequency band in the Union.

¹³ Commission Implementing Decision (EU) 2017/191 of 1 February 2017 amending Decision 2010/166/EU, in order to introduce new technologies and frequency bands for mobile communication services on board vessels (MCV services) in the Union.

3.23 Addition of a new Thirty-third Schedule of the Principal Regulations

The MCA is proposing to establish a new Thirty-third Schedule concerning radiobeacons. For the purpose of these Regulations, radiobeacons are devices which are intended to facilitate search and rescue operations.

In this regard, as already stated in section 3.2 hereof, the MCA is proposing to transfer the provisions concerning EPIRBs from the First Schedule to this new schedule. No new provisions are being proposed for inclusion with respect to EPIRBs.

Licensing framework for PLBs

In addition, the MCA is also proposing the inclusion of provisions for Personal Locator Beacons (PLBs). PLBs are small devices which operate on 406 MHz and are designed to operate in multi-environments such as on maritime, aeronautical and land. Given that the transmission parameters of 406 MHz PLBs are harmonised, the MCA is proposing that such devices be exempted from the need of an individual licence and be regulated by a general authorisation regime.

Question 11: *Do you have any concerns if PLBs are regulated by a general authorisation framework, as per the attached legal instrument?
Please provide justifications if your response is in the affirmative.*

PLBs - Conditions of use

In addition to the conditions established in the Principal Regulations, a person enjoying a general authorisation for the use of PLBs will also be required to comply with the specific conditions to be established in this new Schedule. In particular, the MCA will be proposing to limit the use of PLBs only to maritime and aeronautical environments. The use of PLBs on land will therefore not be permitted and any such use will constitute a breach to the Principal Regulations.

Question 12: *Do you agree that the regime will prohibit the use of PLBs from land?
Please provide justifications in case of disagreement.*

Registration of PLBs

It is imperative that all PLBs that could potentially be used locally are registered in a beacon registration database. In this regard the MCA is hereby proposing to use the International 406 MHz Beacon Registration Database (IBRD)¹⁴ of Cospas-Sarsat as the sole platform for users to register their PLBs. The IBRD allows beacon owners to register their apparatus and personal details in a centralized database; the registered information will be made available to designated national entities involved in search and rescue (SAR) activities. The registration process in the IBRD is free of charge.

Therefore, owners of PLBs shall immediately register their beacon in the said database by specific mandatory information. It should also be noted that the proposed framework will require owners of PLBs to keep up to date their data as registered in the IBRD.

¹⁴ www.406registration.com.

Question 13: *Do you agree to use the IBRD of Cospas-Sarsat for the registration of PLBs?
Please provide justifications in case of disagreement.*

Coding / Programming of PLBs

A PLB shall be coded in accordance with the guidance provided by Cospas-Sarsat. The MCA is proposing that PLBs are identified by its 15-digit Unique Identification Number (UIN)¹⁵, using the Standard Location Protocol. This protocol uniquely identifies the PLB using a unique serial number assigned by the beacon manufacturer accompanied with the Cospas-Sarsat beacon Type Approval Certificate (TAC) number. In this respect the maritime identification digit (MID)¹⁶ to be programmed into PLBs shall be 256.

Question 14: *Are you in agreement to implement the Standard Location Protocol to code PLBs?
Please provide justifications in case of disagreement.*

PLBs - Other requirements

Given that the purpose of PLBs is to facilitate SAR operations, the MCA is proposing that PLBs intended for use in Malta should have an integrated global navigation satellite system (GNSS).

Question 15: *Do you agree that PLBs should have an integrated GNSS functionality?
Please provide justifications in case of disagreement.*

3.24 Addition of a new Thirty-fourth Schedule of the Principal Regulations

In 2015, the Electronic Communications Committee (ECC) adopted ECC Decision (15)04¹⁷ which established a harmonised licensing framework for non-geostationary satellite orbit (NGSO) land and mobile earth stations on mobile platforms (ESOMPs). Mobile platforms are defined as ships or land vehicles or may be transportable devices used in motion or at temporary halts.

The MCA is proposing to implement this ECC Decision and to regulate Non-GSO ESOMPs through a general authorisation licensing framework. The MCA considers that whilst the proposed regime will ensure that such earth stations operate in an effective manner, it will not add any administrative burden to maritime industries that intend to install/use such systems from on board their locally registered aircraft or ships.

Question 16: *Do you agree with the proposal to regulate NGSO ESOMPs through a general authorisation, as per the attached legal instrument?
Please provide justifications in case of disagreement.*

¹⁵ This is also referred to as the beacon 15 Hex Identification (Hex ID).

¹⁶ MID denotes the administration having jurisdiction over a ship station or in this case, a PLB.

¹⁷ ECC Decision (15)04 of 3 July 2015 on the harmonised use, free circulation and exemption from individual licensing of Land and Maritime Earth Stations on Mobile Platforms (ESOMPs) operating with NGSO FSS satellite systems in the frequency ranges 17.3-20.2 GHz, 27.5-29.1 GHz and 29.5-30.0 GHz.

4. THE SALIENT AMENDMENTS TO THE FEES LEVIABLE BY GOVERNMENT DEPARTMENTS REGULATIONS (S.L.35.01)

The Fees Leviable by Government Departments Regulations establish the licence fees which can be charged in respect of the grant of radiocommunications licences, and the provision of ancillary services.

Amendments to these Regulations are required as a consequence of the proposed changes to the General Authorisation (Radiocommunications Apparatus) Regulations. The proposed changes are therefore not introducing any new fees.

5. CONSULTATION FRAMEWORK

In accordance with its obligations under Article 4A of the Malta Communications Authority Act [Cap. 418 of the Laws of Malta], the MCA welcomes written comments and representations from stakeholders during the consultation period which shall run from the 29th September 2017 to the 27th October 2017.

For the sake of clarity and ease of understanding, the MCA encourages stakeholders to structure their comments in order and in line with the section numbers and sub-section numbers used throughout this document.

The Authority appreciates that respondents may provide confidential information in their feedback to this consultation document. This information is to be included in a separate annex and should be clearly marked as confidential. Respondents are also requested to state why the information should be treated as confidential.

For the sake of transparency, the MCA will publish a list of all respondents to this consultation. The MCA will take the necessary steps to protect the confidentiality of all such material in accordance with the MCA's confidentiality guidelines and procedures. Respondents are however encouraged to avoid confidential markings wherever possible.

All responses should be submitted to the MCA in writing by no later than **12.00hrs. CET** on the **27th October 2017** and addressed to the:

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Extensions to the consultation deadline will only be permitted in exceptional circumstances and where the MCA deems fit. The MCA reserves the right to grant or refuse any such requests at its discretion. Requests for extensions are to be made in writing within the first ten (10) working days of the consultation period.