

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

REGULATORY  
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NASHVILLE, TENNESSEE

IN RE:

SHOW CAUSE PROCEEDING  
AGAINST TALK.COM, INC.

OFFICE OF THE  
EXECUTIVE SECRETARY

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DOCKET NO.  
01-00216

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**DISCOVERY REQUESTS**

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Pursuant to Tenn. Comp. R. and Reg. 1220-1-2-.11, the Consumer Services Division of the Tennessee Regulatory Authority ("TRA") serves upon Talk.com, Inc., also known as or affiliated with Access One, Access One Communications, The Phone Company, The Other Phone Company, AOL Long Distance, Tel-save, Talk America Holdings, Inc., and TalkAmerica® (hereinafter referred to as "Talk.com"), the following Requests for Production and written Interrogatories to be answered under oath by an officer of Talk.com on or before January 22, 2002.

**DEFINITIONS AND INSTRUCTIONS**

- (a) For purposes of the Requests, the meaning of "Documentary Materials," "Documentation" and "Documents" shall include, but is not limited to:

All written material, however produced or reproduced and wherever located, that is owned, possessed, controlled, in the custody of or accessible to your company, constructively or otherwise, and whether prepared or received by your company; and shall include, but is not limited to, letters, correspondence certificates, newspapers, logs, journals, accounts, schedules, contracts, prospectuses, marketing and advertising materials, agreements, drafts, reports, memoranda (including memoranda or notes of telephone conversations, other conversations, discussions, meetings, or conferences), telegrams, telexes, photographs, books, transcripts, records, pamphlets, office communications (inter-office and intra-office), bulletins, manuals, minutes, marketing studies, statements, notebooks, forms, notices, tabulations, analyses, studies, microfilms, voice recordings,

videotapes, tables or statistical or other data, computer stored data (e-mail, etc.), notes or other tangible things, including copies if the copy bears any other marking or notation of any kind and each such document shall include all attachments, enclosures, and materials underlying, supporting or used in the preparation of any such document, and other documents that relate or refer to each such document.

- (b) Also, for the purposes of this Request, the term "you" shall mean and include:

Talk.com and/or any and all officers, owners, employees, agents and representatives of Talk.com.

- (c) "Identify" shall mean the following when referring to:

- 1) a natural person, means to state his/her full name and present or last known address, telephone number, date of birth and his/her present or last known business position and affiliation;
- 2) A corporation, partnership or other business entity, means to state the full name and last known address of the entity;
- 3) A document means to state its date, its author, its recipient and his/her address and the names of each of its present custodians; and
- 4) When used in connection to a factual situation or allegation means to state with particularity and specificity all facts known which bear upon or are related to the matter which is the subject of the inquiry, using the simplest and most factual statement of which you are capable.

- (d) "Person" means any natural person, or any corporation, partnership, or association of persons.
- (e) "Complaint" means any expression, written or oral, conveying dissatisfaction to any entity.
- (f) Unless otherwise indicated, documents to be produced pursuant to this Request include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the period from January 1, 1997 to the date of the production of the documents.
- (g) Document requests in the Request call for the production of each and every responsive document in Talk.com's possession, custody, and control without regard to the physical location of those documents.

- (h) If Talk.com asserts a privilege in response to a document request in this Request, Talk.com must state the privilege, basis for the privilege, and identify the documents to which the privilege attaches.
- (i) All documents shall be provided along with affidavits from each of the persons responsible for completing the response. The affidavits must state that the documents represent a complete, truthful and accurate response to this Request. The affidavits must also authenticate all documents provided in response to the Request.
- (j) Whenever appropriate, the singular form of a word should be interpreted in the plural, and the plural form should be interpreted in the singular.
- (k) In responding to this Request, preface each answer or document by the Request number to which it is addressed. If you are unable to answer a Request fully, submit as much information as is available, explain why your answer is incomplete, and state the source or sources from which a complete answer may be obtained. If an accurate answer cannot be obtained, from books or records, your best estimate, so identified, should be submitted indicating the source of the estimate.
- (l) These discovery requests are intended to be continuing requests, requiring you to supplement your production or answers with documents or answers within the scope of the requests that may be acquired by you, your agents, your attorneys or your representatives at any time following the date of your original response.

### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

You are specifically requested to produce the following documents:

#### **Request For Production No. 1: Corporate Information.**

Provide all documents reflecting the corporate structure and corporate formation as well as any reorganization or restructuring of Talk.com and any holdings or interest Talk.com has in other entities.

#### **Request for Production No. 2: Relationships With Companies and Providers.**

Provide all documents, including but not limited to contracts, relating to or describing the relationship between Talk.com and (1) BellSouth; (2) any other local exchange carrier in Tennessee; and/or (3) any person or company involved in the provision of local or long distance service and /or rating and billing services and/or solicitations to Tennessee persons on behalf of Talk.com.

**Request for Production No. 3: Advertisements and Other Promotional Information.**

- a) Provide all documents that explain, detail, advertise, promote and/or offer Talk.com's local, intraLATA and/or interLATA long distance service, billing and rating to Tennessee persons.
- b) Provide all advertisements, regardless of the medium, which were publicized on behalf of Talk.com to Tennessee persons. This request includes, but is not limited to, all print advertisements and the scripts for all radio and television advertisements.
- c) Provide all documents including scripts and sales presentations used by Talk.com or those acting on its behalf to promote, solicit and verify the use of Talk.com's products by Tennessee persons, including, but not limited to local, intraLATA and/or interLATA long distance service, rating and billing. Include the dates during which such documents were used.
- d) Provide an example and/or a sample of each promotional check, gift check, incentive check, prize, gift or award offered by Talk.com to Tennessee persons.
- e) Provide all documents associated with the process by which Tennessee persons were selected to receive promotional checks or to be solicited by telephone.

**Request for Production No. 4: Rates.**

Provide all documents relating to any comparison of the local and additional feature rates of any other local exchange company with those of Talk.com in Tennessee.

**Request for Production No. 5: Types of Services Offered.**

If Talk.com offers any services other than local and long distance telephone service, provide all documents referencing, explaining or promoting such service(s).

**Request for Production No. 6: Financial Information.**

- a) Provide all documents reflecting Talk.com's gross receipts from Tennessee persons and entities including but not limited to Talk.com's Tennessee Franchise and Excise Tax returns for the years in which Talk.com has operated in Tennessee.
- b) Provide a copy of Schedule L and M of Form 1120 of Talk.com's United States Internal Revenue Service tax filings for the years in which Talk.com has operated in Tennessee.

**Request for Production No. 7: Handling of Consumer Complaints and Inquiries.**

- a) Provide all documents relating to the operational procedures and processes utilized by Talk.com to conduct and process its order entry functions, customer cancellation service and consumer complaints, including but not limited to internal training manuals.
- b) Provide all complaints, inquiries and/or correspondence from any Tennessee person or entity received by Talk.com, including any documents that Talk.com has maintained documenting complaints by Tennessee persons. Provide a copy of any document containing a response by or on behalf of Talk.com to any such complaint, inquiry or correspondence.
- c) Provide all customer service records for each individual listed in the *Order Requiring Talk.com to Appear and Show Cause Why A Cease and Desist Order and/or Fine Should Not Be Imposed* issued by the Tennessee Regulatory Authority on November 8, 2001.
- d) Provide all documents indicating, reflecting or referencing any issues related to the mishandling of complaints, inquiries or correspondence relating to Tennessee persons by Talk.com or those acting on its behalf.

**Request for Production No. 8: Other Governmental Investigations or Pending Litigation.**

- a) Provide all documents related to any investigations of Talk.com by any state or federal civil or criminal law enforcement entity or agency regarding the activities or practices of Talk.com.
- b) Provide all documents, including but not limited to complaints, pleadings, memoranda, court orders, court opinions, Assurances of Voluntary Compliance or similar documents and consent decrees, filed in any state or federal court or agency to which Talk.com is or was a party.

**Request for Production 9: Employees and Training Materials.**

- a) Provide all documents used by Talk.com or those acting on its behalf as training materials for employees, agents, contractors, subcontractors, or others who sell the local or long distance service and optional features offered by Talk.com to Tennessee persons.
- b) Provide all documents provided by Talk.com or those acting on its behalf to employees, agents, contractors, subcontractors, or others who sell or verify the sale of the local or long distance service and optional features offered by Talk.com to Tennessee persons, including but not limited to solicitation and

verification scripts. Identify the dates during which such documents were used by Talk.com or those acting on its behalf.

## **INTERROGATORIES**

### **Interrogatory No. 1: Persons responding to this Request.**

Identify each and every person who participated or assisted in the drafting of your responses to this Request.

### **Interrogatory No. 2: Contract Information.**

Identify any person or entity entering into a contract, agreement, or understanding with Talk.com involving solicitations and verifications made or caused to be made directly or indirectly on behalf of Talk.com to persons in Tennessee.

### **Interrogatory No. 3: Corporate Information.**

- a) Provide a list of all States in which Talk.com is or has been authorized and/or registered to conduct business or has conducted business, indicating whether Talk.com is actually conducting business in each State at present or whether its authority to conduct business has been denied or revoked.
- b) Identify all individuals or entities who have served as officers and directors of Talk.com and/or who presently own or have ever owned an interest in Talk.com, the percentage of the interest each owns or owned, and the period of ownership.
- c) Provide all current and prior business addresses from which Talk.com has operated.

### **Interrogatory No. 4: Consumer Information.**

- a) Identify in an alphabetical listing all persons in Tennessee who were solicited by Talk.com or by persons making or causing to be made solicitations on behalf of Talk.com. Include in your response each person's telephone number and the date and manner in which the person was solicited.
- b) Identify in an alphabetical listing all Tennessee persons who have canceled or discontinued receiving telephone services from you. Include in your response the type of service being cancelled, the date the person first contacted Talk.com or persons acting on its behalf to request cancellation, number of times the person contacted Talk.com before service was cancelled, the date service was actually cancelled, the date of the final bill, the length of time that person received service from Talk.com, the amount of monies collected from that person and the amount of any refund provided to that person related to cancellation and the reason the person gave for canceling Talk.com service.

- c) Identify in an alphabetical listing all persons in Tennessee who have registered, filed or expressed complaints to Talk.com or any other State or federal agency that their local, intraLATA and/or interLATA long distance service was switched without authorization as a result of the use of a promotional check. Include the date the promotional check was issued, the date the check was processed and the date the service was switched to Talk.com.

**Interrogatory No. 5: Advertising and Other Promotional Activities.**

- a) Identify any person, entity or agency responsible for drafting, designing and placing advertisements, including but not limited to promotional checks and the addresses and telephone numbers thereon, on behalf of Talk.com. Specify the specific responsibility of each.
- b) Provide a list of all conditions, restrictions, or limitations associated with each promotional check, gift check, incentive check, prize, gift or award offered by Talk.com to Tennessee persons.
- c) Identify all persons, companies, corporations and entities that are acting or have acted on behalf of Talk.com to ensure that the use of promotional checks did not result in the unauthorized transfer of the telecommunications service of persons in Tennessee, specifying the means and methods Talk.com adopted and utilized to ensure that the Tennessee consumers whose names appeared on Talk.com's promotional checks resided at the addresses appearing on those same promotional checks.
- d) Identify all Tennessee persons who received promotional checks issued by or on behalf of Talk.com. Include the dates the checks were mailed, the dates the checks were cashed and the dates service was switched to Talk.com.

**Interrogatory No. 6: Rates.**

Provide a schedule of the prices charged to Tennessee consumers on all local and toll rate plans and all other service features including but not limited to directory assistance, call waiting, three-way calling and voicemail. Provide the schedule on both a stand-alone and bundled offering basis. In the various toll rate plans, provide the price per minute charged for interstate and intrastate calls.

**Interrogatory No. 7: Consumer complaint and inquiry handling.**


- a) Provide a list of all area codes and their concomitant states throughout the United States from which Talk.com has received complaints from persons alleging that Talk.com switched their local, intraLATA and/or interLATA long distance service without authorization.


- b) Identify all persons in Tennessee who registered, filed or otherwise expressed complaints against Talk.com to Talk.com or any other entity which allege that the customers were erroneously connected to the wrong calling plan.
- c) Describe the system used to record, track and respond to customer cancellation of service requests from persons in Tennessee. Identify all persons, companies, corporations and entities involved in this system, including their names, addresses and telephone numbers.
- d) Identify all those persons, employees, entities and others who have acted or are acting for or on behalf of Talk.com to address customer service questions, including but not limited to complaints and cancellation of service requests made by persons in Tennessee. Include the dates of service of each.
- e) Identify the persons in Tennessee whose Talk.com accounts are being or have been referred to professional collection agencies.

**Interrogatory No. 8: Employees and training material.**

Identify the name, residential address, telephone number, social security number and job description or title of all employees (past and present) of Talk.com. You may limit your response to employees that would have contact with Tennessee persons.

Respectfully submitted,

  
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Lynn Questell  
Counsel

  
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Randall Gilliam  
Counsel

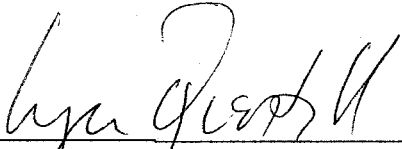
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
(615) 741-2904 (ext. 198)



# CERTIFICATE OF SERVICE

I, Lynn Questell, hereby certify that I have served a copy of the foregoing Discovery Requests, Request for Admissions, Motion to Exceed Discovery Requests and Memorandum in support thereof of the Consumer Services Division of the Tennessee Regulatory Authority on the following person by hand delivery or by depositing a copy of the same in the United States Mail, postage prepaid, addressed to them at the addresses shown below, this 7<sup>th</sup> day of January, 2002:

Henry Walker  
Boult, Cummings, Conners & Berry PLC  
414 Union Street, Suite 1600  
Nashville, TN 37219-8062

  
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Lynn Questell