

802.50(a); 802.50(b)(1); 802.51(a); 802.51(b)(1)

[REDACTED]

March 28, 1996

**BY HAND DELIVERY**

Richard B. Smith, Esq.  
Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission  
6th & Pennsylvania Ave., N.W.  
Room 323  
Washington, D.C. 20580

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FEDERAL TRADE  
COMMISSION  
PREMERGER NOTIFICATION  
OFFICE

RE: Franchise Situs

Dear Dick:

The purpose of this letter is to confirm our telephone discussion yesterday regarding the situs of an exclusive franchise for purposes of subsections 802.50(a), 802.50(b)(1), 802.51(a) and 802.51(b)(1). Each of those provisions relates to the exemption of transactions involving the acquisition, directly or indirectly, of assets outside the United States.

The question posed was whether an exclusive right or franchise granted by a U.S. grantor, to do business in a foreign city, is a U.S. asset or a foreign asset in the hands of the franchisee. Although our conversation also dealt with questions concerning U.S. revenue related to the operation of the franchised business, it is not my purpose here to deal with those issues.

The result of our discussion on the situs issue was agreement that, for purposes of the exemption rules noted above, the franchise is to be viewed as an asset located in the geographic area covered by the franchise, *i.e.*, the right or franchise is not an asset in the United States held by the foreign franchisee or licensee.

Please contact me if this letter does not accurately reflect your conclusion on this single issue.

Sincerely,

[REDACTED]

RBSmith

3/29/96 - Advised writer that asset is a foreign asset. Of course, if sale is to a U.S. person (802.50), then 25MM of sales into the U.S. could make purchase reportable whether a thing stock or asset purchase. [REDACTED]

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