Nobody Asked Me, But… No. 20
Turnabout Is Fairplay, Secret Underground Shelter,
By the Numbers, Genuine Fair Franchising

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1. When franchise companies don't grant exclusive territories to their franchisees, they often utilize third-party impact studies to quantify the effect of the new competition on the existing franchisee. This latter solution is highly subjective and often unreliable. When a new application for a franchise is received, the existing franchise is notified and within a narrow time period must decide whether to commission an impact study. If yes, the existing franchisee selects a consultant from a list of approved consultants provided by the franchise company, pays up front for the study and then, under a tight deadline, meets with the consultant to provide material about the market place and the impact of the proposed same-brand franchise.

In the interest of fair business practices, here's a novel idea which could help level the franchise playing field: In the event that a franchisee notifies the franchise company that it wants to terminate a license agreement, the franchise company would need to commission and pay for an impact study by an approved consultant from a list provided by the franchise owners association. If the study results showed that the franchise fees could be replaced by a new franchise within a year in the same market area, the franchisee could terminate without paying any liquidated damages.

If the study proved that the franchisor would suffer all of the following damage:

- loss of future franchise fees
- loss of marketing fees used to market the system
- loss of system representation in the area served by the hotel
- confusion of national accounts and individual customers
- disadvantage in competing for national accounts and other types of bookings for the system
- injury to the good will in the proprietary marks.

Then, the departing franchisee would be obligated to pay liquidated damages in an amount equivalent to the immediate past year's royalty fees. This amount will provide enough time for the franchise company to replace the licensee in the same marketplace.

Turnabout is fair play.

2. You have, no doubt, heard of the famous 6,500 acre Greenbrier Resort Hotel in White Sulphur Springs, W. Va. It includes three golf courses, horseback trails, trout streams, skeet shooting, bowling, opulent shops, a culinary school, a museum, a spa and its own Amtrak station. But perhaps you never heard of its most notable facility.

Built during the cold war and operated in secrecy for 30 years, it is a huge, 112,000 square foot underground fallout shelter, intended for use by the entire United States Congress in the event of nuclear war.

Excavations began in 1958 and construction was completed in 1962. By top-secret agreement, CSX (owner of Greenbrier) built a new wing to the resort, the West Virginia Wing and the bunker was surreptitiously constructed under it. With concrete walls up to five feet thick, it is the size of two football fields stacked underground. It was built to shelter 1100 people: 535 senators and representatives and their aides. For the next 30 years, government technicians, posing as employees of a dummy company, Forsythe Associates, maintained the place regularly checking its communications and scientific equipment as well as updating the magazines and paperbacks in the lounge areas. As cover, they also repaired the televisions in the resort's 800-plus rooms and suites.

Since reopening this summer after a two-year renovation, it has again become a popular, if dreary, tourist attraction. (New York Times November 12, 2006).

By the way, the Greenbrier has served the military very well in the past: a confederate hospital during the Civil War, a holding tank for German and Japanese diplomats at the onset of World War II and as a military hospital for the U.S. Army during the same war. It, therefore, was not such a stretch for President Dwight D. Eisenhower to choose the Greenbrier as the ideal place to expedite his "Continuity of Government" program.

3. By the numbers:

- 100% rating which the Carlson Companies received on the 2006 Human Rights Campaign Corporate Equality Index, a measure of gay, lesbian, bisexual and transgender (GLBT) workplace equality.
- 15% of U.S. children are overweight.
- $6.2 billion annual tea sales in the United States, four times what they were a decade ago.
- 50% of baby boomers who say they will need to work past age 65.
- 1 out of 7 is the number of private-sector jobs which franchising provides.
- If you make $75,301 a year, you are the 49,205,295th richest person in the world, which puts you in the top 20 percent worldwide in terms of income. This data comes via the Global Rich List, a website created by Poke, a British interactive media company.
- The day after Thanksgiving traditionally kicks off the Christmas season. With that mind, Kiplinger's magazine points out that 46% of American householders carried a credit card balance in 2004. The average balance: $12,338!

4. Hotel owners: Take notice that fair franchising is not an oxymoron. Just look at the success of the following hotel franchising companies who actually practice fair franchising:

a. America's Best Value Inns- the country's fastest growing hotel chain for the fifth consecutive year. Members sign one-year contracts, pay fees based on number of rooms, have control over marketing strategies, operating standards and amenities. Since its founding in 1999, ABVI has grown to more than 700 hotels (americasbestvalueinn.com)

b. Magnuson Hotels- world's largest reservation system with fees based on reservations delivered; currently represents more than 620 hotels with 43,400 rooms (info@manusonhotels.com)

c. Settle Inns- Franchisees get a guaranteed area of protection and can leave the brand after 24 months- with 12 months notice- without liquidated damage penalties. Total franchise fees are 5.25 percent in the first year and 5.75 percent thereafter. (settleinn.com)

d. GuestHouse International- guaranteed areas of protection, five-year term, flat fees based on a low, fixed rate per room, dedicated franchise service manager.(guesthouseintl.com)

These franchise-friendly companies are serious about creating a true partnership with their franchisees. By providing more than lip service to fair franchising, they are revolutionizing the culture of hotel franchising. Smart hotel owners have the opportunity to make better choices by selecting these franchise companies.

Stanley Turkel, MHS, ISHC operates his hotel consulting office as a sole practitioner specializing in franchising issues, asset management and litigation support services. Turkel's clients are hotel owners and franchisees, investors and lending institutions. Turkel serves on the Board of Advisors at the NYU Tisch Center for Hospitality, Tourism and Sports Management. He is a member of the prestigious International Society of Hospitality Consultants. His provocative articles on various hotel subjects have been published in the Cornell Quarterly, Lodging Hospitality, Hotel Interactive, Hotel Online, AAHOA Lodging Business, Bottomline, New York Times, etc. If you need help with a hotel operations or franchising problem such as encroachment/impact, termination/liquidated damages or litigation support, don't hesitate to call 917-628-8549 or email stanturkel@aol.com.