

29 C.F.R. § 779.229

Other arrangements.

With respect to those arrangements specifically described in the proviso contained in the definition, an independently owned retail or service establishment will not be considered to be other than a separate and distinct enterprise, if other arrangements the establishment makes do not have the effect of bringing the establishment within a larger enterprise. Whether or not other arrangements have such an effect will necessarily depend upon all the facts. The Senate Report makes the following observations with respect to this:

Thus the mere fact that a group of independently owned and operated stores join together to combine their purchasing activities or to run combined advertising will not for these reasons mean that their activities are performed through unified operation or common control and they will not for these reasons be considered a part of the same “enterprise.” This is also the case in food retailing because of the great extent to which local independent food store operators have joined together in many phases of their business. While maintaining their stores as independently owned units, they have affiliated together not just for the purchasing of merchandise, but also for providing numerous other services such as (1) central warehousing; (2) advertising; (3) sales promotions; (4) managerial advice; (5) store engineering; (6) accounting systems; (7) site locations; and (8) hospitalization and life insurance protection. (S. Rept. 145, 87th Cong., 1st Sess., p. 42.)

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