§ 779.220

is evidenced both by the statements in
the Committee Reports and by the defi-
nition itself, particularly the broad ref-
erences to the inclusion in the “enter-
prise” of “all such activities” whether
performed “in one or more establish-
ments” or “by one or more corporate
or other organizational units.” When
the Act was amended in 1966 the Con-
gress further broadened coverage by re-
defining an enterprise engaged in com-
merce or in the production of goods for
commerce in section 3(s). (See § 779.22.)

Where the Congress intended to ex-
clude certain arrangements or activi-
ties from the “enterprise” it did so by
specific provision under the prior and
amended Act.

§ 779.217 “Unified operation” defined.

Webster defines the word “unify” to
mean “to cause to be one; to make into
a unit; to unite.” The pertinent defini-
tion of “operation” is a method or way
of operating, working or functioning.
Since the term “unified operation” has
reference to the method of performing
the related activities, it means com-
bining, uniting, or organizing their per-
formance so that they are in effect a
single business unit or an organized
business system which is an economic
unit directed to the accomplishment of
a common business purpose. The term
“unified operation” thus includes a
business which may consist of separate
segments but which is conducted or op-
erated as a unit or as a single business
for a common business purpose.

§ 779.218 Methods to accomplish “uni-
fied operation.”

There are many instances where sev-
eral establishments, persons, corpora-
tions, or other business organizations,
join together to perform some or all of
their activities as a unified business or
business system. They may accomplish
such unification through agreements,
franchises, grants, leases, or other ar-
rangements which have the effect of
aligning or integrating the activities of
one company with the activities of oth-
ers so that they constitute a single
business or unified business system.
Whether in any particular case the ac-
tivities are performed through “unified
operation” and have the effect of cre-
ating a single enterprise, will depend
upon all the facts, including the man-
ner in which the activities are per-
formed, the agreements and arrange-
ments which govern their performance,
and the other relationships between
the parties, considered in the light of
the statutory provision and the legisla-
tive intent. (Of Wirtz v. Wornom’s Phar-
macy (E.D. Va.), 18 WH Cases 286, 365; 57
Labor Cases 32,006, 32,030.)

§ 779.219 Unified operation may be
achieved without common control
or common ownership.

The performance of related activities
through “unified operation” to serve a
common business purpose may be
achieved without common control and
without common ownership. In par-
ticular cases ownership or control of
the related activities may be factors to
be considered, along with all facts and
circumstances, in determining whether
the activities are performed through
“unified operation.” It is clear from
the definition that if the described ac-
tivities are performed through unified
operation they will be part of the en-
terprise whether they are performed by
one company or by more than one cor-
porate or other organizational unit.
The term “unified operation” has ref-
ERENCE particularly to enterprises com-
posed of a number of separate compa-
nies as is clear in the quotation from
the Senate Report in § 779.215. Where
the related activities are performed by
a single company, or under other single
ownership, they will ordinarily be per-
formed through “common control” and
the question of whether they are also
performed through unified oper-
ation will not need to be decided. (Wirtz
v. Barnes Grocer Co., 398 F. 2d 718 (C.A.
8)).

§ 779.220 Unified operation may exist
as to separately owned or con-
trolled activities which are related.

Whether there is unified operation of
related activities will thus be of con-
cern primarily in those cases where the
related activities are separately owned
or controlled but where, through ar-
rangement, agreement or otherwise,
they are so performed as to constitute
a unified business system organized for
a common business purpose. For exam-
ple, a group of separately incorporated,