



# Are the Defendants Separate Entities?

Antitrust  
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Konomark  
Most rights sharable

## Sherman Act § 1

“Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.”

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this can be  
shortened to  
“agreement”

or “concerted  
action”

they’re interchangeable ...

## Are the defendants separate entities?

- Any arrangement between a corporation and its wholly owned subsidiary cannot form a § 1 agreement. *Copperweld v. Independence Tube* (U.S. 1984).
- Two sister subsidiaries that are wholly owned by the same parent corporation cannot form a § 1 agreement. *Advanced Health-Care v. Radford Community Hospital* (4th Cir. 1990).
- Otherwise, the test is “whether the agreement joins together ‘independent centers of decisionmaking.’” *American Needle v. NFL* (U.S. 2010).



**X100 and KPOP are both wholly owned subsidiaries of Radio Mountain Media.**

- Can X100 conspire with KPOP in violation of § 1 of the Sherman Act?
- Can Radio Mountain Media form an agreement with KPOP in violation of Sherman Act § 1?



**X100 and KPOP are both wholly owned subsidiaries of Radio Mountain Media.**

- Can X100 conspire with KPOP in violation of § 1 of the Sherman Act? **No.**
- Can Radio Mountain Media form an agreement with KPOP in violation of Sherman Act § 1? **No.**