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## Locally Grown Food: Examining the Ambiguity of the Term 'Local' in Food Marketing

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LOCALLY GROWN FOOD:  
EXAMINING THE AMBIGUITY OF THE TERM ‘LOCAL’ IN  
FOOD MARKETING

*Brad Rose\**

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I. INTRODUCTION

Locally grown food products are becoming increasingly popular among consumers.<sup>1</sup> In response, many food retailers are devoting more space to locally grown products.<sup>2</sup> The locally grown label is part of a marketing strategy designed to take advantage of consumer desires for fresh and safe products that support local farmers and help the environment.<sup>3</sup> Many consumers believe that locally grown food is “fresher, has fewer chemicals, and comes from smaller, less corporate farms.”<sup>4</sup> This increased demand from consumers has led to an “explosion of the use of the word ‘local’ in food marketing.”<sup>5</sup> However, there is no single definition of “local” or “local food systems” in terms of the

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1. Julie Schmit, “*Locally grown*” food sounds great, but what does it mean?, USA TODAY, \*Oct 31, 2008), [http://usatoday30.usatoday.com/money/economy/2008-10-27-local-grown-farms-produce\\_N.htm](http://usatoday30.usatoday.com/money/economy/2008-10-27-local-grown-farms-produce_N.htm) (noting that “at least one consumer survey has showed that whether something is locally grown is now more important than whether it is organic”).

2. *Id.*

3. *Id.*

4. Marie Clare Jalonick, *Miles of confusion over what “locally grown” means*, THE SEATTLE TIMES, (Apr. 14, 2011), [http://seattletimes.com/html/BusinessTechnology/2014778414\\_localfood15.html](http://seattletimes.com/html/BusinessTechnology/2014778414_localfood15.html).

5. *Id.*

geographic distance between production and sales.<sup>6</sup> Therefore, retailers may, and often do have much broader definitions of “local” than consumers do.<sup>7</sup> Currently, definitions related to geographic distance between production and sales vary by regions, companies, consumers, and local food markets.<sup>8</sup> For example, Wal-Mart, the nation’s biggest retailer, considers anything “local” if it is grown in the same state as it is sold, regardless of the size of the state.<sup>9</sup> Whole Foods, the largest retailer of natural and organic foods, considers “local” to be anything produced within a seven-hour drive of a store.<sup>10</sup> Supervalu, which operates supermarket chains such as Albertsons and Jewel-Osco, “defines ‘local’ as within regions that can encompass four or five states.”<sup>11</sup> Safeway considers anything to be “local” if it comes from the same state or within a one-day drive from the field to the store, and many retailers simply leave it up to individual store managers.<sup>12</sup> In some cases, unchecked retailers simply slap a “local” label on food from several states away, or even from other countries.<sup>13</sup> For example, under “the words ‘Home Grown,’ [a] Wegmans in Hunt Valley offered eggplants grown so far away - the Netherlands - that their stickers were in French.”<sup>14</sup> This lack of uniformity causes confusion among consumers, and gives retailers wide latitude when labeling food “locally grown.”

The increased interest in local food “suggests that the term ‘local’ is being used in new and different ways, and by people and organizations that would have previously had no interest in movements that challenge the mainstream food system.”<sup>15</sup> Local food has been the topic of many newspaper and magazine articles, best-selling books, and has been codified

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6. See *id.*; Schmit, *supra* note 1; see also Steve Martinez et al., *Local Food Systems: Concepts, Impacts, and Issues*, U.S. Dept. of Agriculture, Economic Research Service, ERR 97, at 3 (May 2010).

7. Schmit, *supra* note 1.

8. Martinez et al., *supra* note 6.

9. Schmit, *supra* note 1.

10. *Id.*

11. Jalonick, *supra* note 4.

12. *Id.*

13. See Laura Vozzella, *Local Produce Finds Favor, But It Isn't Always Local*, THE BALTIMORE SUN, (July 9, 2009), [http://articles.baltimoresun.com/2009-07-09/news/0907080122\\_1\\_local-produce-local-farms-produce-case](http://articles.baltimoresun.com/2009-07-09/news/0907080122_1_local-produce-local-farms-produce-case).

14. *Id.* The stickers bore the word “Aubergine” (French for eggplant). “Also in that produce case [were] white asparagus from Peru [and] bell peppers from Canada.” *Id.* In addition, *The Baltimore Sun* reported that “signs atop the produce case in Baltimore-area Safeway stores promoted ‘local’ apples from Virginia and New Jersey, but the Granny Smiths and galas in the case hailed from Chile and New Zealand.” *Id.*

15. Michael S. Hand & Stephen Martinez, *Just What Does Local Mean?*, CHOICES: THE MAGAZINE OF FOOD, FARM, AND RESOURCE ISSUES, (1st Quarter 2010).

into federal law and regulations.<sup>16</sup> Yet, because of the diverse interests of those using the term, local has taken on many different meanings to different people, especially among retailers and consumers.<sup>17</sup> Some states have passed laws to remove the term's ambiguity, and in 2008, Congress attempted to establish a more uniform definition of "locally" and "regionally" grown.<sup>18</sup> However, because of the breadth of Congress's definition, the term remains ambiguous and does little to ensure that consumers are getting what they expect when purchasing locally grown food.<sup>19</sup> The current definition, or lack of definition, undermines many of the reasons that locally grown products have recently become popular among consumers.

This comment will attempt to identify what consumers actually expect when purchasing locally grown products, and whether a more uniform definition can be created that will meet those expectations. Part II will examine the history of the local food movement and local food labeling. Part III will identify consumer expectations of the local food label, examine some of the current approaches to remove the term's ambiguity and attempt to identify a practical solution to the problem. Ultimately, this article concludes that a single, uniform definition is likely too difficult to implement and would not best serve the interests of consumers. In the author's opinion, the most practical solution is to require retailers to label locally grown products with "food miles," which is the distance food travels from the farm to the store where it is purchased.<sup>20</sup>

## II. BRIEF HISTORY OF LOCAL FOOD MARKETING

In the early 1900's, most of the food bought and sold in the United States was grown locally.<sup>21</sup> "[F]ew foods were processed or packaged, and fruits and vegetables, fish, and dairy products typically traveled less than a day to market."<sup>22</sup> Following World War II, lower transportation costs and

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16. *Id.*; Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, § 6015, 122 Stat. 1167 (2008).

17. Hand & Martinez, *supra* note 15.

18. Food, Conservation, and Energy Act § 6015. However, Congress's definition was created specifically for eligibility for certain government assistance programs. See *infra* notes 54-61 and accompanying text.

19. See Hand & Martinez, *supra* note 15.

20. Sally Deneen, *Food Miles*, THE DAILY GREEN, <http://www.thedailygreen.com/living-green/definitions/Food-Miles> (last visited Jan. 31, 2013).

21. Martinez et al., *supra* note 6, at 1 (citing Richard Pirog, *Local Foods: Farm Fresh and Environmentally Friendly*, [http://www.leopold.iastate.edu/research/marketing\\_files/WorldBook.pdf](http://www.leopold.iastate.edu/research/marketing_files/WorldBook.pdf) (accessed June 2009)).

22. *Id.* (citing Danielle Giovannucci et al., *Defining and Marketing 'Local' Foods: Geographical Indications for U.S. Products*, 13 JOURNAL OF WORLD INTELLECTUAL

improvements in refrigerated trucking led to a shift from local to national and global food sources.<sup>23</sup> Throughout the 20<sup>th</sup> century, “regional and global specialization reinforced transition to nonlocal food systems.”<sup>24</sup> However, recently the mainstream food system has been challenged by growth of locally grown foods.<sup>25</sup> The heightened interest in local foods in the U.S. is tied to several food movements.<sup>26</sup> The local and organic food movements are considered to be part of the broader sustainability movement.<sup>27</sup> In recent years, concerns about the environment and the contrast between obesity in the Western world and the food insecurity of developing countries have fueled movements toward sustainable eating as a form of ethical food consumption.<sup>28</sup>

While local food is not a particularly new concept in the U.S. food system, the popularity of locally grown foods has risen dramatically over the past ten to fifteen years.<sup>29</sup> For example, “Direct-to-Consumer marketing amounted to \$1.2 billion in current dollar sales in 2007, according to the 2007 Census of Agriculture, compared with \$551 million in 1997.”<sup>30</sup> In addition, the number of farmers’ markets, community-supported agriculture organizations, and farm-to-school programs has dramatically increased over the same period.<sup>31</sup> According to a U.S. Department of Agriculture report, total sales of “local foods” amounted to \$4.8 billion in 2008, and the department predicted that sales would generate \$7 billion in 2011.<sup>32</sup> The movement has certainly not gone unnoticed by food retailers. For instance, Whole Foods has devoted “almost 22% of its

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PROPERTY (Special Issue: The Law and Economics of Geographical Indications) (Mar. 2010)).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* at 2 (citing Amy Guptill & Jennifer L. Wilkins, *Buying into the Food System: Trends in Food Retailing in the U.S. and Implications for Local Foods*, 19 AGRICULTURE AND HUMAN VALUES 39-51 (2002)).

27. Local & Regional Food Systems, GRACELINKS, <http://www.gracelinks.org/254/local-regional-food-systems> (last visited Feb. 2, 2013).

28. PETER SINGER & JIM MASON, *THE WAY WE EAT: WHY OUR FOOD CHOICES MATTER* 3-5 (2006) (noting that “[i]ncreasingly, people are regarding their food choices as a form of political action”).

29. Hand & Martinez, *supra* note 15; Martinez et al., *supra* note 6, at iii.

30. Martinez et al., *supra* note 6, at iii. While this constitutes a small percentage of total agricultural sales, it illustrates the growth of local food markets. *Id.*

31. *Id.* at iii-iv.

32. Jim Suhr, ‘Locally Grown’ Food a \$4.8 Billion Business, Says USDA Report, HUFFPOST (Nov. 14, 2011, 8:04 AM), [http://www.huffingtonpost.com/2011/11/14/locally-grown-food\\_n\\_1092146.html](http://www.huffingtonpost.com/2011/11/14/locally-grown-food_n_1092146.html). The \$4.8 billion figure was several times greater than earlier estimates. *Id.*

produce budget [to] locally grown products, up from 15% four years ago.”<sup>33</sup> In 2010, Wal-Mart, the world’s largest grocer, announced a program to double the percentage of locally grown produce it sells to 9%.<sup>34</sup> However, as retailers respond to increased demand for locally grown food, the absence of a uniform definition allows retailers to take advantage of the movement by stretching the breadth of the definition beyond most consumers’ expectations.

Some difficulties arise when attempting to create a uniform definition of local. Because of the diverse group of interested parties, natural differences among types of products and differences among regions, local can have various meanings.<sup>35</sup> Although researchers have identified and used several definitions for local when assessing local food systems, these definitions have been problematic.<sup>36</sup> A typical example of local food is food that has been grown within a 100-mile radius of where it is consumed.<sup>37</sup> However, this distance “is arbitrarily selected, and may not match well with consumer preferences and attitudes about local food.”<sup>38</sup>

The difficulty in creating a uniform definition of local is illustrated by the definition adopted by Congress in the Food, Conservation, and Energy Act of 2008.<sup>39</sup> For certain federal loan programs, a “locally produced agricultural food product” is defined as:

any agricultural food product that is raised, produced, and distributed in (1) the locality or region in which the final product is marketed, so that the total distance the product is transported is less than 400 miles from the origin of the product, or (2) the State in which the product is produced.<sup>40</sup>

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33. Schmit, *supra* note 1.

34. Stephanie Clifford, *Wal-Mart to Buy More Local Produce*, N.Y. TIMES (Oct. 14, 2010), [http://www.nytimes.com/2010/10/15/business/15walmart.html?\\_r=0](http://www.nytimes.com/2010/10/15/business/15walmart.html?_r=0).

35. Hand & Martinez, *supra* note 15.

36. Jonnie B. Dunne et al., *What does “local” mean in the grocery store? Multiplicity in food retailers’ perspectives on sourcing and marketing local foods*, 26 RENEWABLE AGRICULTURE AND FOOD SYSTEMS 46-59 (2011).

37. Hand & Martinez, *supra* note 15.

38. *Id.* Some consumers may find the 100-mile radius too large, while others may be more concerned with the state of origin. *Id.* For example, although many consumers in Little Rock, AR, would likely consider food from neighboring Fayetteville, AR, to be “local” (approximately three hours away), the distance exceeds the 100-mile limit.

39. *Id.*; Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, § 6015, 122 Stat. 1167, (2008).

40. Hand & Martinez, *supra* note 15; Food, Conservation, and Energy Act § 6015.

While the breadth of the definition may increase access to federal subsidies, it does little to protect the consumer when purchasing locally grown foods. With the exception of a few state laws, Congress's definition of local is the only restriction on the use of the term.<sup>41</sup> As it stands now, in most cases, retailers are free to advertise food as locally grown according to their own definition of the term.<sup>42</sup>

### III. ANALYSIS OF LOCAL FOOD DEFINITIONS

#### A. *Consumer Expectations*

In order to remove the ambiguity of the term "locally grown" and prevent retailers from misleading consumers, the meaning of that term must match consumer expectations. Thus, before attempting to nail down a specific definition for locally grown products, it is essential to understand consumer expectations and motivations for purchasing these products.

Many studies explore consumer motivations for purchasing locally produced food.<sup>43</sup> Recent data suggests that "while local food consumers are demographically diverse, they are very similar in their motivations for buying local."<sup>44</sup> In a 2009 survey conducted by the Food Marketing Institute, respondents "cited freshness (82 percent), support for the local economy (75 percent), and knowing the source of the product (58 percent) as reasons for buying local food."<sup>45</sup> Additionally, many consumers associate local food with small, local farms and environmental sustainability.<sup>46</sup> Studies have also indicated that local food buyers believe local produce to be "fresher looking and tasting, of higher quality, and a better value for the price."<sup>47</sup> As a result of these preferences, local food

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41. See Martinez et al., *supra* note 6, at iii.

42. See *id.*

43. Martinez et al., *supra* note 6, at 29-33.

44. *Id.* at 29.

45. *Id.* (summarizing findings of *U.S. Grocery Shopper Trends 2009*, FOOD MARKETING INSTITUTE, at 67 (2009)).

46. Kim Darby et al., *Decomposing Local: A Conjoint Analysis of Locally Produced Foods*, 90 AM. J. AGRIC. ECON. 476-86 (2008). Some have questioned whether buying local actually contributes to these desired effects. See, e.g., SINGER & MASON, *supra* note 28, at 139-47. However, these criticisms are beyond the scope of this article as it merely attempts to carve out a definition of local that matches consumer expectations.

47. Martinez et al., *supra* note 6, at 29-30. For specific findings, see Alan S. Kezis et al., *Consumer Acceptance and Preference for Direct Marketing in the Northeast*, 15 J. FOOD DISTRIBUTION RES. 38-46 (1984); Marianne McGarry Wolf, *A Target Consumer Profile and Positioning for Promotion of the Direct Marketing of Fresh Produce: A Case Study*, 28 J. FOOD DISTRIBUTION RES. 11-17 (1997); Marianne McGarry Wolf et al., *A Profile of Farmers' Market Consumers and the Perceived*

buyers are often willing to pay higher prices for products that carry the locally grown label.<sup>48</sup> Several studies have measured the magnitude of willingness to pay for locally grown foods.<sup>49</sup> In some cases, consumers are willing to pay as much as fifty percent more for products labeled locally grown.<sup>50</sup> This higher willingness to pay creates further incentive for retailers to define the term more broadly.

In light of the motivations behind local food purchases, the current definitions of locally grown fail to adequately serve consumer goals. Although a measure of freshness is relative, and products that originate in the same region or a few hundred miles away may be fresher than others, most consumers concerned with freshness expect the products to come from much closer.<sup>51</sup> In addition, the interests of a buyer motivated by local economic concerns are probably not served by a definition that can include products from several states away. Furthermore, environmentally concerned buyers are best served by a more narrow definition. In many cases, under the current definition, locally grown products could be trucked hundreds of miles, across several states. Transporting these foods can actually lead to greater carbon emissions than traditional supply chains.<sup>52</sup> A more narrow definition could contribute to remedying this misconception as well.<sup>53</sup> Finally, in most surveys, when asked what they consider locally grown, consumers have consistently identified an area much smaller than currently employed, and many expect local to mean something smaller than statewide.<sup>54</sup> Upon assessing both the motivations driving the local food movement and consumers' stated expectations, the current definition of locally grown is inadequate.

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*Advantages of Produce Sold at Farmers' Markets*, 36 J. FOOD DISTRIBUTION RES. 192-201 (2005).

48. Martinez et al., *supra* note 6, at 29.

49. *Id.*

50. *Id.* at 31. These studies measured the willingness to pay for various locally grown foods including potatoes, strawberries, greens, applesauce and other produce and specialty products. Consumers were most willing to pay more for locally grown Florida fresh produce (50% higher). *Id.*

51. *See id.* at 29-33.

52. *See* Hand & Martinez, *supra* note 15.

53. However, because products are often routed through distribution centers, a more narrow definition would not necessarily alleviate this problem. *See* SINGER & MASON, *supra* note 28, at 135 (noting that "[distribution] systems are designed to ensure reliability of supply rather than to minimize the distance food travels").

54. Martinez et al., *supra* note 6, at 3.



### B. *Current Approaches*

As previously mentioned, some efforts have been made to establish a single, uniform definition of locally grown, such as Congress's definition in the 2008 Farm Bill.<sup>55</sup> Considering some of the more hotly debated topics within the 2008 Farm Bill, the definition of local was likely a smaller issue. Furthermore, Congress's definition was specifically created for the Value-Added Producer Grant (VAPG) program run by USDA Rural Development.<sup>56</sup> The VAPG program provides competitive grants to individual agricultural producers and specific types of organizations associated with agricultural producers.<sup>57</sup> Among the program's goals is to "strengthen[] the profitability and competitiveness of small and medium sized family farms and ranches."<sup>58</sup> The program was expanded in 2008 to allow eligibility for locally produced and marketed food products.<sup>59</sup>

In the 2008 Farm Bill, Congress's main concern when adopting a definition of local was to support the local food system by incentivizing local producers and retailers to engage in local food markets.<sup>60</sup> It was not specifically addressing the problems stemming from a lack of a definition of local in the market.<sup>61</sup> A more broad definition, for purposes of the VAPG program, creates more opportunities for producers to receive grants and likely lends support to the local food movement.<sup>62</sup> Therefore, this particular definition of local may be appropriate for its intended purpose. However, retailers may use this definition as a guideline when marketing products, even though this definition does not remotely resemble most

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55. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, § 6015, 122 Stat. 1167 (2008).

56. Value-Added Producer Grants, SUSTAINABLE AGRICULTURE, <http://sustainableagriculture.net/publications/grassrootsguide/local-food-systems-rural-development/value-added-producer-grants/> (last visited Feb. 2, 2013).

57. *Id.*

58. *Id.*

59. *Id.* "The definition of a value-added agricultural product now includes . . . an agricultural commodity or product that is aggregated and marketed as a locally-produced agricultural food product. Farmers can now be funded under the program for the development of mid-tier value chains, which the farm bill defines as local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products . . ." *Id.*

60. *See generally id.*

61. *See id.*

62. *See id.* Funding for the program is actually relatively small in relation to other farm programs. The funding level for 2010 and 2011 combined was \$40.2 million. *Id.* Of that, only 10% is reserved for mid-tier value chain projects. *Id.* Nonetheless, many producers have benefitted from grants for engaging in value-added agricultural practices, including local food production systems. *Id.*

consumers' expectations when purchasing locally grown food. Congress's definition of local may be appropriate for agricultural grant programs, but it is too broad to protect local food buyers.

Many other difficulties arise when attempting to create a uniform definition of local at the federal level. The diversity of crops involved and the differences among growing regions make it almost impossible to identify a single definition that would work across the board.<sup>63</sup> The acceptable distance for one food product to be considered locally grown may not be the same for another.<sup>64</sup> For instance, consumers may accept longer distances for products such as baking goods, coffee, and bread than for fresh produce or dairy products. In addition, a distance that works for a crop in one state may not work in others.<sup>65</sup> For example, Florida consumers may not consider citrus grown from several counties away to be local, even though it is grown within the state. In contrast, a consumer in Georgia or Alabama may consider the same produce to be local, though it is grown farther away, and out of state. Opinions of an appropriate distance can also be affected by population density.<sup>66</sup> Consumers in heavily populated areas may be able to source products within a shorter distance, and thus may have a different definition than those in more rural areas.<sup>67</sup> For these reasons, a workable definition of locally grown is unlikely to come at the federal level.

The lack of a sufficient federal definition has led some states to address the problem.<sup>68</sup> For example, many states have passed legislation to make it easier for local farmers to advertise that their food was produced in-state.<sup>69</sup> Maryland requires retailers to indicate which state the food is from when advertising it as locally grown.<sup>70</sup> Massachusetts has certain

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63. Jalonick, *supra* note 4.

64. *Id.*

65. *Id.*

66. Martinez et al., *supra* note 6, at 3.

67. *Id.* "This is referred to as 'flexible localism,' with the definition of local changing depending on the ability to source supplies within a short distance or further away . . . ." *Id.* (citing Brian Ilbery & Damian Maye, *Retailing Local Food in the Scottish-English Borders: A Supply Chain Perspective*, 37 GEOFORUM 352-67 (2006)). For example, a survey in Washington indicated that 66% of producers in the densely populated King County considered their local market to be "their own or surrounding counties," while only 20% of producers in the more rural Grant County considered their local market to be that small. *Id.* (citing Theresa Selfa & Joan Qazi, *Place, Taste, or Face-to-Face? Understanding Producer-Consumer Networks in "Local" Food Systems in Washington State*, 22 AGRICULTURE & HUMAN VALUES 451-64 (2005)).

68. Jalonick, *supra* note 4.

69. *Id.*

70. Jenny Rogers, *Maryland's local-food law goes into effect*, THE MARKET REPORT (June 27, 2011). A Maryland statute gives the Secretary the authority to adopt

restrictions for the word “native,”<sup>71</sup> and Vermont has actually defined local as “grown within the state or within thirty miles of where it is sold.”<sup>72</sup> Vermont’s approach comes closest to matching the definition with the expectations of the consumer. A thirty mile radius or a statewide area, especially in a smaller state such as Vermont, is much more closely aligned with expectations gathered from consumer surveys. In addition, Vermont’s narrower definition likely respects most of the motivations behind local food purchases. Many of the goals of the local food movement such as freshness, support for local farms, and environmental sustainability are protected by Vermont’s definition. However, Vermont’s approach also has shortcomings, and may not work in many other states for the following reasons.

First, a definition that includes “anything grown within the state” may fall short of consumer expectations in larger states such as California or Texas. Second, because the definition of locally grown is used for many different purposes, a single definition may not be appropriate even within one state.<sup>73</sup> Finally, as USDA economic researchers, Steve Martinez and Michael Hand have argued, the “desired outcomes [of local food systems] are numerous, and no single definition can adequately capture the diverse demands that are reflected by support for local foods.”<sup>74</sup> A definition of local that includes a certain distance may be aimed at environmental sustainability through reduced transportation costs.<sup>75</sup> A different definition may be aimed at direct sales to consumers to reduce prices by eliminating supply chain middlemen.<sup>76</sup> Yet another could be aimed at produce

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standards to regulate the use of the terms “locally grown” and “local” to advertise or identify an agricultural product. MD. CODE ANN. § 10-1701 (effective July 2011).

71. Jalonick, *supra* note 4. According to the Massachusetts law, “[n]o person shall sell or offer to sell . . . vegetables or turkeys in containers bearing the label or designation ‘native’ nor cause fruit, vegetables or turkeys to be advertised as ‘native’ unless the name of the state . . . appears immediately after the word ‘native . . .’ MASS. GEN. LAWS ANN. ch. 94, § 99B (2006).

72. Jalonick, *supra* note 4. According to the Vermont law, “‘local,’ ‘locally grown,’ and any substantially similar term shall mean that the goods being advertised originated within Vermont or 30 miles of the place where they are sold, measured directly, point to point, except that the term ‘local’ may be used in conjunction with a specific geographic location, such as ‘local to New England,’ or a specific mile radius, such as ‘local-within 100 miles,’ as long as the specific geographic location or mile radius appears as prominently as the term ‘local,’ and the representation of origin is accurate.” VT. STAT. ANN. tit. 9, § 2465a (2008).

73. See Martinez et al., *supra* note 6, at 3. For example, one definition may be needed for eligibility for federal grants or state funds, and another for retail marketing.

74. Hand and Martinez, *supra* note 15.

75. *Id.*

76. *Id.*

freshness or support for local farmers.<sup>77</sup> It may be that the various desires and motivations driving the local food movement are not served by a single definition of locally grown.

### C. Recommendations

Although consumers may desire a uniform definition of locally grown, any advantages of a uniform approach are likely outweighed by the shortcomings and difficulties that accompany a single, nationwide definition. Consumers could push for regulation at the state level similar to that of Vermont. More localized regulation at the state level is somewhat more practical, and would provide a certain amount of protection for consumers. However, even if each state adopted a uniquely tailored definition of locally grown, the definition would likely not match the expectations of many local food buyers. Therefore, given the problems inherent in creating a single definition of local, regulation can best serve the local food movement simply by requiring sellers to provide consumers with more information.

Rather than focusing on a single definition of local, information could be provided that allows each individual consumer to apply their own definition of local. One of the more popular methods that researchers have suggested is the use of “food miles.”<sup>78</sup> Food miles represent the number of miles that the product has traveled from producer to market.<sup>79</sup> Environmental groups, especially in Europe, have been advocating for food miles labels for all food.<sup>80</sup> The biggest criticism of food miles has been that food that travels a shorter distance is not necessarily better for the environment.<sup>81</sup> Because many local foods are transported via truck in lesser bulk, carbon emissions can actually be greater for many locally grown products than for products transported from much farther away.<sup>82</sup> However, this criticism is, at least in part, due to the inefficiencies in new local food supply systems.<sup>83</sup> Another criticism of food miles is that transportation represents only one “energy-consuming aspect of production.”<sup>84</sup> While it may be unclear whether lower food miles

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77. *Id.*

78. Dunne, *supra* note 36; Deneen, *supra* note 20.

79. Deneen, *supra* note 20.

80. James McWilliams, *Food That Travels Well*, N.Y. TIMES (Aug. 6, 2007), [http://www.nytimes.com/2007/08/06/opinion/06mcwilliams.html?\\_r=0](http://www.nytimes.com/2007/08/06/opinion/06mcwilliams.html?_r=0).

81. *Id.*

82. Martinez et al., *supra* note 6, at 48.

83. *Id.* at 48-49.

84. McWilliams, *supra* note 80. Consequently, researchers at a New Zealand University found that lamb raised in New Zealand and shipped 11,000 miles to Britain

necessarily translate into decreased carbon emissions, most researchers would agree that a general move towards local food supply systems will benefit the environment.

Even if the environmental criticisms of food miles are accepted, reduced carbon emissions are only one of many factors motivating local food buyers. As previously mentioned, other motivations include freshness, support for local farms, and knowledge of the source of the product.<sup>85</sup> A label carrying food miles would provide consumers with information pertaining to all of these factors. If the goal is to protect consumers and prevent retailers from taking unfair advantage of the local food movement, a consumer's access to accurate information is key. In addition, the consumer could choose a product that fits his or her specific motivations for purchasing local food. Under this approach, retailers and consumers would not have to agree on a single definition of local. Consumers could even disagree among each other, as each would be free to individually define the term.

Though food miles labeling may represent an alternative to a single definition of locally grown, the requirement will likely meet resistance from retailers. Potential problems include the lack of adequate distribution centers and the difficulty and cost of tracking food from the farm to the store.<sup>86</sup> "Because most small farmers must combine their products with other farmers' products to make processing and shipping more economical," it can sometimes be difficult to trace food products back to their origin.<sup>87</sup> However, in recent years, new "easy-to-use recordkeeping devices and farm-level information labeling" have alleviated some of the traceability issues.<sup>88</sup> Many food retailers that specialize in organic and local foods already employ a similar system. For example, a Fayetteville, Arkansas retailer, Ozark Natural Foods, traces all of its locally grown

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produced much less carbon dioxide emissions than lamb raised in Britain. The study concluded it was "four times more energy-efficient for Londoners to buy lamb imported from the other side of the world than to buy it from a producer in their backyard. Similar figures were found for dairy products and fruit." *Id.*

85. See *supra* notes 45-47 and accompanying text.

86. McWilliams, *supra* note 80; Martinez et al., *supra* note 6, at 48. "For example, a case study of a certified organic produce grower in southern Idaho found that when the grower sells to Albertsons, . . . the food must be shipped from the farm to a distribution center located 235 miles away in Utah. It can then be shipped back to Idaho for sales in local stores." Martinez et al., *supra* note 6, at 4 (citing Colette DePhelps et al., *Mid-Size Producer Capturing Local Value: M&M Heath Farms, NORTHWEST DIRECT MARKETING (Farmer Case Study Series #04) (2005)*).

87. Martinez et al., *supra* note 6, at 26.

88. *Id.* at 27.

products back to specific farms.<sup>89</sup> Although Ozark does not use food miles labels, it marks each local product with a distinct sign with the name of the farm that grew it.<sup>90</sup> Additional information, including the location of each farm, can be found on Ozark's website and in brochures in the store.<sup>91</sup> Ozark's system illustrates that if local food buyers desire more accurate information, food miles labeling by retailers is feasible.

An argument could be made that what works for a local food market that specializes in organic and local food may not work for other retailers. For example, many larger retailers do not have products shipped directly from the farm to the store.<sup>92</sup> Because the products may be routed through a distribution center, simply identifying their origin may mislead consumers. Additionally, local stores like Ozark and farmer's markets attract a certain type of customer who is possibly less concerned with incremental price increases that may accompany additional tracking and labeling. However, the regulation would only apply to those foods advertised as locally grown. Retailers who want a piece of the local food market should have to take steps to ensure they are actually selling what they advertise.

Because of the difficulty in defining local and the potential for abuse by retailers, the benefits of the labeling requirements likely outweigh whatever minimal cost they would entail. Even if the added regulations create minimal price increases, considering the nature of most local food buyers, demand for locally grown products would likely be affected very little. In addition, assuming the local food movement continues to grow and local supply chains improve, the prices of locally grown products should fall. Ultimately, any increased requirements on food labeling may meet some resistance, but some regulation is absolutely essential to protect local food buyers. Food miles labeling would accomplish this goal at a minimal cost to the consumer and could be implemented with relatively little difficulty.

#### IV. CONCLUSION

The local food movement poses some unique problems. Unlike other categories of food products, developing a clear definition of what is considered local is extremely difficult. Because local is not an objective term, it is almost impossible to create an objective definition, especially

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89. Produce, OZARK NATURAL FOODS, <http://www.ozarknaturalfoods.com/departments/produce> (last visited Jan. 28, 2013).

90. *Id.* Ozark considers a product "local" if it is grown within 100 miles of the store. *Id.*

91. *Id.*

92. Schmit, *supra* note 1.

considering the diversity of food products, the competing interests involved, and the various purposes of the use of the term. Because of these difficulties, requiring retailers to simply label local food with food miles seems like a workable and practical solution. Food miles labels would protect consumers and provide them with the information necessary to purchase locally grown foods according to their own expectations. Additionally, the regulation could eventually create a more efficient system of marketing local foods. Most importantly, any system that improves the process of buying and selling local foods will likely enhance the local food movement, which benefits consumers, retailers, and the overall efficiency of the entire food system.