

SUBJECT: CONSUMER PROTECTION — STATEMENTS OF ORIGIN
ATTORNEY GENERAL — PUBLIC PROTECTION UNIT
PROPOSED PURSUANT TO 9 V.S.A. §2453(c)

RULE CP 117

Effective Date: 7/11/98

CP 117.01 Definitions
CP 117.02 Obligation to Comply with Rule
CP 117.03 Meaning of Advertised Terms

CP 117.01 Definitions

(a) "Advertisement" means any communication offering goods for sale and directed to the public or to a substantial number of consumers, regardless of whether the communication is conveyed in writing, orally, electronically, on radio or television, or in any other manner.

(b) "As prominently as" means that a disclosure is presented in the same or a substantially similar manner as the representation to which it is compared, taking into account size, contrast, color and placement in the case of written advertisements, and tone, volume and timing in the case of oral advertisements.

(c) For the purpose of this rule, "goods" means fresh fruits and vegetables.

(d) "Originate" means grown and harvested.

(e) "Seller" means a person regularly engaged in selling goods to consumers.

CP 117.02 Obligation to Comply with Rule

It shall constitute an unfair and deceptive act and practice in commerce under 9 V.S.A. §2453(a) for any seller to advertise in or into the State of Vermont without complying with the requirements of this rule.

CP 117.03 Meaning of Advertised Terms

The following terms shall not be used in any advertisement unless they have the meaning set forth in this section:

(a) "Local," "locally grown," and any substantially similar term shall mean that the goods being advertised originated within 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," as long as the specific geographic location appears as prominently as the term "local" and the representation of origin is accurate.

(b) "Native" or any substantially similar term shall mean that the goods being advertised originated within the State of Vermont; except that the term "native" may be used in

conjunction with a specific geographic location, such as “native Alaskan,” as long as the specific geographic location appears as prominently as the term “native” and the representation of origin is accurate.

(c) “Farm fresh” and any substantially similar term shall mean that the goods being advertised were delivered directly from the farm where they originated to the place of sale and were offered for sale within a reasonably short time of harvesting, taking into account the nature of the produce.

(d) “Our own” and any substantially similar term shall mean that the goods being advertised were grown and harvested by the seller or by a business owned and operated by the seller.

Note on Rule 117:

The Vermont Consumer Protection Act was amended by Vermont Act 207, which became effective on June 11, 2008, to define the terms “local” and “locally grown” used in the advertising of any goods as follows:

For the purposes of this chapter and rules adopted pursuant to subsection 2453(c) of this chapter, “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.

Act 207 effectively amended Consumer Protection Rule (CP) 117.03(a), which defines “local” and “locally grown” (with respect to fresh fruits and vegetables only) based solely on the “30-mile” criterion. As a result, the terms “local” and “locally grown” may now be used if the goods so advertised originated *either* within 30 miles of the place of sale *or* within the State of Vermont.