

## ABSTRACT

### REASONABLE CONSUMER OR IGNORANT CONSUMER? HOW THE FTC DECIDED

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This paper examines the tendency of the Federal Trade Commission to vary in selecting the level of consumer competence which it chooses to protect. It has committed itself at all times to prohibit sellers' claims which would deceive reasonable people, but has not always committed itself to prohibit claims which would deceive only the ignorant and not the reasonable person. At times it has acted on behalf of the latter by invoking the "ignorant man standard." At other times it has been ordered by courts to ignore these people and invoke the "reasonable man standard." In still other cases it has chosen voluntarily to protect certain ignorant persons but not others.

The paper describes, with mention of specific cases, the development of the "reasonable man standard" as a general legal standard prior to the creation of the FTC, followed by the FTC's consequent decision to go its own way and adopt the "ignorant man standard." The latter standard was attacked in court appeals, but was supported by the Supreme Court in 1937 in the Standard Education case. This case confirmed the FTC's right to protect ignorant consumers, but the Commission changed its own mind eventually and has decided since 1963 to protect only those cases of "ignorant" behavior which are committed by significant numbers of people. It acts no more against sellers' representations which appear likely to deceive only stray individuals. The present position is a pull-back from the "ignorant man standard," but it remains closer to the spirit of that rule than it does to the traditional "reasonable man standard."