



March 7, 2010

The Honorable Inez Tenenbaum  
Chairman  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

Dear Chairman Tenenbaum,


We are writing to express our sincere gratitude for your position of dissent with respect to the Commission's recent decision pertaining to "unblockable drains", and to convey our concern and disappointment with the final decision rendered by the full Commission.


In concluding that an unblockable drain cover on a blockable sump satisfies the definition of an "unblockable drain" in The Virginia Graeme Baker Pool and Spa Safety (VGB) Act, the Commission not only defied the intent of the legislation by turning a blind eye to one of the specific risks that the Act is intended to eliminate, but also breached its custodial responsibility to protect the public from unreasonable risks of serious injury or death.

As parents of children who have fallen victim to entrapment, we cannot stand by and allow others to experience the loss that we have suffered. While we do not question that the members who supported this decision are concerned about the terrible and preventable nature of entrapment, we believe the ultimate decision removes what should be one of the "layers of protection" that Congress envisioned and the act requires. Significantly, the decision allows an exemption that was never contemplated. Those who rendered this decision are operating under the assumption that drains in pools and spas are continuously and accurately installed and maintained. We personally know this is not the case. Significantly, Zachary Cohn lost his life because the drain cover failed and had there been a secondary layer of protection this precious child would be living today.

The VGB Act was intended to prevent entrapment – of all kinds – using all safeguards the industry has available. We are deeply concerned by the Commission's decision, and urge you to reconsider and fulfill the intent of this important new law by installing the layers of protection that are required to mitigate – if not eliminate – incidences of drowning across this country. There's too much at stake.

Sincerely,

  
Nancy Baker  
*Parent Advocate*

  
Karen Cohn  
*The ZAC Foundation*

cc: The Honorable Robert Adler  
The Honorable Nancy Nord  
The Honorable Thomas Moore  
The Honorable Anne Northup  
  
The Honorable Jay Rockefeller  
The Honorable Mark Pryor  
The Honorable Amy Klobuchar  
The Honorable Debbie Wasserman-Schultz

*Advancing Water Safety*

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