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April 21, 2011

Via Facsimile and Overnight Mail
Mr. Charles Dean Metropoulos
Chairman and Chief Executive Officer
Pabst Brewing Company
9014 Heritage Parkway #308
Woodridge, Illinois 60517

Re: Blast by Colt 45

Dear Mr. Metropoulos:

We, the undersigned Attorneys General of Maryland, Arizona, California, Connecticut, Guam, Idaho, Illinois, Iowa, Kentucky, Maine, Massachusetts, New Mexico, Ohio, Oklahoma, Tennessee, Utah and Washington, and the City Attorney of San Francisco, write to express our serious concerns over your company's new flavored malt beverage, Blast by Colt 45. You offer this product in fruit flavors of grape, strawberry lemonade, strawberry watermelon, and blueberry pomegranate, with an alcohol concentration of 12% (ABV) in brightly colored 23.5 ounce cans.

At 12% ABV in a 23.5 ounce container, one can of Blast consumed on a single occasion is a binge drinking episode. As explained below, we believe the manufacture and marketing of this flavored "binge in a can" poses a grave public safety threat and is irresponsible. We also are concerned that the target market for all size containers of Blast, which your company describes as ages 21-29,[1] will also include persons under the legal drinking age, in violation of state law.

A standard serving of alcohol is any drink (whether beer, wine, or distilled spirits) that contains 0.6 fluid ounces or 14 grams of "pure" ethyl alcohol.[2] One 23.5-ounce can of Blast with 12% ABV thus contains 4.7 servings of alcohol. As a result, consuming a single can of Blast on one occasion constitutes "binge drinking," which is defined as men drinking five (and women drinking four) or more alcohol servings in about two hours.[3] Such excessive drinking typically

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[1] Pabst Distributor Webcast, available at http://www.youtube.com/watch?v=7ptXbFOXKLA.
[2] *See* http://rethinkingdrinking.niaaa.nih.gov/WhatCountsDrink/WhatsAstandardDrink.asp
[3] *See* http://www.cdc.gov/alcohol/fact-sheets/binge-drinking.htm

raises a person's blood alcohol concentration (BAC) to 0.08 grams percent or more.[4] It also typically results in acute intoxication that can be harmful for a variety of reasons, including impaired brain function resulting in poor judgment, reduced reaction time, loss of balance and motor skills, and slurred speech.[5] Coma and death can occur if alcohol is consumed rapidly and in large amounts.[6]

Given these dangers, the Centers for Disease Control and Prevention (CDC) recently declared binge drinking to be a major public health problem in the United States. The CDC calculates that binge drinkers account for more than half of the 79,000 annual alcohol-related deaths in the U.S. and for two-thirds of the 2.3 million years of total potential life lost in 2001-2005. Binge drinking increases the chances of motor vehicle crashes, violence against others, HIV and sexually transmitted diseases, unplanned pregnancy, sudden infant death syndrome, and fetal alcohol spectrum disorders.[7] These health risks pose a particular threat to youth, given that about 90% of the alcohol consumed by Americans under age 21 is while binge drinking.[8] The CDC reports that the binge drinking prevalence for 18-24 year olds, which includes a portion of Blast's purported target market of 21-29 year olds, is 25.6%.[9]

It is our understanding that Blast is a carbonated product designed to be consumed while it is cold. Therefore, after the consumer opens the can, there is only a short period of time before the product will lose its optimal temperature and carbonation. If an individual consumes a 23.5 ounce can of Blast as it is intended to be consumed – drinking the entire can on a single occasion – he or she will have engaged in binge drinking, putting himself or herself at risk of serious injury and other health and safety problems.

Blast's packaging and marketing impliedly represent that the product is fit to be consumed as a single-serving, ready-to-drink alcoholic beverage,[10] when in fact a single can contains nearly five servings of alcohol, and doing so would be dangerous. Its packaging and promotion as a single-serving beverage have the capacity to mislead consumers into believing that they are consuming one, or at most two, servings of alcohol. *See, e.g.*, *Canandaigua Wine Co.*, 114 F.T.C. 349 (1991); *Allied Domecq Spirits & Wine Americas, Inc., et al.*, 127 F.T.C. 368 (1999); *Avalon Industries Inc.*, 83 F.T.C. 1728 (1974).

In a message printed on the Blast can, your company tells consumers to "Please drink responsibly," and on the Pabst website you tell consumers to drink alcohol "carefully and in

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[4] *Id.*
[5] *See* http://www.cdc.gov/alcohol/faqs.htm#bingeDrinking.
[6] *Id.*
[7] *See* http://www.cdc.gov/Features/VitalSigns/BingeDrinking/).
[8] *See* http://www.cdc.gov/Alcohol/fact-sheets/underage-drinking.htm
[9] http://www.cdc.gov/mmwr/preview/mmwrhtml/su6001a22.htm?s_cid=su6001a22_w
[10] We understand that the beverage industry recognizes 24 ounce containers as "single serve." *See, e.g.*, "Yuengling to Introduce 24 ounce cans," accessed on Apr. 5, 2011 at: http://beernews.org/2010/09/yuengling-to-introduce-24-oz-cans/; "Corona 'Can Do' with New 24-Ounce Packages," accessed on Apr. 5, 2011 at: http://www.crownimportsllc.com/latestnews/pdf/CXCL_24ozCans_Rls.pdf; and "Brewery Quickly Installs 24 oz. Can Line to Increase Share of Single Serve Market," accessed on Apr. 5, 2011 at http://www.packagingdigest.com/article/512066-Brewery_quickly_installs_24_oz_can_line_to_increase_share_of_single_serve_market.php.

moderation." However, your company fails to indicate how a consumer could responsibly drink a 23.5 ounce can of Blast with 12% ABV. In fact, the Pabst website contains a link, under the topic of "Responsibility," called "Know Your Limit – Intoximeters" where a visitor to the site may calculate estimated BAC by entering the number of servings, the type of alcohol beverage, the amount of time over which the beverage is consumed, along with the consumer's gender and weight. As it turns out, the drop-down menu includes neither Blast nor any other 12% ABV beverage and therefore provides no guidance on how to apply the tool to a 23.5-ounce serving of a 12% ABV beverage.[11] Indeed, despite the company's admonition to purchasers to drink responsibly, the product's design promotes excessive consumption.

Moreover, we have serious concerns about Blast being marketed to underage persons. In addition to offering this high alcohol flavored malt beverage in youth-friendly flavors of grape, strawberry, lemonade, and watermelon ("made with real juice"), Pabst has chosen as its celebrity spokesperson, hip-hop/rap music artist, Snoop Dogg, who is popular among persons under 21 and whose promotional videos for Blast are accessible to viewers of all ages on social media sites such as YouTube and Twitter.[12] We also are aware of concerns that Pabst's marketing of Blast is targeting young African-Americans.[13]

For all of these reasons, we urge you to take immediate steps to significantly reduce the number of servings of alcohol presented to consumers in a single serving container so as to eliminate the serious public safety risks posed by this "binge-in-a-can" product. We also ask that Pabst take steps to ensure that the marketing of this product does not expressly or impliedly target an audience that is under the legal drinking age.

We are hopeful you will take swift and responsible action in this important matter.

Sincerely,

Douglas Gansler

Douglas F. Gansler
Attorney General of Maryland

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[11] The Pabst website, http://www.pabstbrewingco.com/footer/responsibility/, provides a link to http://www.intox.com/drinkwheel.aspx. From the choices offered, it appears the best way to calculate BAC resulting from drinking a 23.5-ounce can of Blast with 12% ABV is to enter "5" for number of servings and "table wine" which contains approximately 12% ABV. Having done so, a 150-pound woman who plans to consume one can of Blast over two hours (or a 175-pound man who plans to consume the same amount over one hour) would learn that the resulting estimated BAC is .09 grams per 210 liters of breath (or 100 ml of blood), at which level each person could be convicted of driving while intoxicated in all states, and would have more than twice the BAC level of impairment (.04) recognized by the American Medical Association. *Id.*

[12] *See, e.g.,* http://www.youtube.com/user/BlastbyColt#p/a/u/1/381ddJjCPqY; http://www.youtube.com/watch?v=uyiMB7VKiKY&feature=player_embedded; and http://twitter.com/blastbycolt.

[13] See, e.g., "Activist Complains About Pabst's 'Blast,'" accessed Apr. 5, 2011 on http://www.beverageworld.com/index.php?option=com_content&view=article&id=39029&catid=3&Itemid=173; and "Truth Minista Puts Snoop Dog on Blast!," accessed Apr. 5, 2011 http://blacktalkradionetwork.com/video/truth-minista-puts-snoop-dogg.

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