

Ronald F. Clarke  
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United States of America

September 11, 2023

RE: Fleetcor's business operations in Russia

Dear Mr. Clarke,

We write to you as [B4Ukraine](#), a coalition of Ukrainian and international civil society organizations working to curtail the financial resources enabling the Russian invasion of Ukraine. The coalition expects companies to demonstrate public support for the people, democracy, and territorial integrity of Ukraine; opposition to Russia's war of aggression; and alignment with the UN Guiding Principles on Business and Human Rights. Such support will also demonstrate respect for the fundamental human rights of all people, the rules-based international order, and a prosperous global economy.

We are encouraged by Fleetcor's decision to withdraw from Russia in response to this unprovoked and unjustified war.<sup>1</sup> The company has joined the growing ranks of multinational companies which, according to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), have exited the Russian market,<sup>2</sup> thus minimising the risks of enabling and financing Russia's violations of international humanitarian and human rights law during the ongoing invasion and occupation of Ukraine.<sup>3</sup> We write now to urge you to maintain your position and, further, to use your leadership and influence to encourage other companies to follow your example.

As you may well be aware, Russia continues to commit war crimes and crimes against humanity through attacks on civilians and civilian infrastructure, mass executions, the bombing of schools, hospitals, and apartment buildings, sexual violence, torture, and forcible transfer of civilians. More than 26,000 Ukrainian civilians have been killed or injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times. So far, over 100,000 war crimes have been recorded.

On September 21, President Vladimir Putin escalated the war by announcing a "partial mobilisation" of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#))

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<sup>1</sup> Kyiv School of Economics Institute, "Leave Russia," <https://leave-russia.org/fleetcor> (accessed September 10, 2023).

<sup>2</sup> Kyiv School of Economics Institute, "Leave Russia," <https://leave-russia.org/companies-that-exited> (accessed November 14, 2022).

<sup>3</sup> The UN Working Group on Transnational Corporations, Business, human rights and conflict-affected regions states: "Businesses are not neutral actors; their presence is not without impact. Even if business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics."

mandates all organisations, including more than 1,500 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if at least one of the employees is eligible for military service.<sup>4</sup> They must also assist with delivering the military summons to their employees, ensure the delivery of equipment to assembly points or military units, and provide information, buildings, communications, land plots, transport, and other material means of support to the war effort.

This legislation entails significant legal risks for companies remaining in Russia, including potential civil and criminal liability under comprehensive sanctions regimes and recent international jurisprudence holding corporations and their officers responsible for human rights abuses abroad.<sup>5</sup> Companies may also be exposed to financially material risks through operational restrictions such as limitations of future government contracts.<sup>6</sup> By remaining in Russia, companies may not only be exposed to these risks but may also become directly complicit in war crimes.<sup>7</sup> Likewise, further financial risks arose upon Putin's confirmation that the internationally recognised terrorist group Wagner are financed directly by the Russian state.

In addition to these risks, any re-entry into the Russia market would now bring further exposure to the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military.

As you know, many other businesses have decided to stay and continue operations in the aggressor country. We commend you for taking the correct path and exiting the market, showcasing your commitment to responsible business practices. We are interested in the barriers the company has encountered in this process, and in the general process of exiting the Russian market. We hope that

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<sup>4</sup> Federal Law No. 31-FZ of February 26, 1997 "On mobilization training and mobilization in the Russian Federation" (as amended), <https://base.garant.ru/136945/> (accessed November 14, 2022).

<sup>5</sup> International companies remaining in Russia are now at a greater risk of violating sanctions regimes as implementation of the legislation will likely involve transacting with sanctioned individuals or entities. Furthermore, new domestic civil and criminal cases against companies involved in violations of international law demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g., Lafarge case, Lundin case, Castel Group indictment, Nevsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) Victoria Riello and Larissa Furtwengler, "Corporate Criminal Liability for International Crimes: France and Sweden Are Poised To Take Historic Steps Forward," September 6, 2021, <https://www.justsecurity.org/78097/corporate-criminal-liability-for-human-rights-violations-france-and-sweden-are-poised-to-take-historic-steps-forward/> (accessed November 14, 2022); The Sentry, "Breaking: France Opens War Crimes Inquiry Focused on Iconic Food and Beverage Conglomerate," July 1, 2022, <https://thesentry.org/2022/07/01/7216/breaking-france-opens-war-crimes-inquiry-focused-iconic-food-beverage-conglomerate/> (accessed November 14, 2022); Rfi, "French technology firm charged over Libya cyber-spying," July 2, 2022, <https://www.rfi.fr/en/business-and-tech/20210701-french-tech-firm-charged-over-libya-cyber-spying> (accessed November 14, 2022); Preston Lim, "Canadian Supreme Court Allows Corporate Liability for International Law Violations," *Lawfare*, March 12, 2022, <https://www.lawfareblog.com/canadian-supreme-court-allows-corporate-liability-international-law-violations> (accessed November 14, 2022); Sherpa, "Aiding and abetting war crimes in Yemen: Criminal complaint submitted against French arms companies," June 2, 2022, <https://www.asso-sherpa.org/aiding-and-abetting-war-crimes-in-yemen-criminal-complaint-submitted-against-french-arms-companies> (accessed November 14, 2022).

<sup>6</sup> Venable LLP, "Do You Contract with State Governments? If So, Beware of Emerging State Sanctions' Obligations Related to Russia and Belarus," *JD Supra*, June 3, 2022, <https://www.jdsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed November 14, 2022).

<sup>7</sup> Nataliya Popovych and Bennett Freeman, "Russia's Putin is forcing foreign-owned companies to participate in his conscription campaign. It's time to get out," *Fortune*, October 13, 2022, <https://fortune.com/2022/10/13/russia-putin-foreign-owned-companies-conscription-campaign-sanctions-ukraine-war-international-europe-popovych-freeman/> (accessed November 14, 2022).

we can learn from your experience of exiting and use this knowledge to persuade other companies to follow in your footsteps.

We request a dialogue with Fleetcor's senior management and staff to discuss how the company may exert its influence with other companies and considerations on its potential future relationship with Russia as well as Ukraine. Please contact us at [contact@b4ukraine.org](mailto:contact@b4ukraine.org) to schedule a call by September 25<sup>th</sup>, 2023.

Sincerely,

The B4Ukraine Coalition