

Poul Weihrauch  
Chief Executive Officer  
6885 Elm Street  
McLean, VA 22101  
United States

CC: Mars Executive Team and Board

07/11/2022

RE: Mars business operations in Russia

Dear Mr. Weihrauch,

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. In the spirit of respect for the fundamental rights of all people, the rules-based international order, and a prosperous global economy, we expect 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 (UNGPs).

We request an urgent dialogue regarding potential inconsistencies between Mars Incorporated's (Mars) stated policies on Russian aggression and human rights more broadly and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

Mars's Human Rights Policy formalises the company's commitment to "respecting human rights in our value chain, starting with areas where we have the most control and influence, and where we can have the greatest impact."<sup>1</sup> Mars fulfils this commitment by "implementing a due diligence process to identify relevant adverse impacts on human rights and to establish or support appropriate and effective mechanisms for prevention and remediation."<sup>2</sup> This policy is supplemented by the company's Supplier Code of Conduct, Responsible Workplace program, and its "CARE Framework," which is a "step-by-step tool to guide our human rights decisions and actions."<sup>3</sup>

It has been eight months since Russia invaded Ukraine and the devastating impacts continue to shock the global conscience and shake the global economy. Russia is violating international humanitarian law (IHL), including war crimes and crimes against humanity, through attacks on civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, forcible transfer of civilians). Tens of thousands have been killed and millions of Ukrainians have been forced to flee their homes, creating one of the largest humanitarian disasters and refugee crises of modern times.

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<sup>1</sup> Mars, "Our Human Rights Policy," <https://www.mars.com/about/policies-and-practices/human-rights-policy> (accessed November 1, 2022).

<sup>2</sup> Ibid.

<sup>3</sup> Mars, "Human Rights Position Statement," <https://www.mars.com/about/policies-and-practices/human-rights> (accessed November 1, 2022).

On September 21, President Vladimir Putin further escalated the war by announcing a “partial mobilisation” of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#)) mandates all organisations, including the more than 1500 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 new and 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 be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.<sup>6</sup>

In response to this unprovoked and unjustified war<sup>7</sup> many companies have left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Mars announced in early March that it would scale back its business and “refocus” efforts in Russia to its “essential role in feeding the Russian people and pets.”<sup>8</sup> The company also suspended new investments, social media and advertising activity, stopped imports and exports in or out of Russia, and stated that “any profits from our Russian business will be used for humanitarian causes.”<sup>9</sup> While we commend these statements, our research indicates that Mars is failing to uphold these commitments and is still at risk of proximity to Russia’s war of aggression against Ukraine.

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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 1, 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,” *Just Security*, 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 1, 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 1, 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 1, 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 1, 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 1, 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 1, 2022).

<sup>7</sup> The UN General Assembly condemned Russia’s “aggression against Ukraine” and demanded that Moscow “unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

<sup>8</sup> Mars, “Mars update on Russia and Ukraine,” March 10, 2022, <https://www.mars.com/news-and-stories/press-releases-statements/mars-update-russia-and-ukraine> (November 1, 2022).

<sup>9</sup> *Ibid.*

Prior to Russia's invasion of Ukraine, Mars was one of the largest food and pet food companies in Russia, producing confectionery products, chewing gum, pet food, and cooking sauces. The company owns and operates ten factories<sup>10</sup> and employs more than 6,000 workers in Russia.<sup>11</sup> Despite Mars's promise to scale back its operations and suspend all advertising activities in Russia, the company's career page lists several open positions in the country, including two marketing positions.<sup>12</sup> Similarly, Mars candy brands, such as M&Ms, Bounty Bars, Twix, Snickers, and other non-essential brands, are reportedly still available in local super markets, in direct contradiction to Mars's commitment to focus its operations on essential goods.<sup>13</sup> Given the fact that Mars is hiring new employees, the current number of workers at risk of conscription is unclear. Furthermore, Mars has only committed to suspending production, import, and export of certain brands, leaving a significant number of assets in Russia at risk of requests for government use under the partial mobilisation order.

These activities risk enabling and financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Mars's Human Rights Framework and the company's stated commitment to abiding by the UNGPs. It remains to be seen how directly Mars will be impacted by the partial mobilisation and the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military.

We seek to understand how Mars has conducted and continues to conduct heightened Human Rights Due Diligence, per its stated policy and the UNGPs concerning due diligence in conflict-affected areas, and how the findings of such a process has resulted in these continued business activities and relationships. As noted by the UNGPs:

...the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship. In any case, for as long as the abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with Mars's relevant senior management and staff to discuss the company's ongoing activities and relationships in Russia, associated risks to the people of Ukraine and the company, and potential steps to prevent/mitigate these risks. Please contact Eleanor Nichol at [enichol@businessforukraine.info](mailto:enichol@businessforukraine.info) to schedule a call. We kindly ask for your response by 5:00pm CET, 21st November 2022.

Please do not hesitate to get in touch if you require any further information

Sincerely,

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<sup>10</sup> Interfax, "Mars suspends investment in Russia," March 10, 2022, <https://interfax.com/newsroom/top-stories/76148/> (accessed November 2, 2022).

<sup>11</sup> Dean Best, "Mars to "scale back" Russia business," *Just Food*, March 10, 2022 <https://www.just-food.com/special-focus/ukraine-crisis/mars-to-scale-back-russia-business/#:~:text=Mars%20manufactures%20confectionery%20at%20plant,the%20Siberian%20city%20of%20Novosibirsk> (accessed November 1, 2022).

<sup>12</sup> Mars, "Jobs at Mars," <https://careers.mars.com/ru/ru/search-results> (accessed November 1, 2022).

<sup>13</sup> B4Ukraine, "Deaths and Treats: How your favorite sweets are a part of bloody war in Ukraine," October 25, 2022, <https://businessforukraine.info/actions/for-every-less-ethical-candy-maker> (accessed November 1, 2022).

Eleanor Nichol  
Executive Director  
The B4Ukraine Coalition