

Mondelez response re Business Advisory letter 11/04/2024

B4Ukraine Coalition:

Thank you for reaching out. We acknowledge receipt of your letter dated April 2, 2024.

Since the beginning of the war, we have condemned the brutal aggression against Ukraine. We continue to increase our investments in supporting and rebuilding Ukraine, including reopening our manufacturing plants and providing \$15 million in humanitarian aid.

We have scaled back our operations in Russia, including halting all investments and advertising media spend. Accordingly, Russia generated 2.8% of consolidated net revenue in 2023 vs 4.0% in 2022. We continue to make significant progress on making our Russian operations more standalone and self-sufficient, with no finished goods imported or exported from Europe, and we continue complying with sanctions.

We also want to make sure you understand our decision-making framework and the complexity of decisions around operations in Russia. If stopping our operations in Russia would stop the war, we would do it. Unfortunately, it is not that straightforward.

The risk of having our operations turned over to another party, who could use the full proceeds for their own interests, is significant, as we have seen in other cases. We see this risk as greater than the risk of operating locally. We are continuing to support approximately 3,000 employees and 10,000 farmers.

Thank you again for your interest in our company.

Best regards,

Mondelēz International

Dirk Van de Put
Chief Executive Officer
Mondelēz International Inc.
3 Parkway N, Deerfield,
Chicago,
Illinois
United States of America,
IL 60015

B4Ukraine 

April 2, 2024

Dear Mr. Van de Put and Mondelēz Leadership Team,

We write to you again as [B4Ukraine](#), a coalition of 90 Ukrainian and international civil society organizations working to curtail the financial resources enabling the Russian invasion of Ukraine. In our previous communication with Mondelēz, we emphasised the human impact and risks of ongoing business operations in Russia, calling on you to make a moral and responsible exit in response to its war of aggression against Ukraine. Following the issuance by the United States government of a [Business Advisory](#) on Russia, which highlights the escalating risks of complicity in Russia's war crimes as well as the growing civil and criminal penalties due to extensive economic sanctions, export controls, and import restrictions enforced on Russia, and your designation by the Ukrainian government as an 'International Sponsor of War', we are writing again to reiterate our concerns.¹

Due to the high risk of complicity in Russia's war crimes and crimes against humanity, we urge you to:

- Immediately cease operations and presence in Russia and completely exit the Russian market.
- Refrain from any future business, trade, or investment in Russia until Russia ends its war in Ukraine, territorial integrity of Ukraine is restored, and accountability imposed for war crimes and the destruction of Ukrainian infrastructure and property.
- Establish and implement comprehensive human rights due diligence measures for any responsible exit from or re-engagement with Russia.

We are also asking whether your company has adhered **to the recommendations outlined in the US Business Advisory**, especially regarding the implementation of due diligence practices aligned with internationally recognized standards such as the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the UN Development Program's Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts.

As emphasised in the Business Advisory, businesses and individuals are encouraged to conduct heightened due diligence to mitigate operational, legal, economic, and reputational risks. This includes compliance due diligence to ensure adherence to sanctions and export controls, as well as

¹ Bureau of European and Eurasian Affairs, "Risks and Considerations for Doing Business in the Russian Federation and Russia-Occupied Territories of Ukraine," February 23, 2024, <https://www.state.gov/russia-business-advisory/#:~:text=The%20U.S.%20government%20recommends%20businesses,committed%20by%20the%20Russian%20government> (accessed March 21, 2024).

human rights due diligence to address concerns related to international law violations and human rights abuses. The Advisory notes however that the serious risks stemming from this operating environment in Russia may be mitigated by rigorous due diligence, “though substantial risk is likely to remain.”

Additionally, businesses should note the repressive laws in Russia, which could result in expropriation, restrictions on shareholder rights, as well as potential complicity in war crimes due to Russia’s legislation mandating cooperation in its mobilisation efforts.

In our first letter, we posed questions regarding the mechanisms Mondelez has established to adequately conduct heightened human rights due diligence while taking into consideration a conflict-sensitive approach and the particular circumstances of the war against Ukraine. Considering it has now been 2 years since the start of the full-scale invasion and in light of the recommendations raised in the US Business Advisory, **can the company share the details of its due diligence mechanisms put in place to ensure its compliance with the UNGPs, the OECD guidance, and other internationally recognised standards on business and human rights?**

It has been 2 years 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). Since the start of the full-scale invasion, Russia has committed over 120,000 war crimes, and more than 28,000 Ukrainian civilians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times. In recognition of the severity of abuses, in March 2023 the International Criminal Court issued an arrest warrant for Vladimir Putin to answer war crimes charges.²

Other companies have faced legal, administrative, and ethical challenges and still committed to, and exited, Russia. Considering these developments and the rising number of reported human rights abuses and war crimes, **has Mondelēz considered fully exiting Russia so as not to be even indirectly or remotely associated with these crimes?**

In consideration of the above points, we request an urgent dialogue with the company’s relevant senior management and staff to discuss ongoing activities and relationships in Russia, associated risks to the people of Ukraine, and potential steps to exit Russia. Please contact the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, April 16th, 2024.

Please note that this letter and any response provided, or lack thereof, will be published on the B4Ukraine webpages. In case you would like to join the proposed call, any such meeting will be held under Chatham House Rules.

Sincerely,

The B4Ukraine Coalition

² International Criminal Court, “Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova,” March 17, 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> (accessed March 22, 2023).

Mondelez 2nd Response

Dear B4Ukraine Team,

As a food company, we are scaling back all non-essential activities in Russia while helping maintain continuity of the food supply during the challenging times ahead.

We will focus our operation on basic offerings, discontinue all new capital investments and suspend our advertising media spending. We will also continue to support our colleagues in the market who are facing great uncertainty. You can read more about our response at [Our Statement on War in Ukraine | Mondelez International, Inc. \(mondelezinternational.com\)](https://www.mondelezinternational.com/our-statement-on-war-in-ukraine)

Kind regards,

Customer Service

Mondelez International

Dirk Van de Put,
Chief Executive Officer,
Mondelēz International
905 W Fulton Market,
Chicago,
IL 60607

May 8, 2023

RE: Mondelēz's business operations in Russia

Dear Mr. Van de Put,

We are writing to follow up on our previous correspondence with Mondelēz dated 28th October 2022 and 24th March 2023 regarding potential inconsistencies between Mondelēz's obligations, as articulated in the UN Guiding Principles on Business and Human Rights (UNGPs), and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms. In your responses to our previous outreach, you have not answered the questions posed in our letters, directing us to your statement on Ukraine.¹ We are writing once again to formally notify Mondelēz on the serious and increasing risks the company faces by continuing its operations in Russia that may amount to complicity in human rights abuses committed by Russia.²

It has been over one year 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 committing war crimes and crimes against humanity through attacks on civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, forcible transfer of civilians). More than 23,375 Ukrainian civilians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times. In recognition of the severity of abuses, in March 2023 the International Criminal Court issued an arrest warrant for Vladimir Putin to answer war crimes charges for an alleged scheme to deport Ukrainian children to Russia.³

Moreover, as outlined below, recent developments in Russia point to an expanding universe of financial, legal, and reputational risks facing remaining companies.

¹ Mondelēz, "Our Statement on War in Ukraine," March 9, 2022, <https://www.mondelezinternational.com/News/Statement-on-War-in-Ukraine> (accessed May 3, 2023).

² Andrew Clapham and Scott Jerbi, "Categories of Corporate Complicity in Human Rights Abuses," March 21-22, 2001, <https://media.business-humanrights.org/media/documents/files/reports-and-materials/Clapham-Jerbi-paper.htm> (accessed May 4, 2023).

³ International Criminal Court, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova," March 17, 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> (accessed March 22, 2023).

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](#)) 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.⁴ 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.

A new decree issued by President Putin on March 3, 2023, enables the Russian government to suspend shareholders' rights and impose external management on companies that do not fulfil state defence contracts under conditions of martial law.⁵ By appointing Russian government representatives to manage businesses that fail to meet state orders, the latest Decree effectively creates a scenario of "partial nationalisation."

With new legislation introducing partial mobilisation, nationalisation, and potentially martial law in Russia, it is highly likely that corporations will be unable to prevent or mitigate negative human rights impacts; an obligation imposed on companies by the UNGPs. As such, continuing to conduct business in Russia entails significant legal risks for companies, 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.⁶ By remaining in Russia, companies face the rising risk of criminal liability for complicity in international crimes, which can be prosecuted

⁴ 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).

⁵ Decree of the President of the Russian Federation No. 139 dated March 3, 2023 "On Certain Issues of Carrying Out the Activities of Business Companies Participating in the Fulfilment of the State Defense Order", <http://publication.pravo.gov.ru/Document/View/0001202303030004> (accessed March 22, 2023).

⁶ 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 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).

by domestic courts outside Russia under the doctrine of "universal jurisdiction."⁷ Companies may also be exposed to financially material risks through operational restrictions, such as limitations on future government contracts and nationalisation of their assets.⁸

Firms continuing to conduct business in or with Russia also face high levels of risk attached to financial transactions. On 24 February 2023, the Financial Action Task Force (FATF) suspended Russia's membership as a result of the war, calling on all actors in the international financial system to exercise extreme caution in all dealings with Russia.⁹ In practice, the decision means that all international banks will scrutinise all Russian payments, making financial transactions more expensive, lengthy, with no guarantee that the transaction will occur at all.¹⁰ Although FATF has not yet blacklisted Russia, it highlighted the consensus among its 36 member countries that "the Russian Federation's actions represent a gross violation of the commitment to international cooperation upon which FATF Members have agreed to implement and support the FATF Standards."¹¹ Previous practice shows that noncooperative behaviour is one of the reasons for FATF blacklisting. As a result, companies should examine and mitigate the high levels of risk attached to financial transactions with Russia and based on that risk, reconsider all ongoing business operations related to Russia.

Additionally, the Ukrainian government's [National Agency on Corruption Prevention](#) (NACP) has created a list of "foreign companies that, despite the international recognition of Russia as the aggressor state and the introduced sanctions restrictions, continue to cooperate with it."¹² These companies are recognised as "international sponsors of war" by the Ukrainian state. The listed entities will be included into the World-Check database to protect the global financial sector from Russian sponsors of war. Since banks and insurance companies use World-Check to assess risks, companies on the list will be limited in freely accessing personal and corporate finances. So far there are 24 companies on the list, but the NACP notes that it will be expanded with "international companies that provide the public and private sector with goods and services of critical purpose, as well as [those that] contribute to the Russian budget."¹³

⁷ For example, ongoing proceedings in the US and France against the French multinational Lafarge for complicity in human rights violations in Syria. The Paris Court of Appeal, "La Cour d'appel de Paris confirme la mise en état de la multinationale française Lafarge pour complicité de crimes contre l'humanité commis par l'Etat islamique," May 18, 2022, <https://www.doughtystreet.co.uk/sites/default/files/media/document/Press%20release%20french%20version.pdf> (accessed March 22, 2023); United States Attorney's Office, Eastern District of New York, "Lafarge Pleads Guilty to Conspiring to Provide Material Support to Foreign Terrorist Organizations," October 18, 2022, <https://www.justice.gov/usao-edny/pr/lafarge-pleads-guilty-conspiring-provide-material-support-foreign-terroris> (accessed March 22, 2023).

⁸ 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 January 2, 2022).

⁹ FATF, "FATF Statement on the Russian Federation," February 24, 2023, <https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation.html> (accessed March 14, 2023).

¹⁰ Liudmyla Slietsova, "Russia's membership in the FATF suspended. What does this mean and how ruinous is this for the aggressor's economy?" *Mind*, February 27, 2023, <https://mind.ua/en/publications/20253993-russias-membership-in-the-fatf-suspended-what-does-this-mean-and-how-ruinous-is-this-for-the-aggre> (accessed March 14, 2023).

¹¹ FATF (n 9).

¹² NACP, "International Sponsors of War," <https://sanctions.nazk.gov.ua/en/boycott/> (accessed February 6, 2023).

¹³ NACP, "Companies from the NACP list of "International Sponsors of War" are now in the World-check database, used worldwide for reviewing counterparties," September 7, 2022, <https://nazk.gov.ua/en/news/companies-from-the-nacp-list-of-international-sponsors-of-war-are-now-in-the-w>

In response to this unprovoked and unjustified war,¹⁴ many companies have already left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Mondelez has decided to stay and continue its operations.

Considering these risks and the company's continued presence in Russia, we would like to pose the following questions to Mondelez:

1. Mondelez stated that it is "scaling back all non-essential activities in Russia while helping maintain continuity of the food supply."¹⁵ The company also said that it would continue to deliver food supplies to the country, and the CEO of Mondelez notes: "We sell chocolate and biscuits. In some countries, the biscuits are considered as part of a normal diet [...] [In] many countries, biscuits are a breakfast item. And so, we do feel that we supply products to the normal consumer in Russia."¹⁶
 - **Can Mondelez provide its definition and list of goods it considers essential in light of the particular circumstances of this conflict?**
 - **Can Mondelez provide a list of goods that it stopped producing since the outbreak of the war because they are not considered essential?**
 - **Has Mondelez considered whether its goods can be replaced with local substitutes?**
 - **Which stakeholders has Mondelez engaged with in determining its policies and the decision to stay in the market?**
2. While we do not deny that some goods and foodstuffs are essential in preventing food shortage and undernutrition of the local population, products like Oreo, Toblerone, Milka, chewing gum, lollipops, chocolates, and other sweets that Mondelez produces and sells in the Russian market cannot and are not considered essential. Mondelez's CEO further confirms this by calling the company's products "affordable indulgences."¹⁷ In determining which products are essential, businesses should consider the nutritional needs of the affected population, focusing on nutrient dense foods, such as foods rich in proteins, vitamins, and minerals, including a mix of cereals (such as maize, wheat, rice, or millet), pulses (such as lentils, beans, chickpeas, or peas), oil, and fresh or processed fruits and vegetables.¹⁸ Businesses should also consider the availability of other sources of food, the availability of local substitutes, and the potential human rights risks and impacts associated with their operations.

[orld-check-database-used-worldwide-for-reviewing-counterparties/?hilit=sponsor+of+war](#) (accessed February 6, 2023).

¹⁴ 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."

¹⁵ Mondelez (n 1).

¹⁶ Dylan Croll, "Mondelez CEO explains why the snacking giant still does business in Russia," *Yahoo! Finance*, October 13, 2022,

<https://finance.yahoo.com/news/mondelez-ceo-why-were-still-doing-business-in-russia-204049695.html?guccounter=1> (accessed May 4, 2023).

¹⁷ Reuters, "LIVE: Reuters Newsmaker with Mondelez International CEO and Chairman Dirk Van de Put," YouTube, <https://www.youtube.com/watch?v=xn2K9LmpNGE> (accessed May 5, 2023).

¹⁸ While a unified list of all essential foods does not exist in the international regulatory framework, there are sources which could be applied through analogy in determining which foodstuffs are considered essential (in conjunction with other international business and human rights legislative and regulatory documents): Sphere, "The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response," 2018, <https://spherestandards.org/handbook-2018/> (accessed May 4, 2023); WHO, "Technical note Supplementary foods for the management of moderate acute malnutrition in infants and children 6–59 months of age," 2012, <https://apps.who.int/iris/handle/10665/75836> (accessed May 4, 2023).

- **Has Mondelēz considered all the circumstances and complexities of the Russo-Ukrainian war, including numerous human rights violations and war crimes committed in Ukraine, in determining to continue providing these goods within Russia?**
3. **How has Mondelēz practised due diligence in preventing the direct supply of its products to the Russian military? Does Mondelēz have policies, mechanisms, and tools in place to carry out enhanced due diligence of supply chains, intermediaries, customers, and end-users to prevent the supply of goods to the Russian army? If so, how were they utilised for defining business connections that involve the Russian government, its agencies, and state-controlled or sanctioned organisations?** As a reminder, Bonduelle and Auchan have recently faced backlash because their goods were sent to Russian troops in Ukraine, some with notes wishing "a speedy victory."¹⁹ Both companies deny these allegations.
 4. We understand and agree that Mondelēz has obligations towards its 3,000 employees in Russia. These are laid out under the UNGPs and in the wider international human rights legal and regulatory framework.
 - **Can Mondelēz clarify how it has used this framework to minimise the risks and impacts to its employees?**
 - **How has the company applied heightened human rights due diligence to its operations in Russia considering the new Russian legislation requiring businesses to help conduct military registration, deliver the summons to its employees, and provide resources where required?**
 - **Has Mondelēz received any such requests, and if so, how has the company responded to them?**
 - **What is Mondelēz doing to safeguard its employees from mobilisation?**
 - **Have any of your employees been mobilised and, if so, what was Mondelēz's role in the process?**
 5. The safety of employees is and should be a considerable point of concern and obligations for companies. But in light of the specific context of the illegal war on Ukraine, there are other options for the safeguarding of employees that can and have been used by other international companies in Russia. Many companies have offered relocation packages, or contractual clauses which condition the continued employment and safety of employees remaining in Russia. For example, if Mondelēz had decided to sell its Russian business it could have included contractual clauses to ensure the continued safety of its employees, as previously exemplified by the actions of the French Publicis Groupe who employed 1,200 people in the country.
 - **Has Mondelēz considered any of these or other options before deciding to continue operations in Russia?**
 6. **Further concerning the safety and wellbeing of your employees, how does Mondelēz reconcile the calls of its employees to leave the Russian market with its decision to continue business operations in the country?** As per media reporting, Mondelēz employees sent a petition to CEO

¹⁹ Euromaidan Press, "Bonduelle accused of gifting 10,000 food kits to Russian troops; French office denies," January 3, 2023, <https://euromaidanpress.com/2023/01/03/french-bonduelle-gifts-10000-food-kits-to-russian-troops-wishes-them-victory/> (accessed May 4, 2023); Business and Human Rights Resource Centre, "New evidence reveals Auchan was fully aware of destination of its goods supplied to Russian army," March 3, 2023, <https://www.business-humanrights.org/en/latest-news/russia-auchan-allegedly-supports-soldiers-fighting-in-ukraine-despite-french-management-denials-recent-investigation-reveals-more-proofs/> (accessed May 4, 2023).

Dirk Van de Put to stop all business in Russia, noting that Mondelēz's workers "strongly oppose" the company's decision to remain in Russia.²⁰

7. **How does Mondelēz justify continuing operations and profiting in the country which caused the destruction of its Ukrainian plant, affecting the lives of its Ukrainian employees?**²¹
8. Mondelēz is one of the largest foreign companies still operating in Russia and is the Russian market leader in chocolate, sweets, and biscuits. In 2022, the company's annual revenue in Russia hit \$1.3bn, with Mondelēz alleged to have paid about \$170m in taxes to the Russian state in 2020, according to the KSE Institute. With that amount of money, the Kremlin could have obtained 26 Kalibr cruise missiles that have been used to terrorise Ukrainian civilians. This could make the company indirectly involved in financing Russian aggression since corporate taxes are currently estimated to make up approximately 10% of Russia's GDP — enough to fund 43% of Russia's military budget.²² Therefore, taxes paid by companies who stay in Russia indirectly contribute to the war.
 - **How much tax has Mondelēz paid in 2022 and 2023?**
9. According to the latest available data, Mondelēz has increased its imports to Russia since the start of the war, in comparison to correlating figures from 2021. The imports of Milka, Oreo, Halls, and other products seem to be on the rise, with Milka imports rising to over \$15 million a year into the invasion.²³ Furthermore, data shows that Mondelēz's financial performance has increased significantly compared to 2021. In 2022, the company's revenue increased by 38%, while its profit increased by 303% (the net profit amounted to ₺27,1 billion), and Mondelēz's capital increased by 159%.²⁴ Further analysis of Mondelēz's exports to Russia show an increase by 49% in 2022 compared to 2021, taking into account adjusted prices. Additionally, the increase in sheer volume of shipments for 2022 as compared to 2021 is 52.6%, seemingly confirming the hypothesis that the main source of increased value of shipments to Russia is the increased volume and not the higher prices.²⁵
 - **How does Mondelēz explain these increases, particularly with regard to the company's statements that it means to "make the country completely standalone from a supply chain standpoint"²⁶ and that it is "scaling back all non-essential activities"?**
10. Mondelēz boasts an impressive portfolio of globally recognized and beloved brands such as Oreo, Milka, and Toblerone. By choosing to continue operating in Russia, the company inadvertently grants the regime a sense of legitimacy and approval. By leveraging the power and reputation of its brands, Mondelēz indirectly expresses support for the regime's actions, which could be interpreted as condoning the war. The continued presence of Mondelēz's brands in the

²⁰ Jessica DiNapoli and Richa Naidu, "Oreo-maker, Nestle, Pepsi face pressure from European employees over Russia," *Reuters*, April 14, 2022, <https://www.reuters.com/business/oreo-maker-nestle-pepsi-face-pressure-european-employees-over-russia-2022-04-14/> (accessed May 4, 2023).

²¹ Latifundist.com, "Mondelēz factory in Sumy region destroyed by russian army," April 6, 2022, <https://latifundist.com/en/novosti/58713-vijska-rf-znishchili-fabriku-mondelez-u-trotyantsi> (accessed May 4, 2023).

²² B4Ukraine, "11 dead, 87 injured in the latest Russian terrorist attack on Ukraine. Multinationals must stop enabling Russian aggression" <https://b4ukraine.org/whats-new/latest-russian-terrorist-attack> (accessed May 8, 2023).

²³ Squeezing Putin, "Mondelēz Exports into Russia," May 7, 2023, <https://squeezingputin.com/support.html#Mondelez4May23> (accessed May 8, 2023).

²⁴ ExcheckPro, "LLC Mon'dalis Rus," <https://excheck.pro/company/3321020710> (accessed May 5, 2023).

²⁵ The full detailed analysis can be found on Squeezing Putin (n 23).

²⁶ Dylan Croll (n 16).

Russian market creates a perceived association between the company and its widely known brands and the Russian government, which may not align with the values of its customers. Some brands have recognised this, and while some are also continuing operations in Russia, Nestlé has suspended the production of its most famous product, the KitKat chocolate.

- **How is Mondelēz ensuring that it does not align itself and the names of its brands with the war and the Putin regime?**

11. Other companies have faced legal, administrative, and ethical challenges and still committed to, and exited, Russia. Mondelēz has decided to stay in the country, even after over one year since the start of the war, over 80,000 reported war crimes, over 23,000 Ukrainian civilians killed or injured, and with the head of the Russian state indicted by the International Criminal Court for alleged war crimes, namely the abduction of Ukrainian children.

- **Considering these developments and the rising number of reported human rights abuses and war crimes, has Mondelēz considered fully exiting Russia so as not to be even indirectly or remotely associated with these crimes?**

Mondelez's activities in Russia risk enabling and financing Russia's violations of international humanitarian and human rights law during the ongoing invasion and occupation of Ukraine.

We seek to understand the status of Mondelēz's exposure to Russia and how Mondelēz has conducted and continues to conduct heightened human rights due diligence, and how the findings of such a process have resulted in its 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 Mondelēz'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 the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, May 12th, 2023.

Sincerely,

The B4Ukraine Coalition

Dirk Van de Put
Chief Executive Officer
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Chicago,
Illinois
United States of America,
IL 60015

CC: Mondelēz International Inc.'s Executive Team and Board of Directors

March 24, 2023

RE: Mondelēz International Inc.'s business operations in Russia

Dear Mr. Van de Put,

We write to follow up on our previous correspondence with Mondelēz dated 28th October 2022 regarding potential inconsistencies between Mondelēz's obligations, as articulated in the UNGPs, and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms. The original correspondence and your response is attached here for your convenience.

Our organization proposes to publish an article which refers to your corporation. Please see the statements below and highlighted questions. We are willing to give you an opportunity to provide us with a response, concerning the facts which we wish to present. We will be awaiting a response from you by **5pm CET 31st March 2023**. If we don't receive a response from you, we will indicate this in our publication.

It has been over one year 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). More than 22,000 Ukrainians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times. In recognition of the severity of abuses, in March 2023 the International Criminal Court issued an arrest warrant for Vladimir Putin to answer war crimes charges.¹

¹ International Criminal Court, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova," March 17, 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> (accessed March 22, 2023).

In response to this unprovoked and unjustified war² many other companies have already left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Mondelēz has decided to stay and continue its Russian operations.³

Mondelēz is one of the largest foreign companies operating in Russia. It has three factories in the country employing around 3,200 Russians. According to the KSE Institute, the company's annual revenue in Russia reached \$1.3bn in 2020, and it allegedly paid approximately \$170m in taxes in the Russian Federation. This amount of money could have been used by the Kremlin to purchase 26 Kalibr cruise missiles. Since corporate taxes contribute to approximately 10% of Russia's GDP, these activities risk enabling and financing Russia's violations of IHL and human rights law during the illegal and ongoing invasion and occupation of Ukraine. We acknowledge that Mondelez issued a statement in March 2022 which committed to "scaling back all non-essential activities" in Russia. Yet Mondelez results for that year show that net global revenues for the full year increased by 9.7% and European revenues by 2.4%.

- **Therefore, we are writing to request a clarification from Mondelēz on how much tax Mondelez paid to the Russian state in 2022 and to ask you to clarify the current status of Mondelez operations in Russia?**

Mondelēz has argued that it is providing essential goods to Russia and that it is an important part of the continuity of food supply in Russia.

- **We are writing now to seek clarification on several points regarding the company's policy essential goods and food supply. As follows:**
 - **Can Mondelēz provide its definition and list of goods it considers essential in light of the particular circumstances of this conflict?**
 - **Has Mondelēz considered whether its goods can be replaced with local substitutes?**
 - **Has Mondelēz considered all the circumstances and complexities of the war in Ukraine in determining to continue providing these goods within Russia?**
- **We also seek to understand the status of Mondelēz' exposure to Russia and how the company has conducted and continues to conduct heightened human rights due diligence, 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 reiterate our request for an urgent dialogue with Mondelēz' relevant senior management and staff to discuss the company's

² 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."

³ KSE, Leave Russia, "Mondelēz International, Inc." <https://leave-russia.org/mondelez> (accessed March 22, 2023).

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 the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, March 31st 2023.

Sincerely,

The B4Ukraine Coalition

From: **Smith, Ellen M** <ellen.smith@mdlz.com>
Date: Tue, Nov 22, 2022 at 5:16 AM
Subject: FW: Mondelez operations in Russia
To: enichol@businessforukraine.info <enichol@businessforukraine.info>

Dear Ms. Nichol:

Thank you for your note of November 15, 2022. We appreciate your support of the people of Ukraine and thank you for sharing your perspective. We have received feedback from a range of stakeholders and will review your input carefully.

Kind regards,

Ellen M. Smith

SVP & Chief Counsel

Chief Compliance Officer & Corporate Secretary

Mondelēz International

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ellen.smith@mdlz.com

Dirk Van de Put, Chief Executive Officer, Mondelez
3 Parkway N, Deerfield,
Chicago,
Illinois
United States of America,
IL 60015

28th October 2022

Mondelēz Business Operations in Russia

Dear Mr. Van de Put and Mondelēz Int'l Leadership Team,

We write to you as 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, 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 (UNGPs).

We acknowledge that under your leadership, Mondelēz conducts Human Rights Due Diligence. However, when it comes to Russia's war in Ukraine, we see that more needs to be done to fulfil the obligations companies have in the face of the ongoing unprovoked and unjustified war¹.

[You claim](#) Mondelēz is "committed to protecting the planet and respecting the human rights of people in our value chain." Yet **the decision to stay in Russia and the company's operations and actions in the country for the past seven months prove a violation of the declared statement and undermine global efforts to stop unlawful Russian aggression.**

In March 2022, you declared Mondelēz would be "scaling back all non-essential activities in Russia while helping maintain continuity of the food supply during the challenging times ahead." However, being the maker of sweets and snacks, **Mondelēz does not provide essential food that consumers require to sustain health or life and for which they need a steady supply.** Furthermore, [Russian media reported](#) in May that the company was still selling chocolates, biscuits, and chewing gum in Russia (Alpen Gold, Picnic, Milka, Toblerone). It even increased the price of chocolates by 9-15%, biscuits by 10-19%, and gum by 10%. This complicated people's access to your so-called essential goods and contradicted the company's justification for remaining in Russia to supply food.

At the same time, Mondelēz was on the list of 50 top-earning multinationals in Russia in 2020 and has three factories in the country employing some 2,500 Russians. As [Insider reported](#), Mondelēz

¹ 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."

generates 3.5% of its total revenue from Russia, an estimated total of \$1 billion. This makes **Mondelēz one of the big taxpayers in the country and, therefore, indirectly involved in financing Russian aggression.**

In addition, [as media reports](#), in late July, Russia's Association of confectionery industry "Askond", of which Mondelēz is a member, wrote to its member organizations indicating that multinational confectionery producers that localized production in Russia should petition the EU to remove sanctions on exports to Russia of certain ingredients used in confectionery production. This means that **Mondelēz might also be involved in attempts to lift restrictions imposed on Russia** as punishment for its aggression and to raise pressure on companies producing in Russia. We could not find any public statement which spoke to Mondelez rescinding its membership in Askond.

The risks of complicity in supporting the Russian war economy increased on September 21, 2022, when President Vladimir Putin further escalated the war by announcing a "partial mobilization" of the Russian population. The accompanying legislation (Article 9 of Federal Law No. 31-FZ) mandates all organizations, including international companies 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. 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. Under the International Criminal Court's Rome Statute, someone who has knowledge of a crime taking place and continues to do business with the perpetrator could be considered complicit. Companies may also be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.

Regardless of whether a business is under sanctions, the international standards for companies are clear. As set out in the United Nations Guiding Principles on Business and Human Rights, in situations of armed conflict business should conduct enhanced human rights due diligence to identify, prevent and mitigate heightened risks and adopt a conflict-sensitive approach. Companies need to do this because of the severe risk of gross human rights abuses and the risk of exacerbating conflict-drivers, in addition to the need to abide by international humanitarian law.

Over the years, Mondelēz has built a successful business in Russia. While this must be hard to walk away from, leaving behind significant assets like three factories in Russia, **B4Ukraine believes it is impossible for a reputable, values-driven company like yours to continue doing business in the country.** We therefore call on you to apply the principles of [our Declaration](#) and take immediate steps to:

- 1) End continuing business/trade/investment in Russia
- 2) Stay out of business/trade/investment in Russia until Russia ends its war in Ukraine, territorial integrity of Ukraine is restored and accountability imposed for war crimes and the destruction of Ukrainian infrastructure and property.
- 3) Establish and carry out heightened human rights due diligence on business operations for any exit from or re-engagement with Russia

Mondelēz now has a choice: do you continue to support Russia's ability to wage war in Ukraine, and face exposure to heightened financial, reputational and legal risks, or do you show corporate and personal leadership in standing up for the same rules-based international order, peace and stability which your company has benefited from over the years and which Russia is now undermining whole scale?

With the above points in mind, we request an urgent dialogue with you or relevant senior corporate executives to discuss the company's ongoing activities and relationships in Russia, associated risks to the people of Ukraine and the company. Please contact Eleanor Nichol at enichol@businessforukraine.info to schedule a call at your earliest convenience so that we can find time as early as possible within the next two weeks.

Sincerely,

Eleanor Nichol
Executive Director
B4Ukraine