

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>INTERNATIONAL RIGHTS ADVOCATES, 621 Maryland Ave NE, Washington, D.C. 20002</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MARS, INCORPORATED, 6885 Elm St, McLean, VA 22101; MARS WRIGLEY CONFECTIONERY, 800 County Rd 517, Hackettstown, NJ 07840; CARGILL, INCORPORATED, 15407 McGinty Rd W, Wayzata, MN 55391; CARGILL COCOA & CHOCOLATE INCORPORATED, 12500 W Carmen Ave, Milwaukee, WI 53225; MONDELÉZ INTERNATIONAL, INC., 905 West Fulton Market, Suite 200 Chicago, IL, 60607,</p> <p style="text-align: right;">Defendants.</p>	<p>Case No. 2023-CAB-007264</p> <p>Hon. Ebony M. Scott</p> <p><u>AMENDED COMPLAINT</u></p> <p><u>DEMAND FOR JURY TRIAL</u></p>
---	--

SUMMARY

Child labor and other exploitive conditions are pervasive on West African cocoa farms. Children toil for long hours, working with hazardous equipment and chemicals, carrying heavy loads, and earning little or no pay. They are unable to attend school, and their families are trapped in a cycle of poverty. Yet, consumers are largely unaware that the chocolate they purchase may be rooted in human rights abuses.

Consumers seek to make ethical purchasing decisions that respect the lives and dignity of children and farming families. Chocolate companies know that consumers do not want to support these abuses. But instead of instituting fair labor conditions, preventing and mitigating child labor,

or paying workers above-poverty-level wages, those companies — including Defendants Mars, Cargill, and Mondelēz — have for decades falsely represented to consumers that they have done so in order to profit financially.

While Mars publicizes a long list of initiatives promised to make lives better for farmers, empower women, and combat child labor to mislead consumers into thinking its making a real difference, its Chief Procurement and Sustainability Officer, Barry Parkin, admits that “the vast majority of programs have failed.”¹ Cargill makes similar claims, citing its “zero tolerance” for child labor while that practice continues to run rampant throughout its supply chain. Mondelēz touts a zero-tolerance policy for child labor, yet just last year its board successfully objected to a shareholder proposal that would have urged the company to “Adopt Public Targets to Eradicate Child Labor in Cocoa Supply Chain.”²

Investigations and reports over the years have further revealed that these responsible sourcing representations made by Defendants are untrue. Each Defendants’ supply chains are riddled with child labor, dangerous working conditions, and poverty wages for farmers.

Plaintiff International Rights Advocates seeks to hold Defendants accountable for deceiving D.C. consumers about the true nature of their supply chain and sourcing practices in order to induce the public to continue purchasing their chocolate products for Defendants’ own financial gain.

¹ Shayna Harris, *Raising Cocoa Farmers’ Income Is ‘Pass Or Fail’ For Chocolate Industry*, Forbes (Apr. 21, 2022), <https://www.forbes.com/sites/shaynaharris/2022/04/21/mars-overhauls-cocoa-sustainability-program-to-focus-squarely-on-farmer-income/?sh=273da0147d46>

² *Notice of 2023 Annual Meeting of Shareholders and Annual Proxy Statement*, Mondelēz, at 128, <https://www.proxydocs.com/branding/963232/2023/ps/128/>.

PREAMBLE

On behalf of itself and the general public, and in the interest of consumers, International Rights Advocates (“IRAdvocates” or “Plaintiff”) brings this Consumer Protection Procedures Act (“CPPA”) action against Defendants Mars, Inc. and Mars Wrigley Confectionery (collectively, “Mars”), Cargill, Inc. and Cargill Cocoa (collectively, “Cargill”), and Mondelēz International, Inc. (“Mondelēz”) (collectively, “Defendants”) concerning false and deceptive marketing representations of their cocoa and chocolate products (“Products”). Each Defendant makes promises to consumers regarding the sourcing of its Products. Each Defendant claims to prevent the use of child labor, to implement practices that improve the livelihoods of farmers in its respective supply chain, and to ensure that human rights are respected and upheld. Multiple investigations, however, reveal that the use of forced labor, child labor, and other exploitative working conditions are prevalent in each Defendant’s supply chain. Thus, consumers in the District are misled by these representations concerning the sourcing of the various chocolate Products sold by Defendants.

INTRODUCTION

1. Consumers, including consumers in the District, care about whether companies use fair and sustainable labor practices.
2. Consumers seek out products that are made without the use of forced labor, child labor, or exploitative working conditions, especially in industries known for the use of such practices.
3. In essence, consumers care about the supply chains of the products they purchase.

4. “Supply chain” refers to the “logistics and production” of a product—the actual purchase and transport of the ingredients.³

5. Companies also use the term “value chain” in their marketing. A value chain refers to the ways a company “enhance[s] [a] product’s value as it moves along [the] supply chain.” For example, a company may choose to purchase ingredients from suppliers with high labor standards in order to increase the value of that company’s product to consumers. This is an example of a value chain.⁴ Essentially, “[a]ll of the supply chain is inside the value chain.”⁵

6. This terminology is important because companies use “value chain” language to convey certain messages about their supply chains. Companies know that using this term can increase the “value” of a product to a consumer.

7. In other words, consumers rely on sourcing promises to determine if a company’s supply chain is free from forced labor, child labor, or other exploitative working conditions. Consumers also value promises by companies to provide direct assistance to workers, particularly child workers, who have been subjected to exploitative conditions.

8. Consumer desire to seek out products with certain types of sourcing promises is especially prevalent in the cocoa industry, which has a well-publicized history of unfair labor practices in chocolate production.

9. For example, in the early 2000s, consumers were outraged by reports of forced and child labor in the chocolate industry. As a result, Congress considered “set[ting] aside \$250,000

³ Abby Jenkins, *What’s the Difference Between Value Chain and Supply Chain?*, Oracle NetSuite (Dec. 14, 2022), <https://www.netsuite.com/portal/resource/articles/erp/value-chain-supply-chain.shtml>.

⁴ *See id.*

⁵ *See id.*

for the Food and Drug Administration to develop ‘slave free’ labeling requirements on cocoa products.”⁶

10. The Chocolate Manufacturers Association, a trade group that represents U.S. chocolate producers, successfully lobbied against this proposal. In its place, eight of the largest chocolate companies, including Defendant Mars, signed the Harkin-Engel Protocol, which is a non-binding legal document “intended to assure consumers that chocolate companies [are] acting ethically and ending forced and trafficked child labor in their cocoa supply.”⁷

11. Consumers who wish to purchase more ethical and sustainable chocolate products rely on the packaging, marketing, advertising, and relevant certifications—which likewise are “intended to assure consumers” about how the companies are acting—to purchase cocoa products that align with their values.

12. Knowing this, Defendants Mars, Cargill, and Mondelēz make promises to consumers regarding the sourcing of their chocolate Products.⁸ These promises represent to consumers that the supply chains of these Defendants are free from child labor or that these Defendants are actively trying to prevent unfair labor practices, and that the companies are in fact providing rehabilitation to children found working on their plantations.

13. In reality, investigations reveal that forced labor, child labor, and/or exploitative working conditions are prevalent in each Defendant’s supply chain and that the companies’ “rehabilitation” programs are grossly ineffective or practically non-existent.

⁶ Brian Campbell, et al., *The Cocoa Protocol: Success or Failure?*, Int’l Labor Rights Forum (June 30, 2008), <https://laborrights.org/sites/default/files/publications-and-resources/Cocoa%20Protocol%20Success%20or%20Failure%20June%202008.pdf>.

⁷ *Id.*

⁸ For example, in a video regarding the sustainability of Mondelēz’s chocolate products, Martin Renaud, a high-ranking executive at Mondelēz International, stated that consumers are interested in knowing the source of the ingredients in the products they buy. See Mondelēz International, *10 Years of Cocoa Life: Connected Through Cocoa*, YouTube (Dec 9, 2022), <https://www.youtube.com/watch?v=opB3r2Ox250>.

14. This consumer-protection action seeks to combat Defendants’ deceptive representations. The case is brought by IRAdvocates, a nonprofit, public-interest organization dedicated to holding corporations accountable for human rights abuses in the global supply chain and to informing the public, including consumers, about the realities of these abuses.

15. IRAdvocates alleges that Defendants’ advertising—which suggests that their Products’ supply chains are sustainable and free from unfair labor practices—is false and misleading to District consumers, based on documented instances of unfair and exploitive working conditions in each Defendant’s supply chain, and recently discovered evidence provided by a whistleblower that establishes the Defendants’ rehabilitation programs as grossly ineffective or practically non-existent.

STATUTORY FRAMEWORK

16. This action is brought under the District of Columbia Consumer Protection Procedures Act (“CPPA”), D.C. Code § 28-3901, *et seq.*

17. The CPPA makes it a violation for “any person” to, *inter alia*:

Represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;

Represent that goods or services are of a particular standard, quality, grade, style, or model, if in fact they are of another;

Misrepresent as to a material fact which has a tendency to mislead;

Fail to state a material fact if such failure tends to mislead;

Use innuendo or ambiguity as to a material fact, which has a tendency to mislead;
or

Advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered.

D.C. Code § 28-3904(a), (d), (e), (f), (f-1), (h).

18. A violation occurs regardless of “whether or not any consumer is in fact misled, deceived or damaged thereby.” *Id.*

19. The CPPA “establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.” *Id.* § 28-3901(c). It “shall be construed and applied liberally to promote its purpose.” *Id.*

20. Under the statute, a “merchant” is defined as “a person, whether organized or operating for profit or for a nonprofit purpose, who in the ordinary course of business does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods or services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice.” *Id.* § 28-3901(a)(3).

21. Because IRAdvocates is a public-interest organization, it may act on behalf of the general public and bring any action that an individual consumer would be entitled to bring:

[A] public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.

Id. § 28-3905(k)(1)(D)(i). Subparagraph (A) provides: “A consumer may bring an action seeking relief from the use of a trade practice in violation of a law of the District.”

22. A public-interest organization may act on behalf of consumers, *i.e.*, the general public of the District of Columbia, so long as the organization has a “sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.” *Id.* § 28-3905(k)(1)(D)(ii).

23. As set forth in this Complaint, *see infra* ¶¶ 103-05, Plaintiff IRAdvocates’ work involves educating the general public, including consumers in the District of Columbia, about exploitive corporate practices that occur across supply chains, and working to redress such harms. IRAdvocates, therefore, has a sufficient nexus to D.C. consumers to adequately represent their interests.

24. This is not a class action, or an action brought on behalf of any specific consumer, but an action brought by IRAdvocates on behalf of the general public, *i.e.*, D.C. consumers generally. No class certification will be requested.

25. This action does not seek damages. Instead, IRAdvocates seeks to end the unlawful conduct directed at D.C. consumers. Remedies available under the CPPA include “[a]n injunction against the use of the unlawful trade practice.” *Id.* § 28-3905(k)(2)(D). IRAdvocates also seeks declaratory relief in the form of an order holding Defendants’ conduct to be unlawful, and its costs and fees in bringing suit.

FACT ALLEGATIONS

I. Consumers Seek Out Products with Fair Labor Practices in Their Supply Chains.

26. Participants in the cocoa industry, including Defendants, know that consumers care deeply about exploitive labor practices in supply chains.

27. Because consumers care about fair labor practices in supply chains, representations that products are made without the use of forced labor, child labor, or exploitative working conditions are material to consumers.

28. For instance, a national survey by SAP Ariba and SAP Fieldglass found that 60 percent of consumers would stop using a product if they knew that human trafficking or forced labor was used to create it.⁹

29. A majority of consumers would stop buying from brands that they believe are unethical, and 35 percent would do so even if there were no substitutes available. Additionally, 63 percent of consumers feel that ethical issues are becoming more important, according to research by Mintel.¹⁰

30. A joint survey by Food Marketing Institute, Grocery Manufacturers Association, and Deloitte Consulting LLP of 5,000 consumers showed that significant segments of the national consumer base prioritize “more transparency from food producers and retailers,” “accountability and transparency through the entire food supply chain,” and “fair treatment of workers.”¹¹

31. A survey by OpenText found that “81 percent” of consumer respondents said that “purchasing ethically sourced and/or produced products matters,”¹² and a study from McKinsey and NielsenIQ found that consumers are willing to pay more for an ethical product based on the product marketing and packaging.¹³

⁹ Steven DeAngelis, *Even If Consumers Aren't Aware of Human Trafficking, Companies Need to Be*, Enterra Solutions (Mar. 6, 2020), <https://enterrasolutions.com/blog/even-if-consumers-arent-aware-of-human-trafficking-companies-need-to-be/>.

¹⁰ *56% of Americans Stop Buying From Brands They Believe Are Unethical*, Mintel (Nov. 18, 2015), <https://bit.ly/3Edz0oa>.

¹¹ *Consumer Survey Shows Changing Definition of Food Safety*, Food Safety News (Feb. 4, 2016), <https://www.foodsafetynews.com/2016/02/123246/>.

¹² Steve Banker, *Do Consumers Care About Ethical Sourcing?*, Forbes (Oct 5, 2021), <https://www.forbes.com/sites/stevebanker/2021/10/05/do-consumers-care-about-ethical-sourcing/?sh=4c6fe92c5f50>.

¹³ *Report Shows Consumers Want Sustainable Products*, PDI Technologies (April 26, 2023), <https://pditechnologies.com/resources/report/2023-business-sustainability-index/>, and McKinsey and Company, *Consumers care about sustainability – and back it up with their wallets* (Feb. 6, 2023), <https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/consumers-care-about-sustainability-and-back-it-up-with-their-wallets> (last visited Jan. 17, 2024).

32. When it comes to child labor, more than 75 percent of consumers would no longer purchase from brands they knew were employing child labor, even if the consumers had often bought from these brands in the past.¹⁴

II. Each Defendant Makes Representations Regarding Fair Labor Practices in Its Supply Chain.

33. Each Defendant makes statements to consumers regarding the supply chain of its Products, described using “value chain” language.

34. These statements represent to consumers that each Defendant has either eliminated or implemented substantive efforts to eliminate forced and/or child labor in its supply chain.

35. Each Defendant’s representations to this effect are readily available to District consumers via each Defendant’s website and social media channels.

36. These statements matter to consumers, especially in the cocoa context, as the industry’s supply chain problems have been well-publicized.¹⁵

37. According to the 2020 NORC Report from the U.S. Labor Department (“DOL”), about 1.56 million children work on cocoa farms in Côte d’Ivoire and Ghana, the two countries where roughly two-thirds of the world’s cocoa supply originates.¹⁶

38. Mars, Mondelēz, and Cargill all source most of their cocoa directly from cocoa farms in Côte d’Ivoire and Ghana.

39. The International Labor Organization (“ILO”) defines child labor “as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical

¹⁴ *Majority (55%) of Americans Willing to Pay More for Clothing Not Made Using Child Labor*, Ipsos (July 18, 2013), <https://www.ipsos.com/en-us/majority-55-americans-willing-pay-more-clothing-not-made-using-child-labor>.

¹⁵ *See, e.g., LastWeekTonight, Chocolate: Last Week Tonight with John Oliver (HBO)*, YouTube (Oct 30, 2023), <https://www.youtube.com/watch?v=FwHMDjc7qJ8>.

¹⁶ *NORC Final Report: Assessing Progress in Reducing Child Labor in Cocoa Production in Cocoa Growing Areas of Côte d’Ivoire and Ghana*, NORC (October 19, 2020), https://www.norc.org/PDFs/Cocoa%20Report/NORC%202020%20Cocoa%20Report_English.pdf.

and mental development.” The worst forms of child labor involve “children being enslaved, separated from their families, [or] exposed to serious hazards and illnesses.” Hazardous child labor refers to circumstances wherein the child labor “is likely to harm the health, safety or morals of children.”¹⁷

40. Those ILO definitions are accepted within the cocoa industry.

A. Mars.

41. Mars claims that it “puts cocoa farmers first” and that it has a “modern, inclusive, [and] sustainable cocoa ecosystem where everyone can thrive.”¹⁸



42. Mars assures consumers that it is “committed to respecting human rights throughout [its] value chain.”¹⁹

43. Mars asserts that “we believe we have a responsibility to improve the lives of the people in our value chain” and emphasizes that its “approach is rooted in human rights due diligence” and “[g]uided by the UN Principles on Business and Human Rights.”²⁰

¹⁷ *What is child labour*, ILO, <https://www.ilo.org/ipecc/facts/lang--en/index.htm> (last visited Jan. 24, 2024).

¹⁸ *Cocoa for Generations Puts Cocoa Farmers First*, Mars, <https://www.mars.com/sustainability-plan/cocoa-for-generations> (last visited Feb. 15, 2024).

¹⁹ *Mars Sustainability Plan*, Mars, <https://www.mars.com/sustainability-plan> (last visited Jan. 11, 2024).

²⁰ *Cocoa for Generations 2022 Progress Report*, Mars, at 8 (2022), https://www.mars.com/sites/g/files/dfsbuf106/files/2023-10/Cocoa%20for%20Generations%20-%202022%20Annual%20Report_0.pdf.

44. Mars also tells consumers that “we believe that ensuring a sustainable future for the farmers who grow our cocoa is critical. That is why our guiding principle is put farmers first.”²¹

45. Mars further supports its sourcing promises by stating that it has “comprehensive human rights due diligence processes”²² in place and takes a “holistic, human-centric”²³ approach to address the human rights issues plaguing cocoa farming families.

46. Specifically, Mars states that its Cocoa for Generations program fosters sustainability and care for farmers via its “Responsible Cocoa” specification²⁴ and the “Protecting Children Action Plan” (“PCAP”).²⁵



47. This “holistic” and “comprehensive” approach is promised to include Child Labor Monitoring and Remediation Systems (“CLMRS”), implementing programs meant to empower women, providing children access to quality education, and improving farmer income.²⁶

48. Mars represents to consumers that, through these initiatives, the company is “making groundbreaking progress” towards improving cocoa farmers’ livelihoods.²⁷

²¹ Mars, *Mars and Cocoa Sustainability*, YouTube (Oct. 5, 2012) <https://www.youtube.com/watch?v=DHXc4ZtD4gs>.

²² *Cocoa for Generations Puts Cocoa Farmers First*, *supra* note 18 .

²³ *Cocoa for Generations 2022 Progress Report*, *supra* note 20, at 5.

²⁴ *Respecting Human Rights in the Cocoa Supply Chain*, Mars, at 10 (2021) https://lighthouse.mars.com/adaptivemedia/rendition/id_4ec65ff85a23332e111d166466edcbad8d9e7a02/name_out/Respecting.

²⁵ *Id.* at 7.

²⁶ *Id.* at 3.

²⁷ *Cocoa for Generations 2022 Progress Report*, *supra* note 20, at 4.

49. Mars claims its “first priority” is to ensure that its suppliers have “robust child and forced labor monitoring and remediation systems” in place.²⁸

50. Mars asserts that its CLMRS regime supports current identified child laborers and prevents future cases of child labor and that, through CLMRS, “interventions are implemented at household and community levels” and reach “cocoa farming families” to provide training and awareness on “preventing and addressing child labor and forced labor.”²⁹

51. Mars explains to consumers that its monitoring and remediation systems include “[c]ommunity-based monitors, farmer groups and suppliers” who work to “identify cases and provide remediation to identified cases at [the] individual or community level” and that the “type of remediation is tailored to the situation” and can include “targeted awareness raising on child labor, the provision of school kits, birth certificates, set up of income generating activities, [and] the creation of Village Savings and Loans Associations (‘VSLAs’).”³⁰

52. All of these programs and systems that Mars boasts about are represented to consumers as being currently implemented.³¹

53. When faced with media reports of child labor in its supply chain, Mars’s response is that it “unequivocally condemns the use of child labor.”³²

54. Despite all of these representations, Mars—according to its own Chief Procurement and Sustainability Officer, Barry Parkin—knows that “the vast majority of programs have failed” and that “many smallholder farmers are still living in poverty.”³³

²⁸ *Id.* at 9.

²⁹ *Respecting Human Rights in the Cocoa Supply Chain*, *supra* note 24, at 12.

³⁰ *Id.* (VSLAs program is a part of Mars’ plan to empower women economically).

³¹ *Id.* at 4.

³² *Our Response to CBS Evening News*, Mars (Nov. 30, 2023), <https://www.mars.com/news-and-stories/press-releases-statements/our-response-cbs-evening-news>.

³³ Shayna Harris, *Raising Cocoa Farmers’ Income Is ‘Pass Or Fail’ For Chocolate Industry*, *Forbes* (Apr. 21, 2022), <https://www.forbes.com/sites/shaynaharris/2022/04/21/mars-overhauls-cocoa-sustainability-program-to-focus-squarely-on-farmer-income/?sh=273da0147d46>.

B. Cargill

55. Cargill claims to “[s]atisfy consumer demand for clean, natural and sustainable chocolate.”³⁴

56. Cargill publishes an annual Environmental, Social, and Governance (“ESG”) Report, which contains its “sustainability strategy.” One aspect of this strategy is “[w]orking alongside our employees, farmers, customers, and communities, [seeking] to improve livelihoods, and build[ing] a more equitable, inclusive, and resilient food system.”³⁵

57. Cargill promises on its social media accounts that it is “nourishing the world in a safe, responsible, sustainable way.”³⁶



³⁴ *Sustainable and Clean Chocolate*, Cargill, <https://www.cargill.com/food-beverage/emea/cocoa-chocolate/sustainable-and-clean-chocolate> (last visited Feb. 15, 2024).

³⁵ *2023 ESG Report Summary*, Cargill, at 2, (2023), <https://www.cargill.com/sustainability/doc/1432249834430/2023-esg-report-summary.pdf>.

³⁶ Cargill (@Cargill), X, <https://twitter.com/Cargill> (last visited Feb. 15, 2024).

58. Cargill asserts that “[t]rue to our company values, we put people first not only in our workplace, but in our supply chain and in the communities where we do business.” Cargill adds that this promise “means respecting human rights.”³⁷

59. Cargill identifies “salient human rights issues” that it claims to address through its “Human Rights Policy.” These issues include forced labor, child labor, land rights, health and safety, fair wages and working hours, and worker voice.³⁸

60. Regarding its cocoa sourcing in West Africa, Cargill claims that it is “[r]educing poverty and child labor through better access to education” and “driving meaningful and lasting change” for cocoa farming communities.³⁹

61. Cargill represents to consumers that, as part of its human rights commitments, it is “breaking the cycle of child labor in cocoa production.”⁴⁰

62. Cargill assures consumers that it “proactively identif[ies], prevent[s], and mitigate[s] risks to people and tackle[s] the root causes of critical human rights issues.”⁴¹

63. Cargill tells consumers via social media that, to accomplish these goals, it is “protecting children in cocoa-growing communities” by “holistically addressing the needs of families in these communities and giving children improved access to educational opportunities.”⁴²

³⁷ *ESG Report 2022*, Cargill, at 10 (2022), <https://www.cargill.com/doc/1432219233265/2022-esg-report-all.pdf>.

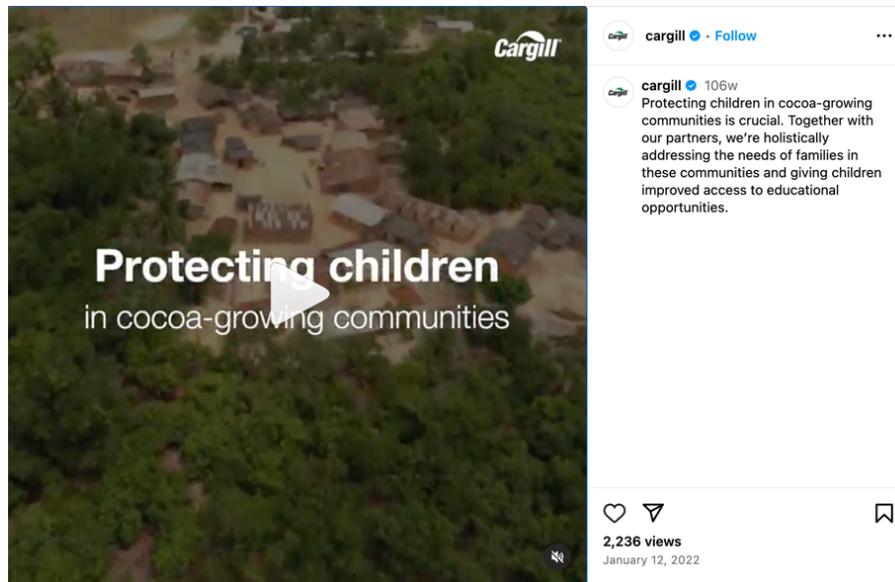
³⁸ *ESG Report 2023*, Cargill, at 42 (2023), <https://www.cargill.com/sustainability/doc/1432249635993/2023-esg-report.pdf>.

³⁹ *Cocoa Farming in West Africa: Turning Hardship Into Hope*, Cargill (Dec. 21, 2020), <https://www.cargill.com/story/cocoa-farming-in-west-africa>.

⁴⁰ *Breaking the Cycle of Child Labor in Cocoa Production*, Cargill (June 12, 2018), <https://www.cargill.com/story/breaking-the-cycle-of-child-labor-in-cocoa-production>.

⁴¹ *ESG Report 2022*, *supra* note 37, at 51.

⁴² Cargill (@Cargill), Instagram (Jan. 12, 2022), <https://www.instagram.com/p/CYoiZ2L4-r/?hl=en> (last visited Feb. 15, 2024).



64. Cargill also touts its own CLMRS regime as a way to address “child labor and gender equity in cocoa-growing communities.”⁴³

65. Cargill claims that through its CLMRS, trained local farming coaches visit farming households twice a year and are taught “to look out for signs of child labor.” And if “any child is found to be engaging in a hazardous activity, the information is immediately entered into an evaluation tool,” and a remediation program is instituted.⁴⁴

66. Cargill states that remediation can take many forms, including “providing birth certificates to ensure children have the identity documents needed for school registration and distributing school kits so that students have the tools they need to attend school,” as well as “ensuring access to schools, apprenticeship programs, and community service groups of young adults who can help with heavy or dangerous farm work instead of children.”⁴⁵

⁴³ *ESG Report 2023*, *supra* note 38 at 98.

⁴⁴ *Breaking the Cycle of Child Labor in Cocoa Production*, *supra* note 40.

⁴⁵ *Committed to More: Cargill’s Holistic Approach to Ending Child Labor in the Cocoa Supply Chain*, Cargill, <https://www.cargill.com/doc/1432121706389/ccc-committed-to-more-ending-child-labor-infographic.pdf> (last visited Feb. 16, 2024).

67. Cargill states that once in remediation, the child will “continue to receive visits throughout the year to ensure their needs are being met.”⁴⁶

68. Cargill claims to address the “root causes of child labor” by focusing on education, improving farmer income, expanding economic opportunities for women, and delivering programs that improve health, nutrition, and food security in cocoa communities.⁴⁷

69. After being “convicted for neglecting slave and child [labor] at cacao farms” in Brazil, Cargill responded that “it does not tolerate human trafficking, forced or child [labor] in its operations or supply chain.”⁴⁸

C. Mondelēz

70. Mondelēz represents that its cocoa is “sustainably sourced” and made with ingredients people can “trust” so that consumers can “feel good” about choosing Mondelēz.⁴⁹

71. Mondelēz states that it has “zero tolerance for modern slavery” and that “modern slavery is fundamentally unacceptable.”⁵⁰

72. Mondelēz asserts that “everyone can love our chocolate as much as we do, because it’s made the right way, with respect to people and planet,” and that child labor is “being addressed” for the farmers in their supply chain.⁵¹

⁴⁶ *Id.*

⁴⁷ *ESG Report 2022*, *supra* note 37, at 51.

⁴⁸ Daniel Haidar, *Cargill convicted for neglecting slave and child labour at cacao farms*, Repórter Brasil (Sept. 27, 2023), <https://reporterbrasil.org.br/2023/09/cargill-convicted-for-neglecting-slave-and-child-labour-at-cacao-farms/>.

⁴⁹ Mondelēz Int’l, *Snacking Made Right: Impact 2025 Strategy*, YouTube, (May 15, 2019) <https://www.youtube.com/watch?v=trNdjNnjMHE>.

⁵⁰ *Cocoa Life Strategy to Help Protect Children*, Mondelēz, at 17 (October 2022) <https://assets.ctfassets.net/qggsjlmzfm/4Q2puyCpuHh554Cqw1d8fP/f5d154a4e6f299496d0487f9361a3c60/cocoa-life-strategy-to-help-protect-children.pdf>.

⁵¹ *Answers to Frequently Asked Questions*, Mondelēz, <https://www.cocoalife.org/faq/> (last visited Jan. 11, 2024).

73. Mondelēz tells consumers that “when we talk about sustainable sourcing, we are referring to growing cocoa in ways that protects the people that grow it.”⁵²

74. To “respect the human rights of people” in its “value chain,” Mondelēz claims, the company has “appropriate policies in place” and acknowledges its “responsibility to respect human rights by avoiding the infringement of the rights of others, addressing negative impacts with which [it] may be involved, and providing access to effective remed[ies] if violations have occurred.”⁵³

75. Mondelēz claims that to achieve these ends, the company leverages its own global sustainability program called Cocoa Life,⁵⁴ which details information about Mondelēz’s approach to child labor.⁵⁵

76. As part of its sustainability initiative, Mondelēz attests to using its own CLMRS regime to remediate instances of child labor. Mondelēz claims its CLMRS “covers farming families” and focuses “on the support needed through (i) remediation for children identified as vulnerable and families identified as at risk of child labor and (ii) monitoring, including an assessment of continued access to school.”⁵⁶

77. Mondelēz tells consumers that its remediation efforts can also take the form of “medical care,” “counseling,” “provision of school materials, scholarships for secondary education or vocational training and cash assistance,” as well as training and improved “access to education.”⁵⁷

⁵² *Id.*

⁵³ *Human Rights*, Mondelēz Int’l, <https://www.mondelezinternational.com/snacking-made-right/esg-topics/human-rights/> (last visited Feb. 16, 2024).

⁵⁴ *Id.*

⁵⁵ *Cocoa Life Strategy to Help Protect Children*, Mondelēz, 3 (October 2022) <https://assets.ctfassets.net/qggsjlmzfm/4Q2puyCpUhh554Cqw1d8fP/f5d154a4e6f299496d0487f9361a3c60/cocoa-life-strategy-to-help-protect-children.pdf>.

⁵⁶ *Answers to Frequently Asked Questions*, *supra* note 51.

⁵⁷ *Cocoa Life Strategy to Help Protect Children*, *supra* note 55, at 11.

78. Mondelez claims it increases farmer income in order to prevent child labor as part of its sustainability initiative.⁵⁸

79. Beyond its website claims, specific Mondelez cocoa brands are labeled with representations such as “100% Sustainably Sourced Cocoa”⁵⁹ or a “Fair Trade” logo.⁶⁰



⁵⁸ *Human Rights Due Diligence & Modern Slavery Report 2022*, Mondelez Int'l, at 29 (2022), <https://www.mondelezinternational.com/assets/About-Us/Human-Rights/MDLZ-HRDD-and-Modern-Slavery-Report-2022.pdf>.

⁵⁹ *100% Sustainably Sourced Cocoa*, Cadbury, <https://www.cocoalife.org/brands/cadbury/> (last visited Feb. 16, 2024).

⁶⁰ *G&B Organic Dark 85%*, Green & Black's, <https://www.greenandblacks.co.uk/organic-dark-85-bar-intensity> (last visited Feb. 16, 2024).

80. In 2022, after a news documentary aired footage of children working on “farms alleged to be supplying Mondelēz,” the company released a statement that claimed it “explicitly prohibit[s] child [labor] in [its] operations and ha[s] been working relentlessly to take a stand against this, making significant efforts through [its] Cocoa Life [program] to improve the protection of children in the communities where [it] source[s] cocoa.”⁶¹

81. Despite these promises, just last year, Mondelēz’s board successfully objected to a shareholder proposal that would have urged the company to “Adopt Public Targets to Eradicate Child Labor in Cocoa Supply Chain.”⁶²

III. IRAdvocates and Others Have Uncovered Forced and Child Labor in Each Defendant’s Supply Chain.

82. Despite representations regarding the labor conditions within their cocoa supply chains, investigations reveal that Defendants not only source from farms using child labor, but also do not actually take measures to eliminate or prevent unfair and exploitive working conditions.

⁶¹ Jon Ungoed-Thomas, *Cadbury faces fresh accusations of child labour on cocoa farms in Ghana*, The Guardian. (Apr. 3, 2022), <https://www.theguardian.com/law/2022/apr/03/cadbury-faces-fresh-accusations-of-child-labour-on-cocoa-farms-in-ghana>.

⁶² *Notice of 2023 Annual Meeting of Shareholders and Annual Proxy Statement*, *supra* note 2.

A. The IRAdvocates Investigation

83. A joint investigation in fall 2023 in Ghana by IRAdvocates and CBS News (“IRAdvocates Investigation”), in collaboration with a whistleblower⁶³ who works directly with the Defendants, found that child labor was prevalent on numerous plantations that source directly to Defendants, and in fact, that the laborers on each investigated farm consisted mostly of children. IRAdvocates was able to document the children with photographs.



84. Virtually all of these children told the investigators that they had been working on the farms for years and are not able to attend school due to their families’ poverty. IRAdvocates’

⁶³ The IRAdvocates Investigation benefited from the insight of one whistleblower, who has witnessed this child labor firsthand and whose name has been withheld for safety and security reasons.

interviews with the parents of the child workers confirmed that the fundamental problem was that the major chocolate companies paid so little for harvested cocoa that the families remained impoverished despite working extremely hard under hazardous conditions.

85. The IRAdvocates Investigation discovered that these children were working with dangerous chemicals and machetes, work that ILO Convention No. 182 prohibits children from performing, as these activities are considered the “Worst Forms of Child Labor.”

86. The IRAdvocates Investigation also discovered that a cocoa buyer who buys for each Defendant used a rigged scale to weigh the farmers’ cocoa. The investigators confirmed that the scale underweighted the cocoa by 7 kilos. The buyer then took an additional 2 kilos off, claiming that the weight changes as cocoa dries, which is false. IRAdvocates was told this is standard practice. This discovery shows that Defendants are not only failing to follow through on promises to address low incomes and poverty, root causes of child labor, but they are, upon information and belief, intentionally, as a matter of practice, cheating the farmers they claim to be helping.⁶⁴

87. Every plantation that IRAdvocates visited used child labor as the majority of its workforce, which indicates that Defendants’ CLMRS regimes are not enforced.

88. Though each Defendant claims that their CLMRS, in some way, includes direct communication with farmers, regular monitoring, and support for farmers to create income-producing activities—none of the farmers interviewed for the IRAdvocates Investigation that source to Defendants had ever heard of CLMRS or met any sort of monitoring crew.

⁶⁴ For additional context, a 2020 report by the World Economic Forum stated that “[c]ocoa farmers in Ghana make \$1/day, while those in Côte d’Ivoire make around \$0.78/day—both significantly below the extreme poverty line.” Govind Bhutada, *Cocoa's bittersweet supply chain in one visualization*, World Economic Forum (Nov 4, 2020), <https://www.weforum.org/agenda/2020/11/cocoa-chocolate-supply-chain-business-bar-africa-exports/>.

89. Though Defendants Mars, Mondelēz, and Cargill claim to remove child laborers from the farm by giving them school kits and monitoring them to ensure the remediation was successful, the IRAdvocates Investigation found that the children whom these Defendants claim to have remediated via documented lists were simply photographed with a school bag and exercise book, then returned to the farm and never visited again.



90. The IRAdvocates Investigation also found instances of children whom Mars, Mondelēz, and Cargill documented as being remediated, yet these children were never contacted at all nor received a school bag or kit.

91. The IRAdvocates Investigation uncovered that many names on the Mars, Mondelēz, and Cargill lists of remediated children were fabricated. The whistleblower himself stated that he had fabricated names for each Defendant. This not only shows the specific examples of deceptive claims by Defendants regarding their rehabilitation programs—it is direct evidence of an intentional scheme by Defendants to mislead the public for profit.

92. After one interview during which child laborers told their story (and aired on CBS) to IRAdvocates,⁶⁵ Plaintiff informed Mars of this specific instance of child labor on one of its

⁶⁵ Debora Patta, et al., *Candy company Mars uses cocoa harvested by kids as young as 5 in Ghana: CBS News investigation*, CBS (Nov. 29, 2023), <https://www.cbsnews.com/news/children-harvesting-cocoa-used-by-major-corporations-ghana/>.

supplier plantations. Afterward, Mars retaliated against that child's family by twice sending agents to intimidate them into recanting their story. The witnesses refused to recant but were extremely intimidated by the threats and surveillance from the Mars agents.

93. In sum, the IRAdvocates Investigation revealed that despite numerous representations detailing specific actions each Defendant allegedly takes to ensure a fair and ethical cocoa supply chain, all Defendants source from farms that utilize primarily hazardous forms of child labor, have not actually implemented any of the various programs supposedly aimed at preventing child labor, deliberately underpay farmers, and have falsified remediation efforts while making misleading claims to consumers about the progress and success of such programs.

B. Other Reports Implicating Defendants' Actual Labor Practices

94. Each Defendant has previously faced accusations of unfair and exploitative working conditions.

95. Outside of the IRAdvocates Investigation, other public reports, in addition to the DOL-funded NORC study, *supra* ¶ 37, reveal the truth about each Defendant's supply chain practices. These revelations contradict the various sourcing promises made by Defendants.

96. For example, in 2019, the *Washington Post* investigated cocoa farms in Côte d'Ivoire. This investigation uncovered that many of the workers on these farms were either Ivorian children working on their families' farms but performing illegal hazardous work in violation of ILO Convention No. 182, or children trafficked from nearby countries, mainly Burkina Faso and Mali, and forced to work on these farms. The report detailed the hazardous working conditions

and unfair treatment faced by these children. In the article, both Mars and Mondelez were named as companies that could not “guarantee that any of their products were free of child labor.”⁶⁶

97. Even though each Defendant promotes its own CLMRS regime as a critical child labor-preventing tool in their supply chains, a 2022 study illustrates that CLMRS programs, even if executed effectively, can stop only 30 percent of child laborers from engaging in hazardous activities because of the intentionally limited scope of such programs.⁶⁷ None of the Defendants indicate to consumers that its CLMRS has a low success rate. The same study concluded that “current industry interventions are nowhere near enough to significantly reduce [] human rights violations” common in cocoa supply chains.

98. A 2021 report from UNICEF and the ILO indicates that there was a “significant increase in child [labor] in cocoa businesses” in Côte d’Ivoire between the summer of 2019 and the summer of 2020.⁶⁸ Considering each Defendant is a leading chocolate manufacturer and sources a significant portion of its cocoa supplies from Côte d’Ivoire, this finding appears to reflect each Defendant’s supply chain practices.

99. Finally, each Defendant markets their partnership with Fairtrade regarding the sourcing of their cocoa.⁶⁹ But Fairtrade itself admits that its “ability to tackle the issue of child labour and poverty in cocoa is directly related to the amount of cocoa producers can sell on Fairtrade terms.” In fact, Fairtrade stated in 2020 that “less than five percent of cocoa sold

⁶⁶ Peter Whoriskey, et al., *Cocoa’s Child Laborers*, Washington Post (June 5, 2019), <https://www.washingtonpost.com/graphics/2019/business/hershey-nestle-mars-chocolate-child-labor-west-africa/>.

⁶⁷ Antonie C. Fountain et al., *Cocoa Barometer 2022*, Voice Network, at 61 (2022) <https://voicenetwork.cc/wp-content/uploads/2022/12/Cocoa-Barometer-2022.pdf>.

⁶⁸ *Child Labour, Global Estimates 2020, Trends and the Road Forward*, ILO and UNICEF, at 55 (2021), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_797515.pdf.

⁶⁹ See Prita Wadhvani, *Mars, Incorporated supports 14,000 cocoa farmers on a path to a sustainable...*, Mars (Apr. 20, 2022), <https://www.mars.com/news-and-stories/press-releases-statements/mars-supports-cocoa-farmers-sustainable-living-income>; *Cocoa & Chocolate*, Cargill (2022), <https://www.cargill.com/doc/1432218790341/2022-esg-sustainable-supply-chains-cocoa.pdf>; *Fairtrade-Mondelez International partnership and Cocoa Life*, Mondelez, <https://www.fairtrade.org.uk/farmers-and-workers/cocoa/cocoa-life/> (last visited Feb. 16, 2024).

globally...are sold on Fairtrade terms. That means even certified producers are unable to sell all their crop on Fairtrade terms, which in turn means they don't receive the Fairtrade Minimum Price and Premium on all their cocoa. As a result, we've found that more than half of certified producers are still living in extreme poverty.”⁷⁰ This revelation by Fairtrade shows that the Defendants know that their supply chains do not match up to their sourcing promises.

IV. Consumers Are Misled by Defendants' Representations.

100. Surveys confirm that consumers are seeking out products made with ethical labor practices. *See supra* § I. Defendants, by making consumer-facing representations about their supply chain practices, implicitly acknowledge this reality of consumer preferences.

101. Defendants' representations, however, mislead consumers because their supply chains are, in fact, riddled with human rights violations, including child labor.

102. Reasonable consumers would not expect companies with strong representations about fair and sustainable labor practices and human rights to have multiple instances of child labor, falsified documents, and absent monitoring and income programs, among other deficiencies, as revealed by multiple investigations.

PARTIES

103. Plaintiff International Rights Advocates is a § 501(c)(3) nonprofit public-interest organization dedicated to exposing human rights violations and holding corporations accountable for those violations. IRAdvocates focuses on addressing multinational companies' human rights abuses in their supply chains.

⁷⁰ “*Shocked but not surprised*”: Fairtrade responds to report of widespread child labour in West African cocoa industry, Fairtrade (Jul. 24, 2020), <https://www.fairtrade.net/news/shocked-but-not-surprised-fairtrade-responds-to-report-of-widespread-child-labour-in-west-african-cocoa-industry>.

104. Part of IRAdvocates’ work involves litigating cases, researching, and educating the general public—including consumers—about these abuses in supply chains and the failures of multinational companies to live up to their promises relating to the humane treatment of people in their supply chains.

105. IRAdvocates does this through researching abuses, partnering with others to expose current abuses, litigating against the abusing companies, and conducting outreach like public-facing reports, articles, and blog posts. Many of these publications, such as IRAdvocates’ blog post “Easter Chocolate Redemption,”⁷¹ seek to educate the general public about the same sorts of issues inherent in this Complaint.

106. Defendant Mars, Inc. is headquartered in McLean, Virginia, and is one of the largest chocolate manufacturers in the world.⁷² Mars “sources cocoa from a number of countries including Brazil, Cameroon, Côte d’Ivoire, Colombia, Dominican Republic, Ecuador, Ghana, Indonesia, Nigeria, Papua New Guinea, Peru, the Philippines and Vietnam, with the majority coming from Côte d’Ivoire, Ghana and Indonesia.”⁷³

107. Defendant Mars Wrigley Confectionery US, LLC is a subsidiary of Mars, Inc., with a principal address in Hackettstown, New Jersey.

108. Mars’ Products are available in a wide variety of national supermarket chains, regional stores, and other retail outlets, including stores in the District.

⁷¹ Terry Collingsworth, *Easter Chocolate Redemption*, International Rights Advocates, <https://www.internationalrightsadvocates.org/insights/seasonalchocolate> (last visited Feb. 16, 2024).

⁷² Nils-Gerrit Wunsch, *Market Share of the Leading Chocolate Companies in the United States in 2018*, Statista (May 6, 2021) <https://www.statista.com/statistics/238794/market-share-of-the-leading-chocolate-companies-in-the-us/>.

⁷³ *Cocoa and Forests Action Plan*, Mars, <https://www.mars.com/about/policies-and-practices/cocoa-and-forests-policy> (last visited Jan. 24, 2023).

109. Defendant Cargill, Inc. is headquartered in Wayzata, Minnesota, and is America's largest private company, with 160,000 employees and \$177 billion in 2023 revenue.⁷⁴ It sources its cocoa from "Côte d'Ivoire, Ghana, Cameroon, Indonesia, and Brazil."⁷⁵

110. Defendant Cargill Cocoa & Chocolate, Inc. is headquartered in Milwaukee, Wisconsin.

111. Cargill Products are available in a wide variety of national supermarket chains, regional stores, and other retail outlets, including stores in the District.

112. Defendant Mondelēz, Inc. is headquartered in Chicago, Illinois, and was ranked #121 on the Fortune 500 list in 2022,⁷⁶ with a revenue of \$31.496 billion in 2022.⁷⁷ Its major chocolate products are Cadbury and Toblerone. Mondelēz sources cocoa from six countries, "Ghana, Côte d'Ivoire, Indonesia, Dominican Republic, India and Brazil."⁷⁸

113. Mondelēz Products, including Cadbury and Toblerone, are available in a wide variety of national supermarket chains, regional stores, and other retail outlets, including stores in the District.

JURISDICTION AND VENUE

114. This Court has personal jurisdiction over the parties in this case. Plaintiff IRAdvocates, by filing this Complaint, consents to this Court having personal jurisdiction over it.

⁷⁴ *Cargill*, Forbes, <https://www.forbes.com/companies/cargill/?list=largest-private-companies&sh=5f362bd11960> (last visited Feb. 16, 2024).

⁷⁵ See *Cocoa & Chocolate*, *supra* note 69.

⁷⁶ *Global Awards and Honors*, Mondelēz, <https://www.mondelezinternational.com/about-us/awards/> (last visited Feb. 15, 2024).

⁷⁷ *Mondelēz Revenue 2010-2023*, Macrotrends, <https://www.macrotrends.net/stocks/charts/MDLZ/mondelez/revenue> (last visited Feb. 15, 2024).

⁷⁸ Maggie McKerr, *Mondelēz International Commits To Secure 100 Percent Cocoa Volume For All Chocolate Brands Through Its Cocoa Life Sustainability Program By 2025*, Mondelēz Int'l (Apr. 30, 2019), <https://ir.mondelezinternational.com/news-releases/news-release-details/mondelez-international-commits-secure-100-percent-cocoa-volume>.

115. This Court has personal jurisdiction over Defendants Mars, Cargill, and Mondelēz pursuant to D.C. Code § 13-423. Defendants have sufficient minimum contacts with the District of Columbia to establish personal jurisdiction of this Court over it because, *inter alia*, Defendants are engaged in deceptive schemes and acts directed at persons residing in, located in, or doing business in the District of Columbia, or otherwise purposefully avail themselves of the laws of this District through their marketing and sales of their products and services in this District.

116. The Court has subject matter jurisdiction over this action under the CPPA, D.C. § 28-3901, *et seq.*

117. Venue is provided by D.C. Code § 28-3905(k)(2) and proper in this Court also because Defendants aim their marketing and advertising material at consumers within the District. Defendants' internet advertising is accessible in the District. Mars's, Cargill's, and Mondelēz's Products can be, and are, purchased in the District by District consumers.

CAUSE OF ACTION

Violations of the District of Columbia Consumers Protection Procedures Act

118. IRAdvocates incorporates by reference all the allegations of the preceding paragraphs of this Complaint.

119. IRAdvocates is a nonprofit, public-interest organization that brings these claims on behalf of the general public and District consumers. *See* D.C. Code § 28-3905(k)(1)(D)(i).

120. Through § 28-3905(k)(1)(D)(i), the DC CPPA explicitly allows for public-interest organizational standing even beyond that which is afforded pursuant to § 28-3905(k)(1)(C) and allows a public-interest organization to stand in the shoes of a consumer to seek relief from any violation of the CPPA.

121. Mars, Cargill, and Mondelēz are each a “person” and a “merchant” that provides “goods” within the meaning of the CPPA. See *id.* § 28-3901(a)(1), (3), (7).

122. Defendants have advertised and marketed their cocoa Products as being sourced from supply chains that meet certain labor conditions and standards, when in fact, investigations (including one by Plaintiff) reveal that the supply chains for each Defendant are reliant on child labor and that many of the represented remediation, monitoring, and economic empowerment programs are nonexistent, and that remediation documents have been falsified.

123. Defendants have violated the CPPA by “represent[ing] that goods . . . have a source . . . [or] characteristics . . . that they do not have”; “represent[ing] that goods . . . are of a particular standard, quality, grade, style, or model, if in fact they are of another”; “misrepresent[ing] as to a material fact which has a tendency to mislead”; “fail[ing] to state a material fact if such failure tends to mislead”; “us[ing] innuendo or ambiguity as to a material fact, which has a tendency to mislead”; and “advertis[ing] . . . goods . . . without the intent to sell them as advertised.” See *id.* § 28-3904(a), (d), (e), (f), (f-1), (h).

JURY TRIAL DEMAND

124. Plaintiff IRAdvocates hereby demands a trial by jury.

PRAYER FOR RELIEF

Wherefore, Plaintiff IRAdvocates prays for judgment against Defendants and requests the following relief:

- A. A declaration that each Defendant’s conduct is in violation of the CPPA;
- B. An order enjoining each Defendant’s conduct found to be in violation of the CPPA; and
- C. An order granting Plaintiff costs and disbursements, including reasonable attorneys’ fees and expert fees, and prejudgment interest at the maximum rate allowable by law.

DATED: February 16, 2024

Respectfully submitted,

/s/ Terrence P. Collingsworth

Terrence P. Collingsworth

INTERNATIONAL RIGHTS ADVOCATES

621 Maryland Ave. NE

Washington, D.C. 20002

T: 202-543-5811

tc@iradvocates.org

Kim E. Richman

RICHMAN LAW & POLICY

1 Bridge Street, Suite 83

Irvington, NY 10533

T: (914) 693-2018

krichman@richmanlawpolicy.com

Attorneys for Plaintiff