

TONKO.HOUSE.GOV  
@RepPAULTonko  
2369 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-5076  
19 DOVE STREET, SUITE 302  
ALBANY, NY 12210  
(518) 465-0700  
61 CHURCH STREET, ROOM 309  
AMSTERDAM, NY 12010  
(518) 843-3400  
105 JAY STREET, ROOM 15  
SCHENECTADY, NY 12305  
(518) 374-4547



PAUL D. TONKO  
U.S. HOUSE OF REPRESENTATIVES  
20<sup>TH</sup> DISTRICT, NEW YORK

COMMITTEE ON ENERGY AND COMMERCE  
CHAIR, SUBCOMMITTEE ON ENVIRONMENT  
AND CLIMATE CHANGE  
SUBCOMMITTEE ON ENERGY  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS,  
AND PUBLIC LANDS  
COMMITTEE ON SCIENCE, SPACE,  
AND TECHNOLOGY  
SUBCOMMITTEE ON ENVIRONMENT  
SUBCOMMITTEE ON RESEARCH AND TECHNOLOGY

November 21, 2022

The Honorable Lina M. Khan  
Chair  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairwoman Khan,

I write to you ahead of this holiday season with concerns about the practices of “Grinch” bots.

Since the days of Tickle Me Elmo, the holiday season has enchanted Americans with trending toys and the hopes of parents securing the one gift their child wants most. As millions of Americans turn to the online marketplace to find the perfect gift during the holiday season, so do scammers deploying cyber bots. Automated Grinch bots use software to submit hundreds of orders a minute for trending products in an attempt to corner the market and then resell them at extreme, even abusive, prices. We have seen this disturbing measure used with sneakers, Nintendos, Fingerlings, and other popular toys or gifts, dashing the hopes of parents to fulfill their child’s holiday wish list.

In the last two years, the COVID-19 crisis has significantly accelerated e-commerce expansion and led to new targets for automated abuse. Industries such as gaming are increasingly subjected to product shortages and price increases created by Grinch bots, making millions of dollars for scammers and in-demand products inaccessible to the average consumer. Holiday toys and video games are one timely example, but there are many other consumer products that are subjected to this nefarious and dispiriting practice. The pandemic showed that bots can be quickly adapted to exploit any market inefficiency with products including N95 masks and hand sanitizer being popular targets of bot attacks when supplies were low.

In addition to hurting American consumers, this practice is damaging to small businesses. Many retailers have tried instituting control measures, but bad actors continue to find ways to game the system. In Congress, I am hard at work to prevent these scammers from taking advantage of Americans through my Stopping Grinch Bots Act. This legislation would prohibit manipulative practices that allow the use of bots to circumvent control measures designed to protect real

consumers. I hope to have the Federal Trade Commission's continued support in this effort so that we can work together to combat these Grinch bots.

I commend the Federal Trade Commission's continued commitment to protect consumers on the internet, including through enforcement of the 2016 BOTs Act, the release of the Combatting Online Harms through Innovation Report, and the resolution Directing Use of Compulsory Process Regarding Deceptive and Manipulative Conduct on the Internet. However, I respectfully request you bolster your efforts to reduce harm, manipulation, and deception online.

I recommend you do this by working with retailers and state attorney generals to determine actionable steps and best practices to protect consumers from predatory high-speed bot purchases on e-commerce platforms. I urge you to act expediently to prevent Grinch bots from ruining the holiday season this year and take steps to prevent broader scams in the future.

In addition, to help further inform our efforts in Congress, I request that you respond to the following:

1. How has the scope of this problem changed over the last few years?
2. What is the FTC doing in the lead up to the holidays to discourage or stop this behavior?
3. Are there any consequences for those who employ bots to do this?
4. What are some of the prominent examples this year where you anticipate or see Grinch bots at work?
5. Within your current authorities, what else can you do to curb these abusive practices? In what ways are you limited?
6. In what ways are you limited by statute to act in this space?

Thank you for your consideration and work in tackling the negative actions of predatory Grinch bots. Allowing bots to rig prices and squeeze consumers hurts American families, small business owners, product makers, and entrepreneurs. I urge you to do all that you can to ensure that this market manipulation does not go unchecked and to prevent these Grinch bots from stealing the cheer away this holiday season.

Sincerely,

Congressman Paul D. Tonko

A handwritten signature in cursive script that reads "Paul D. Tonko". The signature is written in black ink and is positioned below the typed name of the Congressman.