



ALABAMA-COUSHATTA TRIBE OF TEXAS

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August 26, 2013

Via First Class Mail

Separately by email to reg.review@nigc.gov

Chairwoman Tracie Stevens
National Indian Gaming Commission
1441 L Street N.W.
Suite 9100
Washington, D.C. 20005

RE: One-Touch Class II Bingo System Comments

Chairwoman Stevens,

The Alabama-Coushatta Tribe of Texas (“Tribe”) appreciates the opportunity to comment on the NIGC’s proposed reinterpretation of a prior NIGC agency decision regarding the classification of server based electronic bingo system games that can be played utilizing only one touch of a button (“one touch bingo”). The Tribe has reviewed the request for public comment found at 78 Fed Register 37998-38000 and is pleased to see the NIGC take a reasoned and principled approach to the interpretation of the Indian Gaming Regulatory Act (“IGRA”). The Tribe supports the NIGC’s efforts to act in a manner consistent with the IGRA, legislative history of the IGRA and related case law.

As noted in the Federal Register request for public comment, the IGRA provides that the Class II game of bingo – whether or not electronic, computer or technological aids are used in connection therewith - has three elements: (1) bingo must be played for prizes; (2) the bingo card holder must cover the numbers when drawn or electronically determined; and (3) the first person covering the numbers wins. 25 U.S.C. 2703(7)(A)(i) *see also* United States v. 162 MegaMania Gambling Devices, 231 F.3d 713 (10th Cir. 2000) (holding that the statutory elements of the IGRA are the sole requirements for a game to qualify as bingo) accord United States v. 103 Electronic Gambling Devices, 223 F.3d (9th Cir. 2000). We commend the NIGC for focusing upon the statutory elements of Class II gaming and we support the NIGC in its straightforward and common sense reading of the IGRA when determining whether a game meets the IGRA definition of the Class II game of bingo.

As the NIGC is aware, there is no provision within the IGRA that requires a bingo game to include multiple “touches” or “daubs” in order to meet the definition a Class II game of bingo. Such a position has the effect of stifling technological advances in gaming. In contrast, when considering and passing the IGRA, the intent of Congress was that Indian tribes would be able to take advantage of beneficial changes in technology so as to “have maximum flexibility to utilize

games such as [Class II] bingo ... for tribal economic development.” Senate Report 100-446 at 9 (1998).

The following excerpt of the IGRA legislative history illustrates the foregoing and further clarifies the position of Congress that advances in technology do not automatically change a Class II bingo game into an electronic facsimile – provided that the statutory elements of bingo are satisfied in a game played among multiple players.

Consistent with tribal rights that were recognized and affirmed in the Cabazon decision, the Committee intends in section 4(8)(A)(i) [of the IGRA] that tribes have maximum flexibility to utilize games such as [Class II] bingo and lotto for tribal economic development. The Committee specifically rejects any inference that tribes should restrict Class II games to existing games sizes, levels of participation, or current technology. The Committee intends that tribes be given the opportunity to take advantage of modern methods of conducting Class II games and the language regarding technology is designed to provide maximum flexibility. In this regard, the Committee recognizes that tribes may wish to join with other tribes to coordinate their Class II operations and thereby enhance the potential of increasing revenues. For example, linking participant players at various reservations whether in the same or different States, by means of telephone, cable, television or satellite may be a reasonable approach for tribes to take. Simultaneous games participation between and among reservations can be made practical by use of computers and telecommunications technology as long as the use of such technology does not change the fundamental characteristics of the bingo or lotto games and as long as such games are otherwise operated in accordance with applicable Federal communications law. In other words, such technology would merely broaden the potential participation levels and is readily distinguishable from the use of electronic facsimiles in which a single participant plays a game with or against a machine rather than with or against other players.

Id.

The Tribe strongly supports the efforts of the act in a manner consistent with the text and legislative history of the IGRA. We look forward to continued positive action by the NIGC on this very important matter.

Sincerely,



Ronnie Thomas
Tribal Council Chairman
Alabama-Coushatta Tribe of Texas