

BLACKFEET TRIBAL GAMING COMMISSION
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August 21, 2013

National Indian Gaming Commission
1441 L Street NW., Suite 9100
Washington, DC 20005

RE: Comments - One Touch Bingo Proposed Regulations

Dear Chairwoman Stevens:

On June 25, 2013, the National Indian Gaming Commission published a proposed rule and request for comments to be submitted by August 26, 2013. The Blackfeet Gaming Commission hereby submits the following comments.

Background -

The Blackfeet Tribe does not have a Class III compact with the State of Montana and is the only tribe that has not had a Class III compact. The Blackfeet has one casino with all Class II machines. During Phil Hogan's reign, the Blackfeet Gaming Commission repeatedly disagreed with his decisions and viewed his decisions as fundamentally at odds with the nature of Class II gaming. It is with this background that the Blackfeet Tribe writes these comments supporting and applauding the National Indian Gaming Commission's decision to reinterpret Phil Hogan's prior agency decision regarding the classification of server-based electronic bingo system games that can be played utilizing one touch of a button.

Comments -

It is the Blackfeet Gaming Commission's understanding that the National Indian Gaming Commission's proposed rule will classify one-touch bingo as Class II gaming, reversing its previous position. One-touch bingo is a networked electronic game in which the player must press only one button to wager and play. This rule confirms that Class II Indian gaming facilities, which do not require a tribal-state gaming compact, will be able to offer machines that more closely resemble Class III machines. The Blackfeet Gaming Commission is in full support of NIGC's reinterpretation of this prior agency rule.

The Indian Gaming Regulatory Act (IGRA) defines Class II bingo as a game, played electronically or otherwise, (1) for prizes, including money prizes, (2) in which the player "covers" numbers to match numbers "drawn" by the system,

and (3) in which the game is won by the first person to cover an arrangement of numbers. Existing Class II electronic bingo machines require two button presses: one to "cover" the numbers and another to wager and play. In 2008, NIGC disapproved the Metlakatla Indian Community tribal gaming ordinance incorporating one-touch bingo into its definition of Class II gaming. The Hogan administration concluded that because players did not participate and compete with each other in the game by taking a separate step to "cover" the numbers on virtual bingo cards that the competition element was missing.

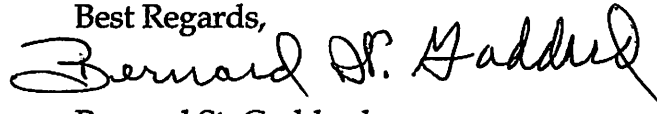
The Blackfeet Gaming Commission understands the newly proposed rule "reinterprets" IGRA to state that one-touch bingo satisfies IGRA's definition of Class II bingo, even though the "covering" and drawing happen virtually simultaneously and more than one player can win. Whether a player presses a button one time or two, the player is engaging with the machine, participating in the bingo game, and competing with fellow players on the electronically linked bingo system. The proposal emphasizes that one-touch bingo incorporates the "fundamental aspect" of bingo: competing with other bingo players for a prize.

This reinterpretation will be especially beneficial to the Blackfeet Tribe. The Blackfeet Tribe has been strictly Class II, employs 100 people who are primarily Indian and has generated enough income to pay down its original 7 million dollar note to 2 million dollars in five years.

While Class II gaming may not be as profitable as Class III gaming, it has generated significant revenue for Indian tribes operating without compacts. For example, the Seminole Tribe of Florida operated only Class II gaming until 2010, but it generated enough revenue to purchase the Hard Rock brand and properties for \$965 million in 2006. Alabama prohibits Class III gaming, yet the Poarch Band of Creek Indians' Class II casinos generated enough revenue to allow a reported tribal distribution of \$18,000 to each of the Tribe's roughly 2,500 members this year - a total of \$45 million. According to Dr. Alan Meister's "2013 Indian Gaming Industry Report," Indian gaming revenue in Class II-only states accounted for \$531 million of the \$27.4 billion total Indian gaming revenue in 2011. Thus, Class II is a profitable enterprise.

The other important reason Class II gaming is the only game currently played on the Blackfeet Indian Reservation is that it is exempt from state regulation. The State of Montana has not been willing to *negotiate* a Class III compact with the Blackfeet Tribe. The State of Montana's position has always been a take it or leave it attitude. No negotiation. The State of Montana has maintained that it has a policy of limited gaming, all the while allowing any and all types of gaming. Fortunately, the Blackfeet Tribe has been profitable with Class II gaming and believes that while Class III would increase its revenue, it will not get a compact through negotiations with the State of Montana but only through the secretarial process. With the passage of this proposed rule and the increasing technological and legal convergence of Class II and Class III gaming, however, maybe the future will likely see further expansion of Class II machines on the casino floor while the Blackfeet Tribe navigates through the secretarial process.

Best Regards,

A handwritten signature in black ink that reads "Bernard St. Goddard". The signature is written in a cursive style with a large, sweeping initial 'B'.

Bernard St. Goddard
Chairman, Blackfeet Gaming Commission