

VIA email: reg.review@nigc.gov

August 26, 2013

From: Mr. Ken Bellmard, Kaw Nation Tribal Member/ Kaw Nation Director of Government Relations  
Kaw Nation  
Drawer 50  
698 Grandview Drive  
Kaw City, Oklahoma 74641

To: Ms. Tracie L Stevens, Chairperson  
Mr. Dan Little, Commissioner  
National Indian Gaming Commission  
1441 L Street NW, Suite 9100  
Washington D.C. 20005

RE: Kaw Nation Comments to NIGC Chairperson Regarding ONE TOUCH BINGO PROPOSAL, 25 CFR-502

Dear Chairperson and Commissioner,

On August 14, 2013 in Oklahoma City at the NIGC Tribal Consultation held in conjunction with the Oklahoma Indian Gaming Association Trade Show and Conference, Kaw Nation Chairman Guy Munroe, Mr. Lloyd Pappan Chairman of the Kaw Nation Enterprise Development Authority, Mr. Steve York Gaming Consultant and I attended and briefly raised points on record as time was limited and several interested tribes were in attendance. I now at this time submit in writing these comments for your consideration.

I believe that any analysis of Bingo must include an understanding of the history of Bingo, and we ask that you use the following outline to glean the elements which have historically constituted what is the game of Bingo:

1. 1530- "Lo Giucco del Lotto D'Italia" indicating showing Lottery Base.
2. 1929- "Beano" introduced in America, Carnival Game in Georgia.
3. 1930- "Bingo" by Lowe of New York and Lester Expansion of Games Played.
4. 1970's- "Indian Bingo".
5. 1980's- "Cabazon" case.
6. 1988- "IGRA is adopted and Passed".

From this history it is clear what distinguishes Bingo from other games are elements which require human intervention. Bingo traditionally requires human activity to "daub" and "claim", the element of players competing against one another for a prize and the human element of the possibility that a Player could "sleep" a bingo and lose on an otherwise possibly winning bingo card. A Class III game does require these "human elements". The new proposal of defining "One Touch Bingo" as a Class II game eliminates traditional characteristics of Bingo. The concern herein is that this "One Touch Bingo" proposal blurs the line so completely between Class II and

Class III as to render the classification meaningless. It is concerning that an unintended consequence of this "One Touch Bingo" proposal is that the Class II one touch bingo games will lead to the demise of Class III gaming in Oklahoma. Although this may be seen as a boon to Oklahoma Tribes at first blush, if the State of Oklahoma does not receive compact revenues due to the advent of widespread play of Class II one touch bingo, what incentive does the State of Oklahoma have to allow the level of gaming exclusivity Oklahoma Tribes now enjoy? I hope some thought will be given to this consideration.

IGRA has clearly stated the different Classes of Gaming, Class I, Class II, and all others as Class III, but the NIGC has failed to address Section 2721 of IGRA as to Lotteries. If NIGC truly wants to delineate the distinctions between gaming classifications the NIGC needs to deal with Section 2721 and define a Class III Lottery in an electronic format so as to clarify the distinction between Class II and Class III. The electronic format of Technological Aids mentioned in the Multi-Media Cases before the 10<sup>th</sup> Circuit it made it clear related to the need for two Player's participation in a bingo game. We would suggest a review of NIGC bulletin 93-03 as to the NIGC's thought process related to the game called Bingo. I believe a review of these cases and earlier NIGC bulletins will be illustrative of the requirement of the need for a two touch type Game to clarify bingo in the scope of Class II.

In summary a game that does not require 1) human activity to "daub" and "claim", 2) the element of players competing against one another for a prize and 3) the game element of the possibility that a Player could "sleep" a bingo and lose on an otherwise possibly winning bingo card cannot be harmonized as a bingo game in the historical sense, and a game that does not include these elements is a Class III game according to the statutory language of IGRA. I thank the NIGC for the opportunity to submit my comments.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ken Bellmard", written over a light blue horizontal line.

Ken Bellmard, Director of Government Relations for the Kaw Nation