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To: Phil Hogan

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Comments:

My name is Kenneth Emmatinger. I am the Executive Director of the Sault Ste. Marie Tribe of Chippewa Indians Tribal Gaming Commission. I am the Tribal Delegate to the National Indian Gaming Association. I also serve as Representative of the National Tribal Gaming Commissioners and Regulators to the National Congress of American Indians/National Indian Gaming Association Gaming Task Force. I am the Midwest Area Representative of the National Tribal Gaming Commissioners and Regulators. I am also the Chairperson of the Michigan Indian Gaming Communication Network. Perhaps most importantly, for purposes of this Hearing, I am a member of the Class II Tribal Advisory Committee

selected by the National Indian Gaming Commission. As you know, the stated purpose of the Tribal Advisory Committee was to assist the Commission with the development of new Class II regulations, specifically with Class II definitions, classification and technical standards. My first comments are in reference to the Tribal Advisory Committee. In the Federal Register, the National Indian Gaming Commission states that the Committee was "joint Federal-Tribal advisory committee." This language implies that meetings were utilized as government-to-government consultation efforts by the NIGC in formulating the proposed regulations that will likely have a substantial impact

upon the operation and regulation of gaming on Indian lands. Nothing could be further from the truth. Tribal Advisory Committee members were not involved in the drafting of the proposed regulations. Virtually all substantive arguments made by members of the Tribal Advisory Committee contrary to Commission's proposed regulation language were ignored by the Commission. Records of these meetings do not exist, although members of the Tribal Advisory Committee repeatedly requested minutes be taken or recordings made. As far as I am concerned, the Tribal Advisory Committee members and meetings were utilized only as consultation-effort tokens.

The rest of my comments are reserved for the actual language of the proposed regulations. Since I am allotted to an extremely short amount of time to my comments, which I object to, I can only make broad statements. Please refer to the written comments which go into greater depth.

In regard to the Class II Classification Standards, the proposed rules are highly objectionable. At the very least, the following changes need to be made:

1. Prior to publishing a new set of proposed rules on Class II Classification Standards, the NIGC must conduct an Economic Impact study on the proposed regulations.

2. Include a longer comment period.

3. Regulation Preamble must eliminate statements which state and/or imply that the NIGC regulates Class III gaming. Such statements are false, contrary to case law, statutory law, and current regulations.

4. Regulation Preamble must clarify the significant discrepancies between language stated within the preamble and actual regulation language.

5. Include a due process provision for tribes to appeal a negative classification decision.

6. Include a "Grandfather" provision for any game already approved by the NIGC and for those games complying with such approvals.

7. Extend the provision for the transition.

8. Delete the requirements extending game play time requirements.

9. Allow pre-drawn numbers.

10. No distinctions should be made on the use of electronic media (permit electronic pull tab decks).

11. Delete the NIGC's certification of gaming laboratories.

12. Delete the provisions on specified prize values.

13. Delete the requirements for sleeping.

14. Permit Tribal Gaming Commissions to evaluate and approve Class II operation for their own facilities.

In regard to the National Indian Gaming Commission's proposed Electronic or Electromechanical Facsimile definition, my Tribe also finds the language highly objectionable. Even the preamble to the regulation is objectionable, as it states the NIGC has regulatory authority over Class

III gaming (a point which is false and contrary to IGRA).

1. Overall, a longer comment period is necessary.

2. True government-to-government consultation is needed.

3. The proposed definition is unreasonably restrictive and contrary to the intent of IGRA. My Tribe disagrees with the NIGC's claim that bingo, lotto, and other games similar to bingo, are facsimiles when played in an electronic medium. The current definition
is clear on its face, so long as the electronic format

broadens participation among players and is not played against the machine, such games are not facsimiles.

As always, my Tribe and I stand ready to assist the NIGC in any way. Protection of IGRA, our best and most successful economic development tool, necessitates the use of reasonable regulations. Restrictions are necessary. The language proposed regarding class II classification standards and definition of Electronic or lectromechanical facsimile, however, does not make sense. I urge you to work with us to create meaningful regulatory language.