

Testimony of Nick Farley
President, Nick Farley & Associates, Inc.

Good Morning. I'm Nick Farley, *President* and founder of *Nick Farley & Associates, Inc.* Based in Ohio, we are a regulatory compliance testing and consulting company serving the gaming and amusement industries. My company, and myself, personally, have been working closely with the NIGC for over 8 years. I have been involved in the test and evaluation of electronic gaming devices and systems since 1987, when I started my career as a regulator with the NJ Division of Gaming Enforcement in Atlantic City, NJ.

I am honored to have been invited to speak on this panel before the National Indian Gaming Commission. Our company has prepared a few reports to the NIGC regarding Class II Bingo systems, so the Classification Standards are something near and dear to our hearts.

I would like to start by stating simply that, as an Independent Testing Laboratory we are able and willing to test products for Compliance with any Classification or Technical Standard adopted by the NIGC. The Draft of these standards that is under consideration is plausible and testable.

However, my experience in compliance testing sees some issues in the proposed standards that will most likely cause debate. In fact, some of the items included in these proposed standards contradict some of the current NIGC Advisory Opinions on Class II Bingo systems.

With that said, with regard to **Bingo**, Sections 546.4, 546.5 and 546.6 of the Proposed Classification Standards establish the following requirements that I believe could cause some consternation from the Tribes and the gaming industry. The requirements include the following:

- That the game of bingo, *“including the electronic card, but excluding any alternative displays, shall fill at least 1/2 of the total space available for display.”* (Section 546.4(b))
- That a message on the game terminal read *“THIS IS A GAME OF BINGO”* or *“THIS IS A GAME SIMILAR TO BINGO”* in 2” letters or larger. (Section 546.4(d))
- That the value of a prize be *“no less than 20% of the amount wagered by the player on each card and at least one cent.”* (Section 546.4(j))
- That *“the player has the option to not view the alternative display and play using only the electronic card display.”* (Section 546.4(o))
- That a player be permitted to “Catch up” only when vying for the game-ending pattern, and be prohibited from “Catching up” for any other prize. (Section 546.5(j))
- That *“the maximum amount of numbers or characters to be revealed (during the first release) is one less than the number required for a game winning pattern”*, commonly referred to as the “N minus 1” requirement. (Section 546.6(d))
- That the *“quantity of numbers in the second or subsequent release not extend beyond the quantity of numbers necessary to form the first eligible game-ending pattern on a card in play in the game.”* (Section 546.6(h))

Testimony of Nick Farley
President, Nick Farley & Associates, Inc.

Most of the items that I have just listed appear to be in contrast to the operation of systems operating in the field with a favorable NIGC Advisory Opinion. I can envision manufacturers and Tribes voicing concern that many products that are currently, and legally, in use will no longer comply with some of the sections of these Classification Standards.

With regard to **Pull-Tabs**, Section 546.7(c) states that the “*technologic aid*” may also read and display the contents of the pull-tab as it is distributed to the player. The results of the pull-tab may be shown on a video screen...

The unfortunate side-effect of this pull-tab requirement is that it is my understanding that this method is patented. Thus, this requirement limits competition and perpetuates a monopoly.

To quickly wrap up my presentation, I realize that adopting Classification and Technical Standards for Class II games and systems is a daunting task. There is no “one-size fits all” solution. There will be criticism of any Standard that is adopted, because quite frankly there is no solution that will please everyone. I realize that technology has blurred the lines between Class II and Class III games. I empathize with law enforcement agencies tasked with deciding what is legal and illegal. 10 years ago it was safe to assume that if reels were present it was a slot machine. Now, Class II gaming systems play Bingo and reveal spinning reels as an alternative entertaining display, which is based entirely on the Bingo outcome. This is a law enforcement nightmare – to be able to decipher if the spinning reels are derived from a Bingo game, or if the spinning reels are the game in its entirety.

It is my belief that IGRA did not intend to limit technology in the play of Bingo. The systems currently in play, and soon to be released to the public, are an ingenious way to present Bingo to adults that are enticed by the thrill of spinning reels. Reports that I have received indicate that these games are a viable and lucrative means for Tribes to derive significant sums of revenue if they do not have a Class III Compact, or have a limited Class III Compact.

Please do not take my comments as a criticism of the Proposed Classification Standards. As I stated in the beginning of my presentation, our laboratory is willing and able to test to these standards if they are adopted. Based upon my experience in gaming, including Class II gaming, I consider the sections of the Classification Standards that I discussed as areas of concern for Tribes and manufacturers, and I just want to put these matters on the table for discussion.

I thank you for this wonderful opportunity to speak to you today. I welcome you to contact my office to discuss these matters at any time.