



August 23, 2013

VIA e-mail to reg.review@nigc.gov

Tracie Stevens, Chairperson
Daniel Little, Associate Commissioner
National Indian Gaming Commission
1441 L St., N.W., Suite 9100
Washington, DC 20005
VIA e-mail to reg.review@nigc.gov

Re: Comments on "Electronic One Touch Bingo System," 78 Fed. Reg. 37998 (June 25, 2013)

Dear Chairperson Stevens and Commissioner Little:

Bally Gaming, Inc., d/b/a Bally Technologies ("Bally"), is pleased to submit comments on the National Indian Gaming Commission's ("NIGC") proposal to recognize as Class II "server based electronic bingo system games that can be played utilizing only one touch of a button ('one touch bingo')." 78 Fed. Reg. at 37998, referred to below as the "Proposal."

Bally strongly supports the NIGC's Proposal, which is fully consistent with the text of the Indian Gaming Regulatory Act (the "IGRA"), the legislative history, the NIGC's regulations and applicable case law. Bally strongly agrees with the stance of the NIGC's Proposal "to reinterpret the position regarding one touch bingo as set forth in the Metlakatla Ordinance disapproval." 78 Fed. Reg. at 37999. One-touch bingo refers to an auto-daub aid feature of a Class II gaming system, which only requires one action (or touch) by a player during the game. The former NIGC Chairman took the position in the Metlakatla Ordinance disapproval ("Disapproval Letter") that the use of this aid feature above would convert a Class II bingo game into a Class III game. Bally concurs with the current view of the NIGC stated in the Proposal that the arguments expressed in the Disapproval Letter were incorrect as a matter of law.

The Disapproval Letter suggested it was based on how the game of bingo was "traditionally" played. However, the IGRA explicitly recognized that the game of bingo it authorized was not limited to the children's paper game, and explicitly authorized the use of technologic aids in connection therewith. As noted in the proposal, it is the statutory definition of three elements of the IGRA and NIGC regulations are all that the law allows for Class II bingo. 103 Electronic Gambling Devices, 223 F.3d, 1091, 1096 (9th Cir. 2000).

Bally firmly agrees with the Commission that the use of technology should be embraced rather than stifling technological advancements in gaming. As noted in the Proposal, legislative

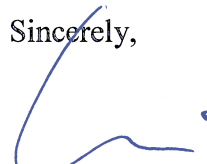
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history indicates that tribes be given opportunity to take advantage of modern methods of conducting Class II gaming and the language [of the IGRA] regarding technology is designed to provide maximum flexibility. 78 Fed. Reg. at 38000. One touch bingo meets the three elements of Class II bingo under the IGRA, namely, (i) the game being played for prizes, including monetary prizes, with cards bearing numbers or other designations, (ii) the card holder must cover such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and (iii) the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards. 25 U.S.C. 2703(7)(A)(i)(I-III). A one touch bingo game meets the statutory criteria of the IGRA for the game of bingo and the fact that the game can be played with one touch of a button does not by itself transform the Class II electronic player interfaces into a Class III facsimile of bingo.

As noted, Bally strongly agrees with the position taken by the Commission in regard to one touch bingo in the Proposal. We also strongly concur with the well-founded research and analysis of statutory law, case law and legislative history cited by the Commission in support of the Proposal.

Sincerely,



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Bally Gaming, Inc.

cc: Mark Lerner
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