



GWYB DBF
CHEROKEE NATION®
GAMING COMMISSION

February 9, 2022

Mr. E. Sequoyah Simermeyer, Chair
National Indian Gaming Commission
1849 C. Street NW
Mail Stop #1621
Washington, D.C. 20240

Dear Chair Simermeyer and Commissioners,

This letter is a response from Cherokee Nation to the topics raised by the National Indian Gaming Commission (“NIGC”) Tribal Consultation Series C, December 13, 2021 – February 11, 2022. Cherokee Nation greatly appreciates the opportunity to comment on these items and the NIGC’s practices inviting tribal participation and input on its potential rulemaking under the Indian Gaming Regulatory Act.

I. 25 C.F.R. Parts 543 and 547 – Minimum internal control standards (“MICS”) and minimum technical standards.

Cherokee Nation agrees with the NIGC that gaming technology has changed significantly since the last publishing of its current MICS and technical standards. Cherokee Nation also agrees that the threats to the technological environment of tribal gaming operations have increased as well. In light of this environment, Cherokee Nation would like a refinement of those computer systems and applications that are considered to be “integral to the gaming environment” in 25 C.F.R. §543.20(b) and would like to urge caution in defining standards for anything regarding cyber-security in the NIGC MICS and/or minimum technical standards.

Cherokee Nation realizes that tribal gaming operations have greatly increased their level of technology and system integration since the current MICS and minimum technical standards were issued. In that time, non-gaming areas have also seen technical advancements. Cherokee Nation believes that the current standard as defined in 25 C.F.R. 543.20(b) is too broad and lends itself to be interpreted to include non-gaming systems and normal, off-the-shelf business systems and applications. In order to focus resources on the integrity of gaming and gaming systems, Cherokee Nation requests that this definition be narrowed to exclude any non-gaming items.

Cherokee Nation also understands that its gaming operations’ systems are under constant danger from cyber threats. Like many other tribal nations, Cherokee Nation has devoted a great number of financial and human resources to mitigating these threats. Cherokee

Nation also understands that the nature and type of threats are constantly changing and evolving and that the response to these threats needs to be flexible and able to evolve as well. Vendors are constantly updating their systems and applications to meet new threats and tribal IT personnel are consistently implementing new measures to meet these threats as well. In light of these facts, Cherokee Nation would like to caution the NIGC from instituting any standards that would limit the ability and flexibility of tribal IT personnel and gaming vendors in these areas. While Cherokee Nation respects the guidance of the NIGC through its regulations, the federal rule-making process limits the ability of any federal regulation to be changed quickly if the need arises. Therefore, Cherokee Nation believes that the NIGC requiring gaming operations to implement practices for cyber security would be prudent, but it strongly cautions against any specific requirements that may become quickly outdated in the ever-changing landscape of cyber security.

II. 25 C.F.R. § 522.4(b)(7) – Approval requirements for class II ordinances; 25 C.F.R. § 573.4(a)1 – When may the Chair issue an order of temporary closure—extension to issues related to cyber-security.

While Cherokee Nation recognizes there are extreme and necessary circumstances that require the Chair to issue an order of temporary closure of a tribal gaming operation, Cherokee Nation would express caution involving cyber-security as reason for such an order. As stated in Part I of this letter, tribal gaming operations and vendors are consistently working to address cyber-security and cyber-threats are consistently evolving and changing. Cherokee Nation feels that it would better serve tribal interests and the interests of the NIGC if, instead of taking a punitive approach, NIGC worked with tribes and industry leaders on education and the development of cyber-security mitigation efforts.

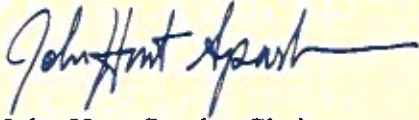
III. 25 C.F.R. § 573.4(a) – When may the Chair issue an order of temporary closure: Adding misuse of net gaming revenues to the list of substantial violations for which the NIGC Chair may issue a temporary closure order.

Cherokee Nation believes that any closure order should only occur in the most extreme circumstances such as when the health and safety of the tribe, its employees, or the public is at stake. For many tribal nations, tribal gaming operations are the economic lifeblood of the community where they are located. This is not just true for the revenue they produce, but also for the employment provided to tribal and non-tribal people. Cherokee Nation believes that by adding misuse of net gaming revenues as a basis for a temporary closure order would ultimately punish frontline employees who could least afford it and more than likely were not involved in any misuse of net gaming revenues. Net gaming revenues are usually received and handled by upper management and tribal officials and the NIGC already has tools at its disposal for the enforcement of its rules regarding the use of net gaming revenues, including fines and/or the forwarding of any case of misuse to possible federal criminal prosecution. Closing a casino because of the actions of a few bad actors would unfairly impact many employees that depend on their tips and wages for their families' livelihood.

IV. 25 C.F.R. Part 537 – Background investigations for person or entities with a financial interest in, or having management responsibility for, a management contract:

Cherokee Nation has no comments on this issue at this time.

Sincerely,

A handwritten signature in black ink that reads "John Hunt Sparks". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Hunt Sparks, Chairman

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