



National Indian Gaming Commission
 Philip Hogen, Chairman
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Dear Chairman Hogen,

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We, the elected governing leaders of the Sault Ste. Marie Tribe of Chippewa Indians, strenuously object to the process by which the National Indian Gaming Commission (hereinafter, "NIGC" or "the Commission") is attempting to promulgate the Class II gaming regulations. The process has been nothing short of an attempt to create legislation by regulation.

This letter will not provide specific comments regarding the irresponsible nature of the proposed regulations, so poorly constructed that they will likely destroy the viability of Class II gaming for Tribal governments (for those comments, please see comments sent by Mr. Kenneth J. Ermatinger, Executive Director of the Sault Ste. Marie Tribe of Chippewa Indians, and member of the NIGC's Tribal Advisory Committee). Instead, this letter will provide comments regarding the outrageous actions taken by the NIGC in its efforts to promulgate these regulations.

The Commission has not consulted with Tribal governments in regard to the proposed rules. Although the NIGC has had "meetings" with Tribal officials, those meetings do not constitute "consultation." Throughout Indian Country, it has been learned that the meetings, usually lasting a half hour in length, invariably followed the same pattern: Introductions, then ten to fifteen minutes of the Commission telling Tribal leaders (in summary fashion) of future plans it had regarding Class II and Class III gaming. The meeting would include a photo to mark the occasion, and then Tribal leaders were allotted about ten minutes to ask questions or provide comments. The meetings were not recorded. The meetings did not include details or specific information regarding the purpose or type of regulations that were currently being considered by the Commission. Nor did the meetings include information regarding the likely economic impact of those regulations. The leaders were never shown current versions of the drafted rules. Often, the meetings focused on other issues, unrelated to the proposed regulations.

The Commission has acted irresponsibly in regard to its use of its Advisory Committees. These Committees were originally set up by the NIGC to provide expert technical assistance. At no time did the Commission follow rules set by the Federal Advisory Committee Act. Meetings were not recorded. Nor were many meetings open to scrutiny by the public. Upon learning of the NIGC's decision to include regulatory language that had not been reviewed by the Committee, members urged the NIGC to hold off on

publishing. Members strongly objected to proposed language that would likely cause irreparable harm to the gaming industry. Members demanded that the Commission complete an economic impact study prior to publication. Members noted that the proposed regulations would create significantly negative impacts upon Tribes and the Class II gaming industry. The NIGC falsely implied in the Federal Record and in its letters to Congress that its Advisory Committee members approved the proposed regulations as published, prior to the completion of an economic impact study.

The changes proposed by the National Indian Gaming Commission, whether on purpose or by mistake, would fundamentally change the Indian Gaming Regulatory Act. Proposed changes would make Class II gaming an economically unviable resource to Tribes. In doing so, it also would threaten the viability of Class III gaming as an economic tool. We note that it is not the place of a regulatory agency to undo the laws of Congress.

The National Indian Gaming Commission is supposed work in partnership with the Tribal Nations to enhance the use of gaming as an economic tool for Indian Country. It seems as though the Commission does not seek partnership with Tribes, nor does it seem to seek to engage in true consultation with its leaders. By acting recklessly and without regard to Tribal interests, the Commission is failing to meet its trust responsibilities.

We urge that the National Indian Gaming Commission to pull the proposed Class II regulations. We urge that the NIGC work in partnership with its Advisory Committees, discuss the issues with Tribal leaders, and work to promulgate responsible rules in keeping with the intent of the Indian Gaming Regulatory Act.

Sincerely,



Keith Massaway
Board of Director, Unit 3



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Comments: Re: Class II Gaming Regulations

