The power of a unified voice is undeniable. The debate about the regulation and jurisdiction over Internet gaming is an example of where that power might be used. For several years now there have been differing views on if, how, and when Internet gaming will become legal. There is no doubt that the impact of this debate spills over on all business conducted on the Internet. It is clear that business taking place over the Internet, including gaming, is here to stay and will continue to be the fastest growing segment of the gaming industry for the foreseeable future. It is not so clear the role that tribes will play and the impact that online gaming will have. The jury is still out given the faltering starts in the three states that have lead the Internet debate. California seems to be the focal point for how and when tribes will participate in this debate. Unfortunately, the emphasis is on money and who controls the money. It should be concentrated on regulation and who controls the regulation of the gaming. Tribes are being asked to become subject to state regulatory rules and all but give up any meaningful role. This is too high a price to pay for the “right” to conduct Internet Poker. Tribes have an inherent sovereign right to regulate gaming and other business taking place on their lands. There is no difference when addressing online activity. The state of New Jersey has determined where and how gaming takes place. The how and the place dictate the regulation and the jurisdiction. This is no different for tribes. In order for tribal regulation to get its due recognition, a strong voice must be heard. Beginning in 2006 and continuing for several years after there is a great example how a strong voice is heard.

The Tribal Gaming Working Group (TGWG) asserted itself with the National Indian Gaming Commission (NIGC) and was heard. The results of the TGWG were the withdrawal of wrong-headed Class II Classification Regulations and the adoption of Class II Technical Standards and Minimum Control Standards by the NIGC. The TGWG illustrates how strong leadership from Indian Country can help define and shape the future. The leadership and the vision of the TGWG will continue to be felt for years to come. Indian Country needs strong voices to lead and shape the future for online tribal businesses. This voice must define the rights and the role of tribal sovereignty and be prepared to defend it. Without this focus and determination it is possible that tribes will be forced to take a backseat when it comes to the online businesses, such as what is trying to happen in California with online poker. The Iipay Nation at Santa Ysabel is on the forefront of what may be a defining moment. The tribe has passed laws and promulgated regulations dealing with the conduct of the business of online gaming. It is now embroiled in a fight with California over who has the right to regulate activities taking place on Indian land as determined by tribal law and under the Indian Gaming Regulatory Act (IGRA). Indian Country must pay close attention to the issues involved in the Santa Ysabel litigation. The issues before the federal court right now deal fundamentally with tribal sovereignty and the limits on state jurisdiction when dealing with tribes. The issues yet to be dealt with before the court are settled precedent when it comes to Class II regulation and the conduct of the business of Class II gaming. The briefs filed thus far in the case and additional information available to the public make this abundantly clear. There need not be unity on how tribes ultimately conduct business online, but there must be unity on the right of tribes to do so. The time for advice based on the success or failure in other jurisdictions is over. It is time for a strong advocacy on behalf of Indian Country to make clear that the sovereign right of tribes to conduct business on their lands cannot be compromised or violated merely because new technology is involved. Perhaps it is time to reconvene the TGWG and charge it with protecting the sovereign right to regulate the conduct of online gaming and all business activities taking place on tribal lands using the Internet or other advancing technology.

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