



## Can the NIGC Oversee Internet Gaming?

by Penny Coleman

As the availability of Internet poker in the United States becomes more inevitable than just possible, many are looking to the National Indian Gaming Commission (NIGC) to oversee the tribal nations' participation in Internet gaming. So, is this a task that the NIGC can handle? Most definitely. It is the only federal agency that can. The NIGC has two areas of expertise that lend itself to regulation of tribal gaming. First, it knows Indian Nations. Second, it knows gaming. In addition, the NIGC is in a position to establish a regulatory structure much more quickly and efficiently than any other federal agency.

In the twenty years that the NIGC has operated, it fostered a working relationship with over 200 gaming tribes. To do so, it developed a constantly updated listing of government and regulatory leaders, a data base of gaming sites and the Indian lands they occupy, a working relationship with tribal leaders and employees, and a regulatory and training program designed to assist each Nation with its regulatory issues. To make that program effective, NIGC leadership and staff had to understand the cultural backgrounds and economic challenges of the Nations it oversees. Many brought that understanding with them to their positions; others had to learn through experience.

NIGC's experience in gaming regulation has no counterpart in the federal government. The NIGC is specifically tasked with regulatory oversight of poker. It has 20 years of experience in all facets of gaming regulation. Such experience includes regulating linked games across tribal jurisdictions. On the other hand, while the Department of Defense has some experience in regulating gaming, that experience is limited and not centralized. Further, while the Department of Commerce is included in draft legislation as a potential regulator, that department has no regulatory enforcement experience, no gaming experience, limited experience with tribes, and experience with the Internet as a policy advisor rather than a regulator.

At this point, the NIGC can assume responsibility for Internet regulation faster and with fewer glitches than any other federal agency. From the passage of the Indian Gaming Regulatory Act in 1988 to the issuance of the NIGC's regulations, there were four years where the federal government failed to provide any kind of gaming oversight. The first two years were spent waiting for the appointment of the first chairman. The remaining two years required time to appoint staff and issue regulations. After those first four years, the NIGC organized

internally, trained and added additional staff and regional offices, and expanded its own areas of expertise. It was many years before NIGC oversight was truly considered effective. Any federal agency taking on this task must take on the same development. Such a task takes time; a commodity that a new federal agency will not have.

The NIGC's freedom from a few of the usual bureaucratic impediments will help it progress quickly. The NIGC is exempt from some of the burdensome appointment and constraining compensation requirements. These exemptions allow the agency to hire within weeks rather than the months federal agencies normally take. And, by being exempt from restrictive pay requirements, it can be more competitive with the many companies that will be seeking employees with Internet gaming expertise. The NIGC, by virtue of its size and independence from certain rulemaking requirements, can also promulgate regulations much more quickly than other agencies.

Further, the NIGC already has a system in place to conduct background checks of major gaming companies and employees and to assist tribes to do so. The NIGC serves as the conduit between the FBI and the Nations seeking criminal history information. To do so, it moved from a manual finger printing system that took months to provide results to a nationwide electronic system that provides criminal history information to the Nations within minutes. It also established a section within the NIGC that carries out extensive background investigations with the assistance of the Office of Personnel Management.

Finally, the NIGC's requirement that two of the three commissioners are tribal members and its recent adoption of an Indian preference employment policy help assure that the NIGC is staffed with many who will not have to learn about Indian Nations to do their jobs. Employing people from the communities that are served is critical to the credibility of the agency and its ability to foster relationships built on trust. What's more, it confirms the federal government's commitment to the policy of promoting tribal economic development, self-sufficiency, and strong tribal governments.

Taken together, NIGC's experience, expertise and infrastructure make it the only agency for the job. ♣

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