

## Analysis of NIGC Proposed Classification Standards - Ogas

### Generally

1. **Redundancy.** There are redundancies throughout the document, which make it confusing and ripe for varying interpretations as many of the specific requirements are repeated numerous times, often in slightly different ways. Specific redundancies are noted below in the section-by-section analysis.

2. **Conflicting Provisions.** A number of the specific provisions conflict with other provisions within the document. In addition, there are some provisions that conflict with the Technical Standards. Specific conflicts are noted below in the section-by-section analysis.

3. **Conflicting Terminology.** The Classification Standards are intended to work in conjunction with the Technical Standards and the MICS. Thus, terms used to describe specific components, actions, etc. should conform to those used in the Technical Standards and MICS (i.e., the term “daub” is used in the Technical Standards and MICS, but here the term “cover” is often used). Inconsistent terminology exists throughout the Classification Standards and should be corrected to prevent confusion.

4. **Definitions.** Both the Technical Standards and the MICS have comprehensive definitions to help clarify specific terms. This document does not have many definitions and those it does have are overly broad and contain substantive requirements rather than just simple definitions. More and better definitions would help clarify certain terms and make this a better regulation.

### Section 546.2

This section states that the Classification Standards apply to games played “solely” with electronic, computer, or other technologic aids. While this section could actually benefit many manufacturers and operators it conflicts with Section 546.1 which states that the regulations apply to games played “primarily” with electronic, computer, or other technologic aids. It may also create interpretation issues.

### Section 546.3

(a) The term “covering” should be removed and the word “daubing” used to be consistent with the other regulations.

(e)(1) This paragraph states that “sleeping” occurs when the player fails to daub a release. Paragraph (e)(2) states that sleeping occurs when a player fails to “claim any prize.” Since two-touch games will be permitted under these regulations, daubing and claiming will occur simultaneously. Thus, paragraph (e)(1) is redundant. (Note: This paragraph would apply for games that had more than 2 touches, but it is very unlikely that anyone will operate games with any more than 2 touches).

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### Section 546.4

- (b) Requires electronic cards to be no less than 2x2 or 4 square inches if other than square. Limits future technology.
- (c) Requires that each bingo card must contain a five by five grid of spaces. Is a five by five grid necessary to make the game “bingo?”
- (d) Requires that each game display the following: “THIS IS A GAME OF BINGO” or “THIS IS A GAME SIMILAR TO BINGO.” This language is very restrictive.
- (e) There is reference to a “variant of bingo, in another game similar to bingo.” It is unclear what a variant of bingo in a game similar to bingo might be. I believe the intention here was just to address games similar to bingo. In addition, this provision requires that games similar to bingo have three, equally sized spaces. There is no real definition of a game similar to bingo so it is unclear where this requirement comes from and it appears arbitrary.
- (f) The term “covered” should be changed to “daubed.”
- (g) This paragraph states “random or unpredictable prizes are not permitted.” This is bad wording. All prizes are random or unpredictable, that’s one of the elements of a game of chance. We believe the intent of this is to say that winning patterns cannot be changed from those listed on the pay schedule. The wording should be changed to make the actual intention of this provision clear.
- (h) Requires that “each game must have a winning player and a game-winning prize must be awarded in every game.” There were issues with this sentence, but I can’t remember what they were – need input.
- (i) References bonus prize patterns. We believe that bonus prizes are not necessarily based on specific “patterns.” May just be a specified quantity of numbers. If this is the case, modifications need to be made to this paragraph to allow for this.
- (j) Requires that winning patterns and prizes be designated in the “rules of the game.” Typically, patterns and prizes are contained in what the Technical Standards and MICS refer to as the “pay schedule,” although they may be contained elsewhere (e.g., in a pamphlet provided to players). This paragraph should be modified to allow more flexibility and require only that the patterns and prizes must be available to players.
- (k) Requires that an interim prize be awarded in no more than the exact quantity of numbers or designations that are needed for the game-winning player to achieve the game-winning pattern. We are unsure what the reasoning is for this requirement – seems arbitrary.
- (l) Requires that a consolation prize can be awarded after the game-winning pattern is achieved and claimed, but only after a subsequent release. This appears to require additional daubs in order to give consolation prizes.

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(m) Requires that a progressive prize can only be awarded if the game also provides a game-winning prize. This is a redundant provision as a game winning prize is always required (already covered in Sec. 546.4(h)). Should be deleted.

(n) This paragraph repeats no less than three times, in different ways, that prizes must be awarded based on the outcome of the game of bingo. All but the first sentence of this paragraph should be deleted based on redundancy.

(o) Requires that players be able to disable the alternative display. This requirement contradicts with the Technical Standards. The Tech Standards require that game recall must include the results of the alternative display. If a player disables the alternative display, then the results will not be shown in game recall.

### Section 546.5

(a) Requires that numbers or other designations be randomly drawn or determined electronically from a non-replaceable pool.” We are not sure what “determined electronically” or “non-replaceable pool” means.

(c) This paragraph states that numbers or other designations must be randomly drawn or electronically determined after the cards have been assigned/selected. This is repetitive (already covered in 546.4(a)).

This paragraph also prohibits pre-covered numbers or other designations. Is a free spot considered pre-covered? Should be made clear that free spot is not considered a prohibited pre-covered number.

(d) Requires that numbers or other designations must be used in the sequence in which they are drawn. This is repetitive (covered in 546.5(a)). Repetitive portion should be deleted.

(e) Refers to a “set of numbers.” This terminology is not used anywhere else. Should just be referred to as a release of numbers or other designations. Term “covered” should just be “daubed” to conform with other regulations.

(f) Part of this paragraph requires that a player must “cover (daub) by touching screen or button.” This is repetitive (covered in S546.5(e)). Term “covered” should be deleted. Also requires screen to changes colors, strike-out, etc. after player daubs. This is repetitive (covered in 546.4(f)). Repetitive portions should be deleted.

(g) We are concerned with the use of the term “games.” This term can mean different things (e.g., a game session, a game theme, the Class II system as a whole). It is used to refer to different things throughout this document. Needs to be clarified and should conform with terms used in Tech Standards. Also, this section prohibits automatic daubing, which we believe may be a problem.

(h) States that all players, not just a winning player, must be required by the “rules of the game to cover (daub) the selected numbers or other designations that appeared on their card

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as an indication of their participation in the game.” You can’t make a player do this, you can only make it so the device enables the player to do this. Also, some games do not require non-winning players to daub. In any event, the intent of this paragraph is already covered in 546.5(e). This paragraph is poorly written and unnecessary, it should be deleted.

(i) The first sentence of this paragraph which requires a player to daub to achieve a game winning pattern (bad wording, should be “daub to claim a prize”) is repetitive (covered numerous times previously). This sentence should be deleted. This paragraph also addresses “sleeping” and the consequences of doing so in claiming various prizes, which are problematic. We believe this entire paragraph is bad.

(j) Provides that if a player sleeps the game-winning pattern, the game must continue until another player claims the game-winning pattern. This is repetitive. All games must have a game winning pattern, this has already been said more than once. This paragraph should be deleted.

(k) Requires that all numbers/designations not covered (should be daubed) be clearly and uniquely identified by unique color, strike-out, etc. Some devices do not do this.

(l) Permits a “game” to be voided if nobody claims the game-winning prize. This contradicts with other provisions, which require that a game-winning prize must always be awarded.

(m) States that “the gaming operation or its employees may not play as a substitute for a player.” The intent of this paragraph is to prohibit proxy play. It could be interpreted to mean that employees are never permitted to play at the casino in which they work.

### Section 546.6

(a) States that “games cannot begin until two seconds have elapsed from the time that the first player elects to play, unless six players enter.” As written, this would allow a game to start with one player after two seconds have elapsed.

(b) Requires that the game must provide for one or more releases (covered in 546.5(e)). Also says that each release will provide one or more numbers or other designations randomly selected or electronically determined. This requirement is useless. The fact that a release must release numbers/designations is obvious and it has been said numerous times already that numbers/designations must be randomly selected or electronically determined.

This paragraph also states “after the game-winning pattern is covered and claimed, there may be additional releases of randomly drawn or electronically determined numbers or other designations for a consolation prize(s).” This is also repetitive, but we believe this is the better language (except for the electronically determined reference) because it allows for additional releases, but does not require them.

(c) Requires that each “game must have one game-winning pattern or arrangement, which must be common to all players and may be won by multiple players.” There is no way to guarantee that all players play for the same game-winning pattern. In any event, the requirement

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should read “game-winning patterns or arrangements must be common to all players and may be won by multiple players.” The fact that there must be a game-winning prize has already been established.

Also requires that game-winning pattern/arrangement be at least three spaces. What is the reason for this requirement?

Also requires that the game-winning pattern/arrangement be available to players before the game begins. .

- (d) Is the requirements that bonus prizes be at least two spaces a problem? Need further input.
- (e) Prohibits prizes from being determined by events outside the play of bingo. This is repetitive and this paragraph should be deleted.
- (g) Allows daubing and claiming to be done simultaneously. This is repetitive and this paragraph should be deleted.
- (h) This paragraph talks about bonus prizes and is repetitive. Entire paragraph should be deleted.
- (i) Requires that the probability of achieving the game-winning prize pattern or progressive prize pattern may not vary.
- (j) Uses the term “wager.” We believe this term was replaced with a different term in the Technical Standards and MICS. Should use the same terminology here.
- (k) Uses the term “pay table.” Technical Standards and MICS use the term “pay schedule.” Same term should be used here.
- (l) States that a game-winning prize must be awarded in every game and states that a game must continue if the game-winning player sleeps the win. Repetitive. Should be deleted.
- (m) States that alternative displays can be for entertainment purposes only. Repetitive. Paragraph should be deleted.
- (n) This talks about an ante up format. We are not sure what that is.

### Section 546.8

- (a) This paragraph addresses the requirement for certification by a testing laboratory of games as compliant with these Classification Standards. References “Indian tribe and supplier.” Typically, it’s the gaming commission seeking certification so reference to the TGRA should be added.
- (b) Requires “tribe” to require certain testing, etc. Should be the TGRA, not the Tribe.

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(b)(5) Prohibits a testing laboratory owned or operated by a requesting party or tribe from certifying games.

(e)(1)(i) Permits a tribe to object to a certification. This is ridiculous. As written, it would allow a tribe to object to a certification of games that were intended to be played by a competitor tribe.

### Section 546.9

(a)(3) Requires the gaming commission to institute a compliance program that provides for “periodic testing of all of the servers and a random sample of the electronic components and software to validate the equipment and software continue to meet the required standards and are identical to that tested and certified by the testing laboratories.” We are not sure this can be done. We think that maybe only a testing lab could do this. Would this require that a testing lab had to come in on a periodic basis?

(c) Refers to “Class II electronic, computer, or other technologic aids.” The term used in the Tech Standards and MIC is “Class II gaming systems.” This should be modified to conform to the term used in the other regulations. Also the list required to be maintained in this section is typically kept by the operation not the gaming commission.

### Section 546.10

(a) Refers to “Class II electronic, computer, or other technologic aids.” The term used in the Tech Standards and MICS is “Class II gaming systems.” This should be modified to conform to the term used in the other regulations.

(b) Needs same changes as (a) above.

(c) Refers to “game.” This term should be changed to “Class II gaming system.”

(d) Requires the gaming commission to provide to the NIGC a listing of each electronic, computer, or other technologic aid, including servers, player interfaces, and each game program it has authorized for play under the Classifications Standards. The operation, not the gaming commission, maintains this list. Also, this list is not a static list, does the NIGC expect, or even want, to continually be receiving copies of this list?

(e) States that “nothing in this section is intended to authorize the continued operation of uncompact Class III machines that allow a player to play against the machine.” This could be very problematic. Who decides whether the device is a Class III device and on what basis? The NIGC (and the DOJ) currently believe that one-touch are Class III devices. Grandfathered devices wouldn’t meet the requirements of the Classification Standards and thus could be considered Class III machines. This could make the entire grandfathering provision useless.