

**THE FUTURE OF INTERNET GAMING: WHAT'S
AT STAKE FOR TRIBES?**

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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the tribes as regulators? By the time they get in there, they get licensed, it is going to be too late for them. And it would take a long time.

The Department of Commerce would take years to get to the point where they could actually license someone. The NIGC's experience, which Mr. Roberts already discussed at some length, is a good example of how long it takes. You have to get the people appointed, you have to develop regulations, you have to learn who your constituency is, you have to figure out what the best practices are. And the Department of Commerce, it would take years to do it.

The NIGC actually has some benefits, because of the Indian Gaming Regulatory Act, they can hire and pass regulations a lot more quickly than most Federal agencies, because of some things that are in the Act.

I think it is really necessary that we have Federal legislation. We have to make clear that the Wire Act doesn't apply, work out the jurisdictional issues. It is necessary that tribes have the opportunity to opt in and out of, opt in or opt out, that they not be limited by the States' decisions. Because they do have their own land, they shouldn't be limited, when you are talking about a nationwide Internet gaming.

And it is extremely important that tribes not be subject to outside taxation. They are already putting their money to government programs, to charities, to local communities. They are not using the money for million dollar CEOs. They are using the money for their government programs.

The decisions that tribes have to make are numerous. If this legislation is passed, you have to give them an opportunity to be looking at that if you are going to go forward with regulation.

This concludes my testimony. I apologize for taking longer than I was supposed to.

[The prepared statement of Ms. Coleman follows:]

Chairman AKAKA. Thank you very much, Ms. Coleman.

Mr. Eve, will you please proceed with your testimony?

**STATEMENT OF GRANT W. EVE, CPA, CFE, MANAGER, JOSEPH
EVE**

Mr. EVE. Good afternoon, Mr. Chairman, Mr. Vice Chairman. I send my regards to Senator Tester from my home State of Montana. I would like to thank you for the opportunity to testify today. It is an honor. I applaud the Committee for having this hearing on Internet gaming in an effort to find out the potential impact to Indian tribes.

My name is Grant Eve, I work for Joseph Eve, a consulting and certified public accounting firm that works with over 100 tribal entities each year. Prior to joining Joseph Eve, I worked with Deloitte LLP in Las Vegas, in the firm's national gaming practice. I worked with several tribal and commercial casinos in this capacity.

Let me begin by saying Internet gaming today is a substantial industry, estimated to be generating approximately \$30 billion worldwide. Some of this revenue is generated by illegal offshore organizations paying no tax to the countries they operate in. And some of this revenue is generated by licensed Internet gaming op-

erators in jurisdictions like the U.K., Canada, Australia, Sweden and others where the activity is regulated.

Many analysts estimate the global gaming market to be in the range of \$110 billion to \$125 billion, excluding illegal operations. To put this in perspective, if conservative estimates are around \$30 billion for online gaming and the global gaming market is estimated around \$120 billion, one in \$4 to \$5 is gambled online today. Some analysts estimate worldwide Internet gaming revenue will increase at 10 to 15 percent or possibly more if it is legalized in the United States.

So in conclusion on this point I want to make, the brick and mortar casinos are either decreasing or breaking even, where Internet gaming revenue continue to grow unimpeded at double digit rates.

The impact on regulated Internet gaming on Indian gaming will depend significantly on the details of the legislation proposed. Whether it is at the State or Federal level hinges on many factors such as how the law will be written, what games will be legal, the eligibility of current Internet gaming operators, suppliers, vendors, marketers, the taxation structure, the eligibility of State lotteries, the eligibility of current brick and mortar gaming operators in the U.S. How and if the legislation will affect State compacts and/or IGRA, how Internet gaming operators would be governed, specifically as it applies to American Indian tribes. And finally, State restrictions.

One of the more significant potential impacts on Indian gaming from Internet gaming is the extent to which tribes would need to compete with commercial gaming. Big commercial gaming has nationally recognized brands, large capital resources and alliances with European Internet gaming operators. The vast majority of tribes do not have the resources to compete against these would-be competitors if they were to operate independently.

Therefore, it is not surprising the tribes are concerned that Internet gaming could take away resources from their brick and mortar efforts and put them on unequal footing. It only seems natural that should Internet gaming become legalized, that Indian tribes should be allowed to operate, regulate, tax, host and license Internet gaming licensed websites as sovereign nations, no different than how the tribes operate brick and mortar gaming today.

Regulation is a significant issue when you consider online gaming from tribal operators. The regulators of tribal brick and mortar facilities are the tribal gaming agencies. Other regulators include the NIGC, the State in which the casino resides and the outside auditors. Not only does regulation ensure benefits to the customer, it also provides jobs. The Indian regulatory system employs more than 3,400 expert regulators and staff.

The issue of regulation needs to be addressed further when it comes to Internet gaming. With the maturity of the Internet, the increase in mobile network data speed and the advancement in device technology, it has changed the dynamics of the Internet gaming industry as a whole. Internet gaming is available today to anyone who has access to a computer and connection to the Internet. Anyone who is serious about gambling can find ways around the laws to gamble online today. The Senator mentioned being in your

house and losing your house. People are doing that right today in the United States on unregulated sites.

If Internet gaming is legalized, tribal operations are going to need an opportunity to build and capitalize on the market to protect self-sufficiency. Indian gaming has been the most successful benefit to the economic development within Indian tribal communities. These funds have been used to improve health care, education, entrepreneurship and public safety in Indian Country.

While I agree with the statement on 1 percent that the Senator made, that doesn't mean that their spouse isn't playing a slot machine or that guy is going from a poker table to a table game.

Ultimately, I believe more information needs to be collected before a proper decision can be made. There is too much at risk for Indian tribes to jeopardize what has been created since Congress enacted the Indian Gaming Regulatory Act in 1998.

Thank you for this opportunity. I look forward to answering any questions you may have.

[The prepared statement of Mr. Eve follows:]

Chairman AKAKA. Thank you very much, Mr. Eve, for your testimony.

Mr. Ernie Stevens, NIGA, tribes and tribal organizations, are opposed to taxing tribal governments. If Internet gaming legislation is enacted, what mechanism should be used to fund the regulation of that industry?

Mr. STEVENS. I don't think that we are opposed to anything that is beyond what services are provided to the tribes, as in the case with the NIGC. We understand what is fair. But taxation beyond that is inappropriate.

Mr. VAN NORMAN. Mr. Chairman, if I might?

Chairman AKAKA. Mr. Van Norman?

Mr. VAN NORMAN. The NIGC uses regulatory fees to rise revenue for their regulatory services. We do not object to a fee for regulatory services. What tribal governments are saying is that we are funding the essential government programs of schools, hospitals, water and sewer, roads, many times picking up the responsibility of the Federal Government. That is coming through our gaming revenue. That is our essential revenue base. And we feel it is in fringing upon our tax base if the United States or the States were to tax that revenue, because we are providing the essential revenue that is the basis for our community life.

Chairman AKAKA. Well, let me on the side say, it is good to have you, Mark. And you are now the Senior Advisor.

Mr. VAN NORMAN. Thank you, Mr. Chairman.

Mr. STEVENS. If I could, Mr. Chairman, Mark's last day as a full-time employee is the 31st of December. As of this week, Mr. Jason Giles, our Deputy, has been promoted by the Executive Board. So Mark has been with us for 11 years, as Senior Advisor, it is a great responsibility as well. But I appreciate the acknowledgment. He has been of great service to the National Indian Gaming Association.

Chairman AKAKA. Thank you, Mr. Stevens.

Let me ask one more question, and I have other questions, but I am going to ask the Vice Chairman for his questions. This question is to Senator D'Amato. One of the concerns surrounding tribal

how their nations should be organized. And they have been the better for it.

And Public Law 280, which gives criminal jurisdiction to States, about six of the States, the criminal jurisdiction was mandated. But for most of the rest of the States, the States could ask for jurisdiction, criminal jurisdiction and the tribes had to agree to giving the State criminal jurisdiction.

So those are the kinds of policy. Congressional policy over the years has always recognized those kinds of rights for tribal nations.

Chairman AKAKA. Thank you very much.

Mr. Grant EVE, in your testimony you mentioned that the impacts of Internet gaming on traditional Indian gaming facilities will depend on whether tribes are given equal footing in legislation. What do you think tribes would need in legislation to be on equal footing?

Mr. EVE. Thank you for the question, Chairman. That is a hard question to ask, because the legislation, we really don't know, except for Congressman Barton's bill. But I think you go back to early entrance, everyone on equal playing fields and no one have early entrance. Then back to the separation of powers, where tribes are a government and a sovereign nation and they have the regulatory arm, they can operate, regulate, hold everyone accountable. And then you have the operator arm as well, where those are the operators.

Because at the end of the day, you are still a hospitality industry and an entertainment industry. And if you can't provide your customer with reliance on the Internet site, then your operation is no good, if it falters. I think the tribes have done a danged good job with that, and they have shown that with their past history.

Chairman AKAKA. Thank you very much, Mr. Eve.

Senator D'Amato, what is Poker Players Alliance's policy as it relates to tribes participating in Internet gaming?

Mr. D'AMATO. They have to be given a seat at the same time as anybody else. They should not surrender any of their sovereign rights. They don't have to. They should not be required, as I mentioned before, to renegotiate their compacts.

As it relates to taxation, that begins to become a thorny issue, but one that can be solved. And we are not talking about onsite, we are talking about the customers it serves off of reservation. And as Chief Ernie has indicated, or Chairman Ernie has indicated, for example, they pay fees to be regulated. Their customers could then pay a fee to participate, whether it is 2 percent, 3 percent, whatever is worked out.

But these are things that can be done, protecting the sovereignty of the nation and not placing anyone, either the Indian nations or the commercial enterprises, at a disadvantage. The affiliation, giving them the ability to affiliate with both Indian tribes and non-Indian tribes, I could see some of the traditional brick and mortar non-Indian operations looking to bring Indian tribes in as a way of gaining more players to come to their brick and mortar site as well as to play on the Internet. It is a win-win.

But one thing that is not a win is allowing the status quo to exist where there is literally no enforcement. If we want to prevent the people from sending in the signal, then you have to make it illegal.

struggles they have had over the years, we will never do it at the expense of a safe, sound, regulated business.

So this is just one business that we will continue to analyze. And we are going to continue to move forward, analyzing economic development opportunities, this being one of them. I think that the Internet Subcommittee again is well-attended, and a lot of tribal leaders will continue to stay involved. We want to be on top of this. We don't want to move too fast or too slow. We want what is appropriate for tribal governments, and that is what we will stand for.

Chairman AKAKA. Thank you very much for your response.

Ms. Penny Coleman, based on your prior experience at the NIGC, how do you answer those who would say that NIGC does not have the staff, the resources or the expertise to regulate Internet gaming?

Ms. COLEMAN. I would say that they are the only Federal agency that is even close. While they are not regulating Internet gaming, they are regulating wide area progressives, gaming that is done through the Internet tunnels rather than the bigger Internet. They are the ones that have a knowledge of gaming. They have a knowledge of tribal nations. They already have the infrastructure in place, they have the regional offices. They are the ones that have the expertise, they are the ones that have the knowledge base. They can hire someone who has spent time regulating Internet gaming. And I think they are the ones who are going to be able to hit the ground running when it comes to regulation of Internet gaming.

Chairman AKAKA. Thank you very much, Ms. Coleman.

I would finally want to provide you with an opportunity as a panel to make any final remarks you want to make about the conversations that have been going on, or something that you wanted to say and you didn't have time to say it at this time. So let me call on, I am going to start from the other end of the table, Mr. Grant Eve, for any comments, final comments you may have.

Mr. EVE. Thank you, Chairman. Being a certified public accountant, numbers jump out at me. That is what I look at. I hear the number of \$40 billion provided to the Federal Government, and you mentioned looking for funds at the beginning of this hearing.

I think if you are looking at a poker-only bill, you really need to examine those numbers. Poker, I have studied the European financial statements and poker has slightly decreased on the publicly-traded ones, because that is all you can look at, all that is public knowledge. But you have seen poker slightly decrease and you have seen casino games increase exponentially. Those are higher margin games which would mean more revenue to the Federal Government if it was legalized in that bill.

So I would closely examine that \$40 billion figure and where that comes from.

Chairman AKAKA. Thank you. Ms. Coleman?

Ms. COLEMAN. Just one last thought. In case there is any suggestion that one of these many bills that are floating around there, somebody wants to pass them, there are so many things in them that haven't been vetted, that need to be vetted, that even the authors I am sure never really thought about. For instance, none of