



**Testimony of the Honorable Bruce Bozsum  
Chairman, Tribal Council  
The Mohegan Tribe**

**Oversight Hearing on the  
Future of Internet Gaming: What's at Stake for Tribes?**

**Before the Senate Committee on Indian Affairs  
November 17, 2011**

**Good afternoon Chairman Akaka, Vice Chairman Barrasso, and Members of the Committee. My name is Bruce "Two Dogs" Bozsum, and I am the Chairman of the Mohegan Tribe and also a Pipe Carrier. It is a great honor to be with you here today to present testimony on the important subject of Internet Gaming, its regulation, and what's at stake for Indian tribes.**

**Mr. Chairman, the Mohegan Tribe has a long and proud history going back many thousands of years. During the 1600s, one of our greatest leaders, Sachem Uncas, was confronted by the challenges of protecting our Tribe's sovereignty, traditions, and people in the face of European colonization, disease, and new technologies previously unknown to our people. The decision he made in how to deal with these challenges was of vital importance to our future.**

**Sachem Uncas chose the path of cooperation, rather than conflict. This path served him and our people well, and started a tradition**

THE MOHEGAN TRIBE



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**known as ‘The Mohegan Way’. This tradition has been passed down through the generations by our ancestors to the present day, where our people continue to live and work cooperatively both within the Tribe and the non-Indian community.**

**The technology of Internet gaming presents both an opportunity and a challenge to tribes engaged in gaming – similar in some ways to the rapid changes Sachem Uncas once faced in his world long ago.**

**Chairman Akaka, we at the Mohegan Tribe are grateful that since the day you were elected, you have shown your great respect for tribal sovereignty by actively seeking the input of tribes in all legislation to ensure that we are treated fairly. In doing so, you have shown your desire for cooperation, rather than conflict, and we sincerely thank you for this stance.**

**As you know, Indian gaming has been the single biggest economic development success story in tribal history. Since the enactment of the Indian Gaming Regulatory Act of 1988, tribes have opened 419 gaming facilities across 28 states, creating over half a million new jobs. These tribal casinos are currently generating nearly \$27 billion in much-needed revenue, which is used to fund urgent tribal priorities such as housing and health care for our members, services for our elders, and education for our youth. I would also add that tribes nationwide also share a significant portion of the revenue we earn from gaming with state and local governments, helping our neighbors meet the needs of their citizens as well.**

**I am proud that the Mohegan Tribe has been part of the success story of Indian gaming. Our tribal government runs one of the largest and most successful tribal casinos in the United States. Our extensive experience in regulating gaming activities, protecting consumers, and exercising our sovereign rights as a tribal nation gives us unique insights into the impacts that Internet Gaming may have on Land-Based tribal gaming.**

**The Mohegan Tribe believes that, if done properly, Internet Gaming can result in another success story for tribes. The balance of my**

**testimony today will discuss the ways in which we feel legislation would best be crafted to allow tribes the opportunity to be successful in Internet Gaming.**

**As you may know, not all tribes nationwide agree on all the issues surrounding Internet Gaming. Many are still forming their opinions on the topic. However, there are some areas of bedrock principle, such as protecting tribal sovereignty and existing tribal government rights, which virtually all tribes agree on. The National Indian Gaming Association has put forth a resolution stating these principles, which I understand has already been presented to you.**

**In addition to these principles, I would venture to say that there is at least one other area in which there would be universal agreement among tribes: Any federal legislation authorizing Internet Gaming must ensure that Indian Country can protect and preserve the gains tribal nations have made under IGRA, while at the same time allowing us the opportunity to compete on a fair and level playing field with other gaming interests in any legalized Internet Gaming market.**

**I cannot stress this point too strongly. Policy changes in recent years have allowed tribes to prove that, when given a fair chance, they can compete and be as successful as anyone else. For far too long in our nation's history, tribes had the deck stacked against them through unfair treatment which has greatly hurt our peoples. Now is not the time to return to those misguided policies of the bad old days. That is why all tribes would agree that there cannot and must not be a head start for Nevada, New Jersey, or other commercial casino states into the Internet Gaming market. Any legislation which uses concocted formulas or restrictions under various guises of 'consumer protection' and 'experienced operator requirements' to delay or exclude tribes entirely from competing in the Internet gaming market must be categorically rejected. For competition to be fair, it must be played on a level field.**

**So, how should legislation be crafted in order to create this level playing field, which gives tribes a chance to compete fairly, protects**

**tribal sovereignty, and preserves the gains of IGRA? The Mohegan Tribe believes that there are both process and policy considerations which would be of great help in achieving this goal.**

**First, two key process considerations. The time-honored policy of tribal consultation should be honored, and tribes should be included in every step of the legislative process on Internet Gaming from drafting the bills through regulatory rulemaking after a law has been enacted. Mr. Chairman, there is no doubt that you understand the consultation process well, as demonstrated by the fact that you are holding this hearing today. As you know, every single piece of successful legislation dealing with Indian Country over the past few decades, many of which you have been personally involved with, has its roots in consultation with tribes BEFORE the initial bills were even drafted or introduced. Federal Internet Gaming legislation should not be an exception to this policy of tribal consultation. There is little doubt that if it is enacted, Internet Gaming legislation will have the most significant impact on tribal gaming since the passage of IGRA. Therefore, tribes must be consulted throughout the entire process of legislation and implementation of regulations, and their input given serious consideration.**

**A second key consideration is the legislative process itself. It is in the best interest of all concerned, particularly tribes, that Internet Gaming legalization should be initially developed and advanced through regular committee order. We realize that as a practical matter, it is likely that such a bill might have to be attached to another, larger piece of legislation to achieve final passage. However, it is imperative that whatever language ultimately does pass is not developed behind closed doors and with little or no input from tribal stakeholders. The specific legislative language should be fully vetted first by the committees of jurisdiction, particularly by those such as this Senate Committee on Indian Affairs with direct responsibility for and expertise on tribal issues and Federal Indian law, to ensure that Internet Gaming legislation is constructed in a fair way which respects tribal sovereignty and existing law.**

**Now, I will address the key policy considerations. The Mohegan Tribe has conducted an extensive analysis of the numerous bill drafts and proposals circulated on Internet Gaming in the last several years. In general, we believe that much of this legislation is on the right path. However, it is our strong belief that each of these proposals can and should be further modified and enhanced from its current form. From our perspective, these modifications and enhancements must advance our most critical priority, that of ensuring that Tribal Governments and Tribal Gaming Facilities are authorized to operate Internet Gaming sites ON A LEVEL PLAYING FIELD.**

**The following are our suggestions for additional improvements:**

- A guarantee that Indian tribes may accept otherwise legal wagers from players not physically located on tribal lands when the wager is placed. Under IGRA, tribal government gaming operations are only allowed to accept wagers which are placed by individuals who are physically located on tribal lands at the time the wager is placed. In the area of Internet Gaming, this is problematic as many tribes will choose to operate their Internet Gaming sites on the reservation, but will need to be afforded the same rights as non-tribal competitors to accept wagers from customers located in areas that have not opted out of the federal regulatory framework. In order to do so, legislation must include a clear and unequivocal provision that tribes will not be subject to the geographic limitations of the Indian Gaming Regulatory Act to the extent they are conducting Internet Gaming under federal licenses. Failure to include such a provision would be inherently unfair to tribal governments and burden them with an extreme competitive disadvantage. Furthermore, allowing tribal governments to offer Internet wagering from our tribal lands to prospective customers anywhere would allow tribes, and our customers, to further benefit from the internal controls, safeguards, and experienced regulatory systems that tribes have developed to regulate gaming under IGRA and state gaming compacts. Indeed, the experience of many tribes in regulating gaming, and the testing and certifying of gaming equipment**

**exceeds that of many states and is an asset which federal Internet Gaming legislation should capitalize upon rather than disregard. The position of my Tribe is that this guarantee would be absolutely critical.**

- **Respect existing Tribal-State Gaming Compacts and clarify that tribal Internet Gaming will operate outside the IGRA compacting system. As you are aware, IGRA requires that tribes and states must enter into a compact if any type of Class III gaming (house-banked games) are to be offered by a tribe. These compacts usually require a tribe to share revenue from Class III activities with a state. Some of the Internet Gaming legislation in circulation would allow a very broad range of Class III games to be offered online by tribal and non-tribal gaming operators, while most tribal-state compacts currently allow only selected Class III games to be offered by tribes. In some states, existing compacts actually preclude tribes from offering any form of Internet gaming whatsoever. A provision must be added to the Internet Gaming legislation that clarifies that all games offered under its auspices are exempt from IGRA compacting, allowing tribes to compete on a level playing field with non-tribal competitors.**
- **Reflect the differences between revenue sharing agreements and taxation. Just like states, tribal governments are not subject to federal taxation. Like all governments, tribal governments are not subject to taxation by state governments nor can they tax state governments, just as one state can never tax another. Instead, when a tribe agrees to give any payments related to tribal gaming activities to a state, it is done so under a tribal-state revenue sharing agreement that is negotiated between two co-equal sovereigns. This is a system that has been proven to work to the benefit of both tribal and state governments. Any federal Internet Gaming legislation should conform to this standard and contemplate the negotiation of tribal-state revenue sharing agreements on tribal government Internet Gaming activities. Taxation should be properly applied, as it currently is, to commercial gaming enterprises, while where appropriate,**

**tribal activities should be governed by negotiated revenue-sharing agreements.**

- **Current tribal gaming regulatory structures are working well and should be the foundation of a regulatory system for tribal Internet Gaming. For nearly 25 years, the IGRA model of tribal gaming regulation has worked well. Tribes have developed an extensive range of expertise in regulating all forms of legalized gaming, as well as certifying gaming equipment, vendors, and support systems. Tribal government regulatory agencies currently regulate far more gaming activity in the U.S. than any state, including Nevada or New Jersey. At the federal level, tribal regulators have worked in a strong collaborative relationship with the National Indian Gaming Commission, and with state gaming regulators under the terms of many tribal-state compacts. In contrast, some proposals in Congress would have the Department of the Treasury or the Department of Commerce take the lead role on regulating Internet Gaming. These agencies have no experience whatsoever in gaming regulation, and little experience in interacting with Indian nations. Charging these agencies with new regulatory missions far outside the scope of their experience and expertise is not a good idea. Instead, we should stay with the proven system of regulating tribal gaming activities established by IGRA.**
- **Some licensing and regulatory provisions can be strengthened further. Access to gaming facilities, careful screening of all persons with access to or responsibility for gaming areas or gaming funds, and testing and certification of all gaming equipment are all key principles to successful gaming regulation. Requiring all Internet Gaming facilities to be located domestically would greatly enhance regulation by ensuring regulator access at all times. Background checks and licensing should be required of all employees, not just a select few. At our tribal government gaming facility, every employee from the CEO down to janitorial help must be licensed, with higher scrutiny for key employees and others in sensitive positions. This protects**

**our facility from being penetrated by unsuitable persons at all levels, ensuring the security of our operations. Finally, testing and certification of software and other equipment used for Internet Gaming will be critical. If anything, the nature of Internet Gaming requires an even higher confidence level by the player that the game being played is honest. Just as we currently test and certify every piece of equipment used for gaming at our brick-and-mortar facilities, so too should all software, hardware, and other systems used for Internet Gaming be subject to intensive testing and certification prior to use to assure players they are wagering on a fair and honest game.**

- Strict enforcement against unlicensed sites. One of the reasons that tribal and commercial brick-and-mortar gaming facilities are successful is that any unlawful or unregulated facilities are immediately shut down. We believe that similar measures in Internet Gaming will be even more vital to the success of legalized and regulated sites. If unlicensed and unregulated sites are able to offer their product to American citizens, free of the obligation to follow the rules and obey regulations, these sites will flourish at the expense of those obeying the law. This cannot be allowed to happen, or a regulated system will fail, those who support it will be discredited, and investments made in creating honest, legal operations will be lost.**
- Introduce poker-only in Phase I. Perceived competition to state lotteries and brick-and-mortar facilities from internet slots would create powerful opposition to full Internet Gaming. It is our belief that a poker-only introduction would allow the U.S. market to establish appropriate regulatory schemes and still generate a significant new level of revenue, economic activity, and jobs.**
- Encourage the formation of Tribal Internet Gaming Coalitions. It is a well-known fact that when tribes work together to protect tribal interests, they are extremely successful. In the field of Internet Gaming, we believe that the principle of tribes working together would be best expressed in broad-based national**



**coalitions of tribes working together to offer Internet Gaming to customers throughout the country. By working together on a nationwide basis, we believe that tribes will be able to compete successfully with all potential competitors, including Nevada, as long as there is a level playing field. A successful precedent has already been set under IGRA by a number of tribes who have worked together in offering linked and progressive slot machine jackpots to the benefit of all involved. We would urge that any federal legislation on Internet gaming be drafted in such a way as to ensure there are no barriers to Tribal Internet Gaming coalitions, and if possible, should encourage them, so we can duplicate this IGRA success in the Internet Gaming arena.**

**Once again, the Tribe greatly appreciates your interest in tribal input on this important subject. It is our hope that you will strongly consider the enhancements we have suggested in our testimony to any Internet Gaming legislation which may come before your Committee or the full Senate.**

**We look forward to working with you closely in the coming weeks and months, and hope to together achieve the goal of safe, secure, regulated Internet Gaming.**