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Bureau of Gambling
Control

January 22, 2021

Susanne George
Bureau of Gambling Control
P.O. Box 168024
Sacramento, CA 95816-8024

Re: California-Style Blackjack Regulations – Draft Concept Language

Dear Ms. George:

The Federated Indians of Graton Rancheria submits these comments in response to the Draft Concept Language that was circulated by Director Shimazu.

The document circulated by the Bureau is termed a “draft concept” rather than “draft or possible regulatory changes.” What is the “concept” or regulatory goal that is the basis for the draft language? If the concept is to provide lax oversight and permit the operation of illegal card games, then the draft effectively carries out this concept. If the concept is to comply with California’s Constitution and statutory law, as well as to honor the promise of exclusivity made not once but twice by the voters of California to the Indian tribes within the state, then the language falls far short of the mark.

Concept Regulation 2074 would permit card rooms to offer banked, blackjack style card games in contravention of Article IV, Section 19 of the California Constitution, sections 19801 and 19805(c) of the Gambling Control Act, Section 330.11 of the Penal Code, and many tribal-state compacts.

Concept regulation 2074, which authorizes “California-Style Blackjack,” does not incorporate the legal requirements set forth in Penal Code Section 330.11. The regulation must include these requirements:

- Require that the dealer-player position be continuously and systematically rotated amongst each of the participants during the play of the game; and,
- Ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game; and,
- Preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game.

Beyond these foundational objections to the concept, we offer the following comments:

Sections 2071, 2072 and 2075, as drafted, implicitly grandfather all existing card games operated by card rooms whether they are lawful or not. Moreover, the proposed changes in reporting requirements would allow scofflaw card room to evade detection if they currently offer banked or other illicit card games.

Section 2071 would require that only new card rooms seek approval for all card games they offer. This section should require all card rooms to seek approval for all card games they offer upon approval of the new regulations. This change is necessary to ensure that all card rooms comply with these new regulations and with existing law and regulation. If it is too burdensome on the Bureau to review these requests for approval and confirm the continuing legality of these games, then the solution is securing additional resources, not adopting regulations that allow the Bureau to abdicate its responsibilities.

The proposal would create a gap in reporting and oversight. Section 2072 would no longer require card rooms to report the rules of pre-existing games and Section 2071 requires only new card rooms to seek approval of the games they offer. Section 2072 should continue to require periodic reporting that includes the rules of all games offered by all card rooms. Given the history of some card room operators' attempts to evade compliance, the need for such a rule is self-evident. It cannot be an undue burden on card rooms to report the rules of these card games. These rules must be published and made available to their patrons.

While section 2075 does attempt to close these gaps in reporting and oversight by requiring card rooms to seek approval for any game that is required to comply with section 2074, that is insufficient. Section 2075 only covers those games that the card room believes are subject to the provisions of 2074 and does not cover other card games that may be unlawful. This gives card rooms too much leeway to claim, if they are ever caught, that they thought the game they were offering did not fall under Section 2074.

The Federated Indians of Graton Rancheria strongly opposes the proposal in its current form. Thank you for your attention to our concerns.

Sincerely,

A handwritten signature in black ink that reads "Greg Sarris". The signature is written in a cursive, flowing style.

Greg Sarris,
Chairman