



# A TIE THAT BINDS

## Nevada Embraces Multi-Jurisdictional Progressive Prize Systems

By Dan R. Reaser and Katherine L. Hoffman

**W**hile much of the gaming industry continues the fascination with interactive or Internet gaming, Nevada and New Jersey have also built regulatory foundations for a different technology linking wagering among states. Other states are studying the Nevada and New Jersey undertakings, and the industry should prepare for inevitable adoption elsewhere.

Since the 1980s, innovators like Bally Technologies and IGT have been allowed to use communications technology to link slot machines among casinos within each state to a wide area network system that facilitates a progressive jackpot prize based on play among the participating locations. Today, most casinos in both state and tribal venues offer these popular progressive slot machine prize systems like the Hot Shots Blazing 7s® and Wheel of Fortune® games.

This technology was halted at each state's territorial boundary because of the historic interpretation of the Federal Wire Act by the United States Department of Justice (the "USDOJ"). On September 20, 2011, however, the USDOJ opined that interstate transmissions of wire communications that do not relate to a "sporting event" or a "sporting contest" fall outside the reach of the Wire Act.

This change in policy ultimately paved the way for industry technology leaders to reexamine how the technology could evolve. Recent regulatory developments in Nevada and New Jersey provide a path for these progressive prize systems to now operate among states and perhaps beyond.

### What is a multi-jurisdictional prize system?

This type of system allows slot machines operated in Nevada to be linked, where lawful, with slot machines operated in another state or tribal casino for the purpose of participating in a common progressive jackpot prize. Importantly, this system does not involve a common game like interactive poker or the PowerBall® lottery. The gambling game is compartmentalized exclusively within individual linked slot machines. The systems are associated equipment that compile and exchange accounting, security and event data to (i) increment the progressive prize; (ii) signal entry into or interference with a participating device; and, (iii) communicate when a particular slot machine wins the jackpot.

These operating characteristics help address inter-jurisdictional tax allocation issues in cross-border commerce among states and Native American tribes. The casino game is played, and the wagering agreement is made in each individual venue. Revenue taxes based on handle or drop are imposed and collected based on the location of the slot machines. Income taxes on jackpots are likewise based on device location or player residence. Progressive system operators have existing contracts with casino licensees addressing tax apportionment obligations. Gaming regulatory agencies are familiar with these contracts and have authority over the parties to the arrangements.

## Nevada pulls the trigger

On November 21, 2013, the Nevada Gaming Commission (the “Nevada Commission”), adopted immediately effective regulations that authorize the operation of multi-jurisdictional progressive prize systems. The Nevada Commission’s action was preceded by many months of evaluation by the Nevada State Gaming Control Board (the “Nevada Board”), the Attorney General of Nevada and public industry workshops on the proposed rules.

Nevada’s regulators initially pondered whether the systems were a new form of technology not recognized by the State’s Gaming Control Act. This issue was resolved once the Nevada Board became convinced that a multi-jurisdictional progressive prize system was just a new technological application of approved associated equipment systems being used for existing intrastate progressive slot machine prize systems. At that point, the Nevada Board and Nevada Commission accepted the proposition that what was necessary were rules simply recognizing and providing additional oversight for use of this existing technology when used to link slot machines in different jurisdictions.

## The substantive rule changes

The Nevada Commission’s adopted regulations amend the current rules governing the approval process for associated equipment and inter-casino linked systems. While definitions were added or expanded, there are really only three substantive rule changes.

First, Regulation 14.030 was amended to require that applications for the approval of multi-jurisdictional progressive prize systems be processed under the existing inter-casino linked system procedures used by the Nevada Board and Nevada Commission. In this regard, the rule now requires that a copy of any agreement or specifications required by another jurisdiction’s regulatory agency be included with the Nevada system approval applications.

Second, Regulation 14.100 was modified to require that the Nevada Board and Nevada Commission determine that any agreement or specifications required by another jurisdiction’s regulatory agency relative to a multi-jurisdictional progressive prize system is not contrary to Nevada law and technical requirements. In this regard, the proposed amendment specifies seven technical or process requirements that the Nevada Commission must find satisfactory before the system is approved.

Among the most critical of the technical requirements is that the slot machines connected to the system must satisfy one of two alternatives that ensure parity of play among players in all participating jurisdictions. Specifically, the slots must either —

- Be all of the same denomination with equivalent odds of winning any common payoff schedule or award; or
- If of different denominations, equalize the expected value of winning the payoff schedule or award on the various denominations by setting the odds of winning the payoff schedule in proportion to the amount wagered or by requiring the same wager to win the payoff schedule or award regardless of the device’s denomination.

The method of equalizing the expected value of winning the payoff must be conspicuously displayed on each device connected to the system. For the purposes of this requirement, equivalent is defined as within a five percent tolerance for expected value and no more than a one percent tolerance on return to player or payback.

For approval of the system, the regulation also requires the Nevada Commission to find as to any other participating jurisdiction:

- Patron disputes will be resolved under procedural and substantive requirements equal to or greater than the standards applied by the Nevada Board.
- Surveillance and security of gaming devices connected to such system is acceptable.
- There are acceptable record-keeping and record-retention procedures.
- There are safeguards for control of access to any internal mechanism of gaming devices connected to such system.
- Prior administrative approval from Nevada is necessary for any adjustments to progressive meters.
- The Nevada Board will have access and cooperation to audit compliance with the regulatory requirements.

This rule explicitly recognizes that the decision to authorize a system also includes Nevada Commission approval of the agreement or specifications used in the other jurisdiction or jurisdictions. The regulation provides a procedure by which that approval can be confirmed in writing for any other jurisdiction that may desire such documentation. Additionally, the regulation contains an important administrative approval streamline procedure for changes to an approved system. This administrative approval procedure allows the Nevada Board Chairman to authorize changes to an approved system and can facilitate the addition of new participating casinos in jurisdictions that accept the existing approved agreement or specifications.

Third, Regulation 5.115 is changed to eliminate any ambiguity concerning the applicability of the reserve requirements to any prizes offered through a multi-jurisdictional progressive prize system. This regulation places these system prizes on the same footing as any other progressive prize offered to patrons in Nevada.

In an acknowledgement of the future, the regulation also recognizes that special procedures may be necessary for a multi-jurisdictional progressive prize system lawfully operated in gaming locations participating from outside the United States. Among such “special procedures” would be technical processes for currency conversions and the availability of English translations of all relevant and material documentation and information.

## Nevada’s application process ahead

The Nevada Board is requiring operators to submit an application for approval of any multi-jurisdictional progressive prize system as a new inter-casino linked system. These applications under Regulation 14.030 are required even though the system may be an approved system currently in use in Nevada. The Nevada Board initially will not review and approve existing systems under Regulation 14.110 governing modifications to an approved inter-casino linked system. This policy is based on the view that there are potentially material operating environment differences when systems tested and approved for intrastate use are deployed in two or more venues subject to different regulatory oversight and standards.

The operators’ applications, therefore, will need to update and

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resubmit for approval all the technical information specified in Regulation 14.030. Additionally, treating each multi-jurisdictional progressive prize system as a new inter-casino linked system triggers several other procedural steps that the Nevada Board considers important. These steps include the applicability of minimum system standards in Regulation 14.045, the field trial requirements of Regulation 14.080, and compliance certification mandates of Regulation 14.090.

This approach by the regulatory agency means that each system will be fully vetted in public hearings before the Nevada Board and Nevada Commission. Following these procedures also will mean operators face an application approval process that will take at least four to six months based on typical processing history.

## BITCOIN

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In October 2008, Satoshi Nakamoto issued a paper titled "Bitcoin: A Peer-to-Peer Electronic Cash System", describing Bitcoin as allowing payment transactions to go from one person to another without the intervention of a financial institution.<sup>6</sup> A described benefit of using Bitcoin is the lack of a fee, as imposed by banks and processors for the use of credit or debit cards or other cash alternatives. However, there is a fee imposed by the exchanges, which is smaller than those of financial institutions, still allowing a financial benefit from the use of Bitcoin.

Bitcoin is a shared public ledger of software code, comprising a block chain consisting of the entire history of Bitcoin and each of its transactions. The code is "mined" by powerful computers computing an algorithm to establish a valid sequence. The entire block chain must be correct to add to it, thus ensuring validity to the code sequence. The longer the block chain, the more robust the computing power that is needed to compute the current algorithm and create new Bitcoin. This is an additional security feature to ensure validity. There is a limit to the amount of Bitcoin that can be created, established at 21 million Bitcoin (BTC). It is anticipated that the last block in the chain will be computed in 2140, so the amount of useable Bitcoin will increase but

## Impact on the industry and gaming public

Authorizing these systems was viewed by Nevada's regulators as important to maintaining global leadership in gaming entertainment technology development and deployment. This step also is consistent with Nevada's support of multi-jurisdictional interactive gaming like poker, where state collaboration in forming liquidity through common wagering pools mutually benefits the participating jurisdictions.

Practically, the systems are a technology product facilitating increased play of wide area progressive slot machines. That play, in turn, drives taxable gross gaming revenue, machine unit production and patron traffic at casinos.

These marketplace attributes are important in each of the jurisdictions. The systems will become yet another tie that binds the private and public participants in the evolution of global gaming competition. ♣

be limited.<sup>7</sup>

Users of Bitcoin can acquire BTCs by mining Bitcoin themselves, which takes considerable computing power and currently is attempted only by links of robust scientific computer systems, by buying them from exchanges, which operate similarly to financial institutions in being outlets for trading Bitcoins or by accepting BTCs in exchange for the sale of goods or services.

In practice, one needs a Bitcoin wallet as an application on a computer, to store and validate the person's supply of Bitcoin. Like any wallet, it should be secured, which is done by having a private key, or encryption code, known only to the owner. When one trades or uses Bitcoin, the transfer is made by sending an amount of BTC to the receiver's wallet and providing a secure code to access the bitcoin by the receiver. Once transmitted, the transaction is complete and irreversible. The history of the transaction is added to the block of code, adding a level of security to code.<sup>8</sup>

With the currency crisis that has taken place especially in some European countries in the past several years, Bitcoin has been more positively received and is beginning to attain some recognized status as a viable currency. Numerous online enterprises have accepted Bitcoin as payment and more and more "bricks and mortar" locations are amenable to Bitcoin technology.<sup>9</sup> Unfortunately, the uncovering of Silk Road as an online criminal enterprise



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The views expressed in this article are those of Mr. Reaser and Ms. Hoffman, and should not be attributed to any client of Lionel Sawyer & Collins.

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opens the door for intrastate Internet gaming, also has potential opportunities for land-based gaming. A new development in Nevada is featured in an article which discusses the use of multi-jurisdictional progressive prize systems, an expansion linking slot machines among casinos beyond the Nevada state lines.

Another new development in Internet gaming in the United States focuses on interactive and interstate gaming. An article discusses another area where the 2011 Wire Act memorandum creates a potential minefield of legal issues. The article analyzes the conflicts found when client-server based gaming crosses jurisdictions with different laws and varied interpretations of the laws.

This issue also contains an excellent article on conflicts of law in transnational contracts with a recommendation of how gaming attorneys can avoid potential problems with conflicting laws in diverse jurisdictions.

Next, a discussion of ethics in the gaming industry emphasizes four industry segments that face various ethical issues: manufacturers, promoters, compliance committee members and regulators.

Finally, the spring issue of *Casino Lawyer* includes a thorough explanation of Bitcoin with a discussion of legal and regulatory issues related to this "most notable form of virtual currency."

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