

BAO 2004-0920-0031	Date Issued: 11/08/2004	View Request <a href="#">RQ 2004-0920-0031</a>
Summary:	Consistent with Occupations Code §2001.002(16)(B) and Bingo Advisory Opinion #2004-0322-00007, an organization that adds a guarantee of performance to bingo equipment to further its promotion or sale is a "manufacturer."	

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BAO # 2004-0920-0031

November 8, 2004

Dale D. Robertson  
Director of Quality Control and Regulation Compliance  
504 34<sup>th</sup> Avenue  
Council Bluffs, Iowa 51501-8095

Re: Gaming Product/Equipment

Dear Mr. Robertson:

On September 20, 2004, the Texas Lottery Commission (the "Commission") received your request for an advisory opinion related to bingo gaming product/equipment. Below is your question followed by the Commission's response.

We are a licensed charitable gaming manufacturer in your state. We have licensed distributors that would like to purchase additional legal gaming product/equipment that we do not manufacture. If another manufacturer's product were to be sold through us we are "adding value to the product with the addition of our company's guarantee of performance which furthers the products' promotion and sale" and that should meet the qualifications of a manufacturer of charitable gaming equipment for us to sell. **We therefore would like to know if we could purchase another manufacturer's product and then re-sell to our licensed distributors as we are adding value to the product.**

Another manufacturer, BK Entertainment, made a similar request dated March 22, 2004. Please reference Advisory Opinion #2004-007 dated May 19, 2004. The opinion advised that adding a guarantee of performance was sufficient to meet the definition of a manufacturer provided in Occupations Code Section 2001.002(16)(B). We therefore ask for the same treatment.

**ANSWER:**

Consistent with Bingo Advisory Opinion #2004-0322-00007, a manufacturer's addition of its guarantee of performance to gaming product or equipment is sufficient to meet the

definition of a manufacturer provided in Occupations Code §2001.002(16)(B). This section states the following in pertinent part:

Manufacturer means “a person who . . . adds to . . . bingo equipment . . . to further its promotion or sale for or use in a bingo game. . . .”

The definition does not limit the type of addition that a manufacturer might make to bingo equipment other than to specify that the addition should be to “further the promotion or sale of the equipment.” Your company plans to add to bingo product/equipment by attaching its guarantee of performance. Generally, the addition of a guarantee benefits a customer. Such an addition aims to further an item’s promotion or sale.

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### **SUMMARY**

Consistent with Occupations Code §2001.002(16)(B) and Bingo Advisory Opinion #2004-0322-00007, an organization that adds a guarantee of performance to bingo equipment to further its promotion or sale is a “manufacturer.”

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretive of the Internal Revenue Code. The information provided is completely limited to the context of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

This advisory opinion is based on the laws, rules and regulations in effect at the time of its issuance. All of the information provided herein is subject to change in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue and to the facts presented in the request. Therefore, this opinion must not be relied upon as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Yours truly,

William L. Atkins, Director  
Charitable Bingo Operations Division

cc: C. Tom Clowe, Jr., Chairman  
James A. Cox, Jr., Commissioner  
Rolando Olvera, Commissioner  
Kimberly L. Kiplin, General Counsel