

G. Tom Clowe, Jr.  
Chairman

James A. Cox, Jr.  
Commissioner

Rolando Olvera  
Commissioner



# TEXAS LOTTERY COMMISSION

Reagan E. Greer, Executive Director

William L. Atkins, Director Charitable Bingo Operations

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OPINION COMMITTEE

March 17, 2004

FILE # ML-43584-0  
I.D. # 43584

The Honorable Greg Abbott  
Office of the Attorney General  
PO Box 12548  
Austin, TX 78711-2548

RQ-0198-GA

Dear General Abbott:

Pursuant to the authority granted under Texas Government Code, Section 402.042, this is a request for an Attorney General Opinion regarding the application and meaning of Chapter 2001 of the Texas Occupations Code ("Chapter 2001"). Specifically, the first question presented by the Commission in this request for an opinion is whether Chapter 2001 authorizes or prohibits the operation, in Texas, of the Bingo TV Network as described in the attached letter submitted by Bingo TVNet Corporation (Attachment A)<sup>1</sup>. The second question presented by the Commission in this request for an opinion is whether the activity described by Bingo TVNet Corporation is a legal "sweepstakes" under Texas law.

**First Question Presented:** Bingo TVNet Corporation does not hold a license to conduct bingo issued by the Texas Lottery Commission. Therefore, notwithstanding any of the general bingo licensing requirements, and while other provisions may apply, the question presented may be focused best on Section 2001.551 which sets forth the elements of "Unlawful Bingo".

**Second Question Presented:** Regarding the sweepstakes question, the Bingo Enabling Act is silent. Thus, the question may be impacted by other law.

Thank you for your attention to this matter. Should you have any questions, please contact the Commission's General Counsel, Kimberly L. Kiplin, at (512)344-5113.

<sup>1</sup> It may be noted that Attachment A is a "request for an advisory opinion" pursuant to Section 2001.059 of the Bingo Enabling Act, Texas Government Code, Chapter 2001. Subsection (e) provides that the Commission may request an Attorney General Opinion on a matter that is the subject of an advisory opinion request.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Clowe, Jr.", with a large, sweeping flourish at the end.

C. Tom Clowe, Jr.  
Chair, Texas Lottery Commission

cc: Commissioner James A. Cox, Jr.  
Commissioner Rolando Olvera  
William L. Atkins, Director, Charitable Bingo Operations Division



February 3, 2004

Mr. William Adkins  
Director, Bingo Division  
Texas Lottery Commission  
PO Box 16630  
Austin, TX 78761-6630  
Dear Mr. Adkins:

Bingo TVNet Corporation hereby requests that the Texas State Lottery Commission issue a Advisory Opinion with respect to the legality of BingoTV Network within the context of Texas bingo statutes. At present the BingoTV telecast is blacked out to all potential viewers in the state. Further, Texas residents are, by the rules of the game, prohibited to win any BingoTV prizes.

**Description of the Game**

BingoTV is a broadcast promotion sponsored by Bingo TVNet Corporation, and presently delivered via Dish Network channel 104. Channel 104 is available free of charge to all Dish Network subscribers.

There is no purchase necessary to play BingoTV. Members of the public can obtain game cards (Exhibit #1) without charge by sending a stamped self addressed envelope to a designated post office box. Each game face contains 49 numbered spaces that are formed by the intersection of seven vertical and horizontal columns. A free block occupies the center space and the card is constructed so that three BingoTV game faces can be simultaneously played. Cards are usable for all games played until the card's expiration date. Viewers mark their cards with pennies or other household items.

Bingo TV will conduct the Game using 99 numbered balls, which are selected randomly from an approved bingo device. Viewers who successfully complete the designated pattern call a toll free number within two minutes after having achieved "bingo". The bingo is

validated by computer using a unique serial number which appears on the cards' face. During the two minute period after the calling of the ball which caused the first bingo(s), but before those bingos are validated, additional numbers may be drawn. If these additional balls also create winners, those players will also have two minutes from the time of the call of the ball that gave them bingo to claim their win. Multiple winners will each win the same prize. Once the first bingo is validated, no further numbers will be called. Various cash and merchandise prizes will be offered from game to game and the prizes will vary in nature and value over time.

Persons not subscribing to Dish Network will be permitted to play simultaneously online at [www.bingotv.com](http://www.bingotv.com) where called numbers will be posted in real time. Online winners will also call the toll free number to register their claims of bingo.

Bingo TVNet Corporation believes that its games are consistent with the definition of a legal "Sweepstakes" under Texas statute. Further, we believe that our game is consistent with all other mass market sweepstakes type promotions.

Please accept our thanks for your attention to this matter. Please let us know what other information we may provide to assist in your evaluation. You may phone me at 720-217-3224, or email at :

Sincerely,



Ira Bähr  
President  
Bingo TVNet Corporation

cc: M. Schwimmer, K. Tolle