

Review of the relationship between the APPU Bureau and the APP Cooperative

(Document facilitated by the Bureau, in consultation with Chair of APP Cooperative, and prepared by the Consultant for the APPU/UPU Reform Working Group)

1. Subject	References/paragraphs
Informing APPU members, through the APPU/UPU Reform Working Group, on: <ul style="list-style-type: none"> - the background to the seeking of a legal opinion regarding the relationship between the Bureau and the APP Cooperative when matters of financial or other liability arise - the outcome of the legal opinion that has been obtained and that the issue is now considered completed and closed - an unrelated residual matter highlighted by the external lawyer engaged for the review in relation to APP Cooperative compliance with Singapore Law 	§ 1 § 2 § 4
2. Decisions expected The EC is asked to: <ul style="list-style-type: none"> - note the background to seeking of a legal opinion regarding the relationship between the Bureau and the APP Cooperative when matters of financial or other liability arise - note that the legal opinion is clear-cut in terms of the Bureau not being liable for any financial or other issues giving rise to liability - note that the Chair of the APP Cooperative has been kept informed throughout the process and that both parties now consider the liability issue to be completed and closed - note that the APPU/UPU Reform Working Group will report separately on the unrelated residual matter highlighted by the external lawyer in relation to APP Cooperative compliance with Singapore Law 	§ 1 § 2 § 3 § 4

1. Introduction

1.1 This document reports on a review of the relationship between the APPU Bureau (“Bureau”) and the APP Cooperative (“APP”).

1.2 The review was initiated following the 2018 Da Nang EC meeting. The APPU/UPU Reform Working Group (“Reform WG”) in its review of three of the Union’s entities (RTCAP, APP, Bureau) was uncertain regarding the liability of the Bureau for any financial or other issue giving rise to legal action in the APP.

1.3 The key action (review) was a legal opinion arranged by the Bureau using an external lawyer. The lawyer selected (Mr Peeraphol) was based in Bangkok and had previously undertaken work for the Bureau.

2. The legal opinion

2.1 Mr Peeraphol established five Essential Matters as the basis for examining the relationship between the two entities. These were:

- authority to establish and disestablish the organization;
- objectives or purposes of the organization;

- the independent operation of the organization in terms of management, decision-making, and voting on resolutions;
- operating funds and status of members; and
- line of supervision, reporting of work and authority to review the report.

2.2 For all five of the Essential Matters that formed the basis of the assessment, the conclusion was very clear i.e., the Director of the APPU Bureau is not liable for any legal issues or problems that the APP encounters. There were no areas where judgement or interpretation had to be made. The outcome was clear-cut.

3. Dealing with the outcome of the review

3.1 When the legal opinion was completed, it was processed by the Reform Consultant in terms of assessment, summary of findings and briefing key parties. This was done in the interests of neutrality. Both the Bureau and the Chair of the APP Cooperative were provided with all external and internal documentation.

3.2 Neither the Bureau nor the APP Cooperative have raised any questions or requested further work to be done. Accordingly, the review of the relationship between the Bureau and the APP Cooperative in terms of liability is now closed.

4. Unrelated residual matter

4.1 While the situation under Thai law has been clarified in terms of the liability position for the Bureau re the APP Cooperative, Mr Peeraphol advised that “the APPU should seek to understand the law of Singapore on the question of whether the APP is required to register in any form to comply with Singapore law. This is to ensure that the APP’s operations are in line with the organization’s (i.e., the APPU) intentions (i.e., properly established and compliant with all external agencies and regulations), as well as being set up in a manner that will avoid potential legal issues in the future”.

4.2 To be clear, this residual matter is not something that is of prime concern to the Bureau. Rather, it is a matter that sits with the Union in terms of being satisfied that one of its organs is properly established and compliant with all business operating conditions and requirements in Singapore.

4.3 In terms of a way forward, the Union (EC) needs to decide what it wishes to do. The options for the EC are:

- (i) request the APP Cooperative to furnish an authoritative report on its compliance with business establishment and operational requirements in Singapore; or
- (ii) note the legal opinion and take no further action.

4.4 Discussion of this matter is necessary to see if there are any other views, options or information that should be taken into account prior to seeking a decision from the EC. This discussion will be undertaken during the Reform WG meeting in Tokyo, and will be reported on in a separate document.