

# Regulation of Modern Stores Business Licensing after the Implementation of the Online Single Submission (OSS RBA) System in Buleleng Regency

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## Abstract

This research focuses on the regulation of modern stores business licensing after the implementation of the Online Single Submission Risk-Based Approach (OSS RBA) system, particularly concerning the minimum distance requirements between modern stores and traditional markets as stipulated in Peraturan Daerah No. 10 Year 2013 about the Structuring, Development, and Protection of Traditional Markets, Shopping Centers, and Modern Stores in Buleleng Regency. There are cases where modern retail stores have violated the distance provisions despite having obtained a Business Identification Number. This study employs empirical legal research methods with a juridical analysis approach, supported by primary data obtained through interviews, which are then qualitatively analyzed and linked to legal theories, literature, and applicable laws and regulations. The regulation of business licensing for modern retail stores following the implementation of the OSS RBA system is governed by Peraturan Pemerintah No. 5 Year 2021 concerning the Implementation of Risk-Based Business Licensing. Specifically, the structuring of traditional markets, shopping centers, and modern retail stores in Buleleng Regency is regulated under Peraturan Daerah No. 10 Year 2013. The implementation of the OSS RBA system has not accommodated the minimum distance provisions between modern retail stores and traditional markets, resulting in legal violations.

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## Introduction

One of the indicators of community welfare is the economic sector (Nurianto, 2019). The development of the national economy requires effective management by the government. As a national effort to improve the welfare of the people, national development is not solely the responsibility of the government, but also the collective responsibility of all Indonesian citizens (Suardana, Mahendrawati & Astuti, 2020). Investment is one of the main drivers of economic growth. Investment activities contribute to capital stock accumulation, which in turn enhances productivity, drives economic growth, and creates employment opportunities (Khakim, 2022).

One increasingly popular form of domestic investment is the establishment of modern stores. In Buleleng Regency, there are currently 175 modern stores, both chain-affiliated and independent. The legal framework governing the arrangement of traditional markets, shopping centers, and modern stores in Buleleng Regency is regulated under Peraturan Daerah Buleleng Regency No. 10 Year 2013 concerning the Structuring, Development, and Protection of Traditional Markets, Shopping Centers, and Modern Stores in Buleleng Regency (Perda No. 10 Year 2013).

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One key provision stipulated in Perda No. 10 Year 2013 is the regulation of the minimum distance between modern stores and traditional markets. Article 11 of the regulation clearly mandates that the distance between shopping centers and/or modern stores and traditional markets must be at least 500 meters. This distance requirement is essentially intended to protect traditional market traders. Traders often fear competition from modern stores, which tend to offer a broader range of products, competitive pricing, and greater comfort. This may lead a portion of Indonesian society to shift away from cultural traditions toward a more practical and modern lifestyle characterized by reduced social interaction (Assauri, 2011). In accordance with Article 5 paragraph (1) of the Peraturan Menteri Perdagangan Republik Indonesia No. 23 Year 2021 concerning Guidelines for the Development, Structuring, and Supervision of Shopping Centers and Supermarkets (Permendag 23 Year 2021) the determination of the distance between shopping centers and supermarkets and traditional markets or stores falls under the authority of the respective local government.

Following the implementation of the OSS RBA system, and in line with the provisions of Peraturan Pemerintah No. 5 Year 2021 concerning the Implementation of Risk-Based Business Licensing (PP No. 5 Year 2021), modern stores classified under the Indonesian Standard Industrial Classification (KBLI) code 47111 — titled Retail Sale of a Variety of Goods Mainly Food, Beverages, or Tobacco in Minimarkets/Supermarkets/Hypermarkets — are categorized as low-risk businesses. As low-risk businesses, and pursuant to Article 12 of PP No. 5 Year 2021, modern stores only require a Business Identification Number (NIB) for both the preparation and operation phases of the business. This means that once the NIB is obtained, modern store operators may commence their business preparation and/or operational activities. However, despite the automatic issuance of NIB through the OSS RBA system, cases have been found where modern retail stores holding valid NIB violate the minimum distance requirements stipulated in Perda No. 10 Year 2013. For example, a conflict has arisen regarding the proximity of a modern store to a traditional market in Buleleng Regency. A public complaint was received by the Buleleng Investment and One-Stop Integrated Services Office concerning the establishment of a modern store adjacent to the Ringdikit Market in Seririt District, Buleleng Regency, which fails to comply with the minimum distance provision. Notably, this store already possesses a valid business license issued through the OSS RBA system.

Based on the background, this paper seeks to address the following research questions: (1) How is business licensing for modern retail stores regulated following the implementation of the Online Single Submission Risk-Based Approach (OSS RBA) system in Buleleng Regency? (2) What are the implications of the OSS RBA system implementation on the regulation of minimum distance requirements between modern retail stores and traditional markets in Buleleng Regency?

## Method

This study employs an empirical legal research method. Empirical legal research views law as a social institution that is inherently linked to other social variables. Law is perceived as an empirical social phenomenon, examined as an independent variable that exerts influence and produces effects across various aspects of life. In this context, law is not only understood as a normative concept but also as a tangible social reality. The data sources used in this thesis consist of primary and secondary data, collected through interviews, questionnaires, and observations—either conducted simultaneously or separately. The collected data is then analyzed using a qualitative approach, connecting the findings to the research discussion. The results are presented descriptively, based on both the written words and observed behaviors.

## Results and Discussion

### **Business Licensing of Modern Stores After the Implementation of the Online Single Submission Risk-Based Approach (OSS RBA) System in Buleleng Regency**

Regulation of Business Licensing for Modern Stores After the Implementation of the Online Single Submission Risk-Based Approach (OSS RBA) System in Buleleng Regency

Licensing is one of the government's functions in regulating and controlling activities carried out

by the public (Sutedi, 2011). A license, as a legal instrument, serves as a tool to direct, control, engineer, and design a just and prosperous society. Accordingly, the conditions embedded in a license function as mechanisms of legal control (Ridwan, 2002). The implementation of legal provisions requires authority to issue concrete juridical decisions. Therefore, a license, as a juridical and concrete decision, must be based on the authority granted by legislation (Saija, 2014).

Following the enactment of the Undang-Undang Cipta Kerja and the implementation of the OSS RBA system—which refers to the provisions of PP No. 5 Year 2021 and PP. No. 6 Year 2021, the Regional Government of Buleleng Regency issued Peraturan Daerah No. 1 Year 2023 on the Implementation of Business Licensing in the Region (Perda No. 1 Year 2023) which revoked Perda No. 2 Year 2013 and Perda No.3 Year 2017 to align regional licensing practices with national regulations. The authority for organizing business licensing in Buleleng Regency is delegated to the Investment and One-Stop Integrated Services Office (DPMPTSP) in accordance with Peraturan Bupati No. 21 Year 2022 on the Delegation of Authority for Organizing Business Licensing and Non-Licensing Services from the Regent to the Head of DPMPTSP (Perbup No. 21 Year 2022) which simultaneously revoked Perbup No. 59 Year 2020. Thus, the legal framework for business licensing is based on PP No. 5 Year 2021, PP No. 6 Year 2021, Perda No. 1 Year 2023 and Perbup No. 21 Year 2022.

In addition to its impact on the regulation of business licensing, the enactment of the Undang-Undang Cipta Kerja also affects the regulation of trade activities. The organization of trade activities is governed by Peraturan Pemerintah No. 29 Year 2021 on the Organization of the Trade Sector (PP No. 29 Tahun 2021) and further regulated by Permendag 23 Year 2021. The regulation on the minimum distance between modern stores and traditional markets after the implementation of the OSS RBA system is outlined in Article 5(1) Permendag No. 23 Year 2021 which states: “The distance between shopping centers and modern stores and community markets or traditional retail stores as referred to in Article 3 letter c shall be determined by the local government”. Accordingly, referring to this regulation, the minimum distance provision as regulated in Article 11 of Perda No. 10 Year 2013 does not contradict higher regulations following the implementation of the OSS RBA system.

Referring to the principle of legal preference, specifically the *lex superior derogat legi inferiori* principle—which states that higher laws override lower ones—the licensing provisions regulated under Perda No. 10 Year 2013 can no longer be applied, as the issuance of business licenses for modern stores is now governed by PP No. 5 Year 2021. Hierarchically, government regulations rank higher than regional regulations under UU No. 12 Year 2011 thereby requiring compliance with PP No. 5 Year 2021.

Although several legislative changes in the field of risk-based business licensing and trade regulation have invalidated the foundation for Perda No. 10 Year 2013 the specific provision regarding the minimum distance between modern stores and traditional markets remains accommodated. This is in line with Hans Kelsen’s theory, which states:

*“The unity of these norms is constituted by the fact that the creation of the norm—the lower one—is determined by another—the creation of which is determined by a still higher norm, and that this regressus is terminated by a highest, the basic norm which, being the supreme reason of validity of the whole legal order, constitutes its unity (Kelsen, 2009)”*

Based on Kelsen’s statement, all legal norms are interconnected and structured hierarchically. Lower-level norms must conform to higher-level ones. At the top of this hierarchy is the basic norm, which serves as the foundation for the legitimacy of the entire legal system. Additionally, the legal preference principle known as *lex specialis derogat legi generali*—which means that a specific law overrides a general one—also applies. Based on the hierarchy of legislation, the regulation on minimum distance is considered a more specific provision compared to more general licensing regulations.

#### Implementation of Business Licensing for Modern Stores After the Enactment of the Online Single Submission Risk-Based Approach (OSS RBA) System in Buleleng Regency

Before the implementation of the OSS RBA system, modern store entrepreneurs were required to obtain several business permits, namely the Principle Building Approval/Principle Permit, Environmental Permit, Building Construction Permit (IMB), Trading Business License (SIUP), and Company Registration Certificate (TDP). According to legal regulations, the application and issuance of

business permits in Buleleng Regency prior to the OSS RBA system referred to Perda No. 2 Year 2012 and Perda No. 3 Year 2017. As discussed previously, specific provisions regarding modern stores are regulated under Perda No. 10 Year 2013. However, in practice, according to Ni Putu Gitarani Cahaya Putri Wijaya, a Junior Licensing Expert at the Buleleng Investment and One-Stop Integrated Services Office (DPMPTSP), "In implementation, modern store entrepreneurs were required to obtain a Principle Building Approval/Principle Permit before applying for SIUP and TDP". In the field verification of the Principle Building Approval/Principle Permit conducted by the Technical Team, the verification process adhered to the applicable laws and regulations, including the technical requirements for establishing modern stores as stipulated in Perda No. 10 Year 2013. The result of the field verification was documented in a Field Inspection Report that outlined whether the business activities complied with technical regulatory provisions. If compliant, the Principle Building Approval/Principle Permit would be issued. In addition, modern store business identification was listed in the SIUP, which included the KBLI code. Thus, before the OSS RBA system was enforced, the types of licenses required by modern store entrepreneurs included the Principle Building Approval/Principle Permit, Environmental Permit, IMB, SIUP, and TDP. After the issuance of these five permits, the DPMPTSP never issued a Modern Store Business License (IUTM). Based on this, the implementation of Perda No. 10 Year 2013 applied only to technical arrangements for establishing modern stores and did not include IUTM as a required permit for modern store entrepreneurs.

Following the enactment of the UU Cipta Kerja and its implementing regulations, business licensing is now conducted through an integrated electronic system—the OSS RBA. Business licensing in Buleleng Regency is governed by PP No. 5 Year 2021, PP No. 6 Year 2021 and Perda No. 1 Year 2023. Under these regulations, business licensing is determined based on risk levels, which subsequently define the type of Business License required as legal authorization for entrepreneurs. The classification of business types and risk levels is outlined in Annex I of PP No. 5 Year 2021 issued by the Central Government. The types of business licenses are described in Articles 12 through 15 of the same regulation, which state that the form of business licensing can include a Business Identification Number (NIB), Standard Certificate, or License, depending on the risk level. For low-risk businesses, an NIB alone allows entrepreneurs to begin business preparation and operations.

Modern store business activities are one of the types managed through the OSS RBA system following the enactment of the Undang-Undang Cipta Kerja and its implementing regulations. According to data from DPMPTSP Buleleng for the years 2021 to 2024, there were 205 modern stores under KBLI code 47111, titled "Retail Trade of Various Goods Primarily Food, Beverages, or Tobacco in Minimarkets/Supermarkets/Hypermarkets." These stores, whether micro, small, medium, or large-scale businesses, are classified as low-risk. According to PP No. 5 Year 2021 low-risk modern stores are only required to have an NIB to prepare and operate their business. Once the NIB is issued, modern store entrepreneurs may begin business operations as long as their activities continue.

The principle of *wetmatigheid van bestuur* asserts that every government action must have a strong legal basis. The government may only act within the scope permitted by prevailing laws and regulation (Jumadil, Setiawan, Maroa, Harianto & Rays, 2023). Licensing, as a form of government authority, is regulated under Article 3 of PP No. 6 Year 2021 which states, "Business Licensing in the regions shall be carried out by the Central Government, Provincial Governments, and Regency/Municipal Governments in accordance with their respective authorities based on the provisions of laws and regulations." These refer to the risk-based business licensing provisions in PP No. 5 Year 2021. The type of license and its authority are listed in Annex I of the regulation. Article 6(4) further stipulates, "The KBLI code/related KBLI, KBLI title, activity scope, risk parameters, risk level, Business Licensing, duration, validity, and authority as referred to in paragraph (3)(a) are included in Annex I and form an inseparable part of this regulation."

The authority of regents or mayors to manage business licensing in their regions can be delegated. According to Article 5 of PP No. 6 Year 2021, the authority of regents can be delegated to the head of DPMPTSP. In Buleleng, this delegation is regulated by Perup No. 21 Year 2022. However, the regional government's authority is limited, as Article 21 of PP No. 5 Year 2021 mandates that Norms, Standards, Procedures, and Criteria (NSPK) for risk-based business licensing in each sector are set by the Central Government and must serve as the single reference for implementation by both central and regional

governments. The Central Government's control over NSPK reduces local autonomy, and regional governments are not involved in drafting or determining them. Nonetheless, they are obligated to comply (Jumadil, *et al.*, 2023).

The authority for modern store business licensing, as stated in Annex I of PP No. 5 Year 2021 is granted to regents or mayors, meaning that such authority is given by law. In practice, this licensing is delegated to the head of DPMPTSP, as stipulated in Perbub No. 21 Year 2022. Theoretically, this involves both attributed and delegated authority. However, under the OSS RBA system, modern store licenses are automatically issued as NIB, signed electronically by the Minister of Investment/Head of BKPM, without any field verification by regional governments. As a result, technical requirements from Perda No. 10 Year 2013 are disregarded.

The authority given to regional governments to conduct business licensing is a reflection of the decentralization principle in Article 18 of the 18 UUD NRI Year 1945. Decentralization enables local governments to handle administrative matters delegated by the central government. Rondinelli emphasized that decentralization aims to enhance the capacity of regional governments in providing public goods and services and improving local economic development (Cruz, 2023). However, the process of issuing modern store licenses does not reflect this decentralization concept; in fact, the authority seems to have been taken over by the central government. NSPKs are set by the central government, and even the issuance of NIBs is conducted by the OSS institution and signed by the Minister of Investment.

In theory, regional authority in licensing modern stores represents both attributed and delegated authority. In attribution, responsibility lies with the recipient of the attribution; in delegation, with the recipient of the delegation. In this case, the licensing process fails to reflect either theory. Authority—whether in the form of attribution, delegation, or mandate—must stem from legal rules to legitimize regulatory actions. Without proper authority, no legally valid decision can be issued (Thalib, 2006).

One of the goals of law is to provide the greatest benefit and happiness to as many people as possible (Mertokusumo, 2011). The enactment of the Undang-Undang Cipta Kerja and its implementing regulations in licensing represents a legal framework that must be observed by all citizens. From a utilitarian perspective, a good law is one that brings benefit. The measure of legal utility is the happiness it provides to the greatest number (Darmodihardjo, 1990).

Jeremy Bentham argued that the law is correct if it can provide happiness for the majority of the society where the law exists (*the greatest happiness of the greatest number*). The value of usefulness found in individuals gives rise to individual happiness (*happiness of individual*) and community (*happiness of community*). In this case, the greatest benefit is felt by modern store entrepreneurs in the licensing process. From application to issuance, the entire process is conducted through the OSS RBA system. This minimizes opportunities for illegal fees and corruption that often occurred in manual licensing systems. Furthermore, post-OSS RBA, modern store licensing consists of only one requirement: an NIB, which remains valid as long as the business operates. This significantly simplifies the investment process for modern store entrepreneurs. However, with these conveniences, entrepreneurs are still obliged to fulfill business commitments.

One benefit of the OSS RBA system is that it helps accelerate employment. According to DPMPTSP data, modern store businesses in Buleleng have absorbed a total of 871 workers. This aligns with Bentham's utilitarian theory, which views employment generation as a way to provide sustenance, abundance, security, and equity—key aspects of achieving happiness in society.

### **The Impact of the Implementation of the Online Single Submission Risk-Based Approach (OSS RBA) System on the Regulation of Minimum Distance Between Modern Stores and Traditional Markets in Buleleng Regency**

The Impact of Business Licenses Issued Through the OSS RBA System That Do Not Comply with Minimum Distance Regulations Between Modern Stores and Traditional Markets in Buleleng Regency

Regional governments do not play a role in the issuance process of the Business Identification Number (NIB) for modern stores conducted through the OSS RBA system. The application is

submitted independently by the entrepreneur, and once the entrepreneur agrees to the self-declaration provided in the OSS RBA system, the NIB can be automatically issued by the OSS Institution with an electronic signature from the Minister of Investment/Head of the Investment Coordinating Board. The authority granted to regional governments is focused on supervising entrepreneurs after the issuance of the NIB, particularly in monitoring the fulfillment of commitments and basic requirements of business licensing that were agreed upon by the entrepreneur prior to the NIB issuance through the OSS RBA system. The authority for supervising business licensing is regulated in Article 213 paragraph (1) of PP No. 5 Year 2021 yaitu," which states: "Risk-Based Business Licensing Supervision is carried out by the Central Government, Regional Governments, Administrators, Special Economic Zone (SEZ) Authorities, and/or Free Trade Zone and Free Port Authorities according to their respective authorities."

In January 2024, the Investment and One-Stop Integrated Services Office (DPMPTSP) of Buleleng Regency received an anonymous complaint concerning the operation of a modern store located right next to the Ringdikit Traditional Market. The complaint specifically pointed out a violation of the minimum distance regulation between modern stores and traditional markets, as stipulated in Article 11 of Perda No. 10 Year 2013. According to the DPMPTSP database, the modern store in question had already obtained a Business Identification Number (NIB), which was issued through the OSS-RBA system in June 2023. Since the implementation of the OSS-RBA system, business actors have been independently applying for licenses in accordance with the procedures under PP No. 5 Year 2021 and must agree to a self-declaration. The modern store is categorized as a low-risk business, hence the NIB was issued automatically through the OSS-RBA system without any on-site verification from the regional government.

In response to the complaint, Ni Putu Sandra Paramitha, Intermediate Expert Investment Management Officer at DPMPTSP Buleleng, stated that DPMPTSP, in accordance with its duties, coordinated with the Department of Trade of Buleleng Regency as the related regional apparatus to conduct a technical review and incidental supervision of the modern store's compliance with the business activity criteria and standards. During the incidental inspection, the business owner explained that they understood the current licensing process to be carried out independently through the OSS-RBA System. Basic requirements could be fulfilled afterward, and obtaining the NIB already allowed them to start operations.

Based on the results of the incidental supervision, as documented in the Supervision Report, it was found that the modern store did not meet the minimum distance requirement from traditional markets as mandated by Perda No. 10 Year 2013. However, DPMPTSP could not unilaterally revoke the issued NIB. As the holder of access rights to submit a revocation request, Ni Putu Sandra Paramitha clarified that although NIB revocation can be initiated based on public complaints, it must be followed by a legally binding court decision. Only then can DPMPTSP submit a revocation request to the OSS Institution through the OSS-RBA system.

DPMPTSP did not immediately request the NIB revocation because such action requires a court ruling with permanent legal force. This requirement is in accordance with Article 15 paragraph (1) of the Peraturan Badan Koordinasi Penanaman Modal No. 5 Year 2021 on Guidelines and Procedures for Risk-Based Business Licensing Supervision, which states:

"The OSS Institution, provincial DPMPTSP, regency/city DPMPTSP, KPBPB management agency, or KEK administrator, according to their authority, may take administrative action based on:

- a. a request from the Business Actor; or
- b. a court decision with permanent legal force."

Although the NIB for the Ringdikit modern store was not revoked, to maintain a sense of justice for traditional market traders, DPMPTSP advised the modern store operator to meet certain obligations. These included adjusting operating hours, collaborating with local MSMEs by selling their products in the store, and fostering good relationships with the surrounding community.

A license is an official approval granted by the government or authorized institution to an individual or legal entity to carry out a specific activity. It establishes a legal relationship between the licensing authority and the license holder, which generates legal consequences. These consequences are the legal effects that arise from a legal act or event involving legal subjects (Mas, 2003). Legal consequences emerge from this legal relationship, which contains rights and obligations for both parties (Dirdjosisworo, 2010).

A license, as a form of State Administrative Decision (KTUN), is a written determination issued by a government administrative body or official, containing administrative legal actions based on applicable laws and regulations. It is concrete, individual, and final, producing legal consequences for a person or legal entity (Tumadi, 2023). According to E. Utrecht, a valid KTUN must meet four conditions (Utrecht, 1960):

The decree must be made by the authoritative (*bevoegd*) (making)

Because the decree is a statement of will (*wilsverklaring*), the formation of the will must not contain any legal deficiencies (*geen juridische gebreken in de wilsverklaring*).

The decree must be given a form (*vorm*) that is determined in the regulation that is the basis and the maker must also pay attention to the method (*procedure*) of making the decree, if the method is firmly determined in the basic regulation.

The content and purpose of the decree must be in accordance with the content and purpose of the basic regulation

According to Article 1 point 9 of Undang-Undang No. 51 Year 2009 (Second Amendment Undang-Undang No. 5 Year 1986 on State Administrative Court) a valid KTUN must fulfill the following elements (Putra, 2020):

Written determination;

Issued by a government administrative or official TUN;

Contains administrative legal action TUN;

Based on prevailing laws and regulations;

Concrete, individual, and final in nature;

Produces legal consequences for a person or private legal entity.

In the case of the NIB issuance through the OSS-RBA system, it can be said that the process fulfilled the criteria of a KTUN. However, the issue lies in the violation of the minimum distance requirement between modern stores and traditional markets, which raises questions about the legitimacy of the KTUN despite the NIB issuance.

E. Utrecht identifies three types of legal consequences from decisions: void, void by law, and voidable (Utrecht, 1960). A KTUN can be annulled and declared invalid through legal remedies and procedures established in the law. These remedies include (Munawaroh, 2022):

Administrative Remedies

These are legal actions taken by individuals or private legal entities to appeal against a KTUN perceived as detrimental. They include:

a. Objection, submitted to the administrative authority that issued the decision.

b. Administrative Appeal (*Administrative Bereop*), which is a review request within the administrative structure to correct or annul the decision if an error or injustice is found.

Lawsuit to the State Administrative Court

A person or legal entity may file a lawsuit against a KTUN if administrative remedies fail or are

unavailable. A lawsuit can be filed if:

Administrative settlement efforts have been attempted without success;

The applicable regulation allows direct objection to the court;

The regulation mandates prior objection or appeal, and the appeal has been decided, allowing further legal action through the State Administrative Court of Appeal.

To ensure justice and legal certainty in law enforcement, those seeking justice in a conflict may file their case in court while upholding legal principles with wisdom and prudence (Ali, 2008).

Simply put, a business license is a government instrument to approve or reject business activities carried out by its citizens. However, under the OSS-RBA system, particularly for low-risk business licensing, it seems that regional governments are unaware of or do not approve such licenses, even though they are granted authority by statutory regulations.

NIB is issued solely based on the business actor's self-commitment. Only after the issuance of the business license does the regional government play a role—within its authority—to supervise the fulfillment of commitments agreed upon by the business actor. This contrasts with the process of issuing modern store business licenses, where supervision by the regional government reflects the principle of decentralization. In addition to being regulated in Annex I PP No. 5 Year 2021, the regional government's supervisory role is reinforced in Article 5 of PP No. 6 Year 2021 which states that the authority for supervising business licensing in the regions is delegated by the regent/mayor to the Head of the Investment and One-Stop Integrated Services Office (DPMPTSP) at the district/city level.

This delegated authority must be exercised according to the principles of *rechtmatigheid* (legality) and *doelmatigheid* (effectiveness in achieving goals) (Hadjon, 2007). The principle of *rechtmatigheid* requires that the delegated authority be used in accordance with applicable laws and regulations, ensuring that all supervisory actions have a clear and legitimate legal basis. Meanwhile, the principle of *doelmatigheid* emphasizes that the use of authority must be efficient and effective to fulfill the main objective of risk-based licensing: ensuring business compliance with regulations and minimizing risks to the environment and society.

The issuance of a NIB for a modern store that violates the minimum distance regulation from traditional markets in Buleleng Regency—as stipulated in Article 11 of Perda No. 10 Year 2013 can result in public complaints and legal challenges. However, in response to such complaints, the regional government cannot immediately revoke the NIB due to the procedures outlined in PP No. 5 Year 2021. All responsibility is placed on the business actor, especially since they have agreed to the following self-declaration clause: "I hereby declare that the data, information, and documents I have uploaded are true and in accordance with applicable laws and regulations, and I take full responsibility for said data and information. If it is later found that any data, information, or documents are false, I agree that all approvals/licenses issued shall be revoked or canceled by the government." Despite these self-declarations within the OSS-RBA System, the regional government has not taken a firm stance, even though Perda No. 10 Year 2013 provides for sanctions. Nevertheless, under PP No. 5 Year 2021, specific procedures must be followed before a NIB can be revoked.

According to PP No. 5 Year 2021, beyond obtaining a business license, business actors are also required to meet several basic licensing prerequisites, such as the Spatial Suitability Statement (KKPR), Environmental Approval, Building Approval (PBG), and Building Worthiness Certificate (SLF). The regional government should enforce these regulations more firmly to protect the rights of the public. In the case of a modern store operating near a traditional market, the rights of traditional market traders must be protected by the government. Among the obligations supervised by the regional government is the requirement to obtain a PBG. Thus, even if the regional government cannot enforce Perda No. 10 Year 2013 directly, it should apply sanctions based on regulations related to buildings.

According to Utrecht, legal certainty encompasses two aspects: first, the existence of general rules that allow individuals to know what is permitted and prohibited; second, legal protection from arbitrary government actions, as individuals are informed of what the state may or may not impose on them

(Syahrani, 2004). The overlapping of existing regulations, both of which remain valid, has created legal uncertainty for regional governments in law enforcement. On the other hand, this regulatory overlap also provides loopholes for business actors to commit violations. Even if they claim to be unaware of the minimum distance requirement in Perda No. 10 Year 2013, the legal fiction principle (*presumption iuris de iure*) states that once a regulation is promulgated, every individual is presumed to know its contents and is therefore bound by it. Ignorance of the law is not an acceptable defense.

According to Philipus M. Hadjon, legal protection for citizens can be preventive and repressive. Preventive legal protection aims to prevent disputes by encouraging careful and lawful government decision-making based on discretion. Repressive legal protection addresses existing disputes, including those resolved in court (Raharjo, 2000). Legal protection is a right for every citizen and a duty of the state, grounded in human dignity (Yasa, Styawati & Ujianti, 2022).

The NIB should ideally serve as preventive legal protection for modern store business actors. As a form of business legality, the NIB should prevent societal disputes by establishing that the business is legally approved by the government. However, when a NIB is issued in violation of minimum distance regulations between modern stores and traditional markets, it fails to provide such protection. Even though the NIB is legal proof for operating a business, when it contradicts other statutory provisions, the responsibility lies with the business actor. Responsibility in this context means being liable and subject to demands, lawsuits, or consequences (Yasa, Styawati & Ujianti, 2022). Therefore, such a decision by the government does not ensure legal certainty or provide adequate legal protection to modern store operators situated near traditional markets.

Repressive legal protection aims to resolve disputes or problems that have already occurred. The regional government's role concerning modern store operators with NIBs located near traditional markets is limited to monitoring and guidance. As previously explained, the regional government may not take direct administrative action as specified in Perda No. 10 Year 2013, because the licensing process for the modern store was in accordance with the risk-based licensing regulations. In the event of a dispute, the regional government merely facilitates resolution between the conflicting parties. This facilitation includes providing guidance to modern store operators to comply with conditions other than location requirements, such as collaborating with MSMEs, adhering to operational hours, and minimizing negative impacts on traditional market traders.

#### Challenges in Resolving Issues Arising from the Issuance of Modern Store Business Licenses Following the Implementation of the OSS RBA System in Buleleng Regency

DPMPTSP as the leading sector in licensing services in Buleleng Regency, has implemented the Central Government's directive to apply the OSS RBA (Online Single Submission Risk-Based Approach) system since August 2021. However, the implementation of this system has revealed several challenges for the regional government. According to Putu Sandra Paramitha, an Investment Management Officer, the obstacles in administering risk-based business licensing—especially in the case of licensing for modern store operations—include the following:

One of the main issues is the automatic issuance of business licenses for modern stores, particularly when such licenses violate the minimum distance requirements between modern stores and traditional markets in Buleleng Regency. This occurs because, under PP No. 5 Year 2021 for businesses classified as low-risk, a Business Identification Number (NIB) can be issued automatically once the business actor agrees to the self-declaration provided in the OSS RBA system. As a result, no prior verification is conducted by the regional government before the NIB is issued.

The ease of applying for business licenses through the OSS RBA system opens the possibility for business actors to submit inaccurate information and disregard technical regulations regarding the establishment of modern stores. These actors may assume their business is legally compliant merely because they possess an automatically issued NIB. Therefore, the public and business actors need to understand that technical provisions governed by related laws and regulations must be fulfilled. Business actors must also take responsibility for the self-declaration agreed upon before the NIB is issued. To minimize such issues, DPMPTSP has conducted outreach and educational campaigns in various villages across Buleleng Regency. These efforts aim to raise public legal awareness and enhance understanding of

the OSS RBA system and its procedures.

Another significant challenge lies in the limited capacity for comprehensive post-licensing supervision. Thousands of NIBs are issued annually, but the number of human resources allocated for supervision is inadequate. Currently, only eight personnel are assigned to the Investment Control and Monitoring Division responsible for conducting such oversight. Due to these limitations, the monitoring efforts have been prioritized for large-scale businesses and those classified as medium-high to high risk. This selective focus restricts the ability to effectively monitor lower-risk businesses, such as small-scale modern stores.

The challenges in issuing business licenses for modern stores are not exclusive to the Buleleng Regency Government. According to Ni Putu Gitarani Cahaya Putri Wijaya, a Junior Expert Licensing Officer at the Buleleng DPMPTSP, during a coordination meeting held by the Bali Provincial DPMPTSP with all regency-level DPMPTSP offices across Bali on May 7, 2025, it was revealed that every region in the province faces similar concerns. Specifically, the automatic issuance of business licenses for modern stores through the OSS RBA system—without prior verification by regional governments—was identified as a major issue. This automatic issuance of Business Identification Numbers (NIBs) has led to the proliferation of modern stores, often without considering the surrounding social conditions, particularly the welfare of traditional market vendors. As a result, traditional traders are at risk of suffering financial losses or even losing their livelihoods. In light of these concerns, the coordination meeting urged the Provincial DPMPTSP to raise these issues with the Central Government.

The challenges encountered by regional governments in managing modern store licensing reveal several critical legal weaknesses: first, The absence of local government verification in the issuance of business licenses for modern stores—despite the existence of minimum distance requirements between traditional markets and modern stores as regulated in Perda No. 10 Year 2013 highlights a deficiency in legal substance. For effective law enforcement, the substance of the law must be clear, unambiguous, and consistent. The OSS RBA system allows loopholes that potentially violate the minimum distance requirement stipulated by local regulations. Second, the ease with which business licenses are obtained through the OSS RBA system may lead business actors to disregard the technical requirements for establishing modern stores. This reflects a legal culture in which the public does not fully comply with legal norms, thereby making legal enforcement more difficult. Third, the shortage of human resources responsible for monitoring the implementation of business licensing underscores a structural weakness. This structural component refers to institutions, agencies, and law enforcement bodies that constitute the formal framework of the legal system and play a vital role in ensuring effective legal enforcement.

It is important to note that legal structure, legal substance, and legal culture cannot function independently. These three components are interconnected and mutually influential. The legal structure implements the legal substance, but the manner of its implementation is shaped by the prevailing legal culture. Well-formulated legal substance will be difficult to enforce if the supporting structure is weak or if the legal culture is not conducive. Conversely, a strong legal culture can drive improvements in both structure and substance.

## Conclusion

Based on the research discussion, it can be concluded that the regulation of business licensing for modern stores following the implementation of the Online Single Submission Risk-Based Approach (OSS RBA) in Buleleng Regency is governed by Peraturan Pemerintah No. 5 Year 2021 concerning the Implementation of Risk-Based Business Licensing. Specifically, the regulation regarding the arrangement of traditional markets, shopping centers, and modern stores within Buleleng Regency is stipulated in Peraturan Daerah No. 10 Year 2013 concerning the Structuring, Development, and Protection of Traditional Markets, Shopping Centers, and Modern Stores in Buleleng Regency. In this Regional Regulation, provisions related to the types and authority of licensing can no longer be applied, as they have been superseded by Peraturan Pemerintah No. 5 Year 2021 on Risk-Based Business Licensing. However, the technical regulation concerning the establishment of modern stores—particularly the minimum distance between modern stores and traditional markets—remains relevant as it does not

contradict higher-level legislation. Nonetheless, this provision cannot be enforced because, under the OSS RBA system, the issuance of a Business Identification Number (NIB)—as the form of business license for modern stores—is not subject to verification by the Regional Government, but is automatically issued by the OSS RBA system. As a result of the OSS RBA implementation, the NIB, which serves as the legal basis for operating a modern store, is issued automatically. The system does not accommodate the minimum distance requirements between modern stores and traditional markets as set out in Peraturan Daerah No. 10 Year 2013. Consequently, violations of the minimum distance provision have occurred.

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