

# E-Commerce Transactions: A Sharia Economic Perspective

Subhan M A Rahman  
*Faculty of Islamic Economic and  
 Business*  
*Sultan Thaha Syaifuddin Islamic State  
 University*  
 Jambi, Indonesia  
 subhan.mar@gmail.com

Fauzi Muhammad  
*Faculty of Syari'ah*  
*Sultan Thaha Syaifuddin Islamic State  
 University*  
 Jambi, Indonesia

**Abstract—** Buying and selling is mu'awadhah contract. The contract is carried out by the two parties, in which the first party and second party deliver the goods handed over in return, either in the form of money or goods. Where buying and selling online can streamline and streamline time so that one can make buying and selling with every person anywhere and anytime. All buying and selling over the internet is done without any face-to-face between his party, they base their buying and selling the above sense of trust with each other, so that the purchase agreement between the parties that occurred was done electronically. Based on the foundation of the rule Fiqih the buying and selling via online (internet) it is allowed, and valid, unless it is casuistry irregularities, manipulation, fraud and the like, it is also legal casuistry applied, which is forbidden. In the problem of buying and selling online, fiqh considers that the buying and selling in cyberspace allowed because mashlahah. Mashlahah is a benefit and harm refuse in order to maintain the goal of Personality. When e-commerce was seen as the withdrawal of trade in Islam, it may be analogous to that first seller is a merchant (Internet Service Provider or ISP), whereas buyers fondly called customer. Second, the object is to offer goods and services (such as the ordering as-salam) with a variety of information, profile, price list, seen pictures of goods, as well as the official company. And third, sighat (consent-qabul) performed with the payment gateway system or software support (authorities and monitors) for the acquirer, as well as useful for the onlin e service.

**Keywords—** *Islamic Economics, E-Commerce Transaction, Mashlahah*

## I. INTRODUCTION

The quick acceleration of communication and computer technology happening nowadays gives impact on changes in structure and culture in society. Even a new world which is commonly called cyberspace has been formed, where each individual has the right to interact with others without any restrictions. The aspect of human life which cannot be separated from the touch of technology is buying and selling transaction, through electronic media or known as electronic commerce (e-commerce) [1]. E-commerce uses internet facilities in all forms of transactions, without having to meet face to face and is based their transaction on trust. Through e-commerce all formalities in conventional transactions are minimized and consumers can collect and compare

information on goods and services freely without being limited by time and region (borderless) [2].

Nowadays, there have been a number of sites which trade their products. One of them is Forum Jual Beli (FJB) on the site [www.kaskus.co.id](http://www.kaskus.co.id) which has thousands of members, offering all kinds of goods and products at varied prices. Items and products such as; books, antiques, paintings, baby stuffs, clothing, shoes, motorized vehicles, electronic devices, computers, tickets (concerts and aircraft), household appliances, musical instruments, food, flora, fauna and others. Through e-commerce, like [www.kaskus.co.id](http://www.kaskus.co.id), the customers do their transaction. The buyers access the internet to the website, search for the desired item, after finding the items, they send the offers in the seller's page, call, or send a short message to the sellers. After that an agreement payment mechanism is chosen, then the payment via transferring done, even though there is a risk of fraud. This paper investigates intensively and comprehensively on the e-commerce practices from a sharia economic perspective in order to find out its legal status clearly.

## II. THE CONCEPT OF TRANSACTIONS VIA E-COMMERCE

In general, buying and selling means the sellers (Verkopen) ties themselves to the buyers (loper) to transfer an object in eigendom by obtaining a payment of a certain amount and in the form of money [3-4]. Meanwhile, E-commerce is a trading activity involving consumers, manufactures, service providers, and intermediaries using computer networks, namely the internet [5].

According to Gia Putra, E-commerce is a type of electronic buying and selling mechanism which focuses on individual-based buying and selling transactions using the internet (digital network-based technology) as a medium for exchanging goods or services between two institutions (business to business) and direct consumers (business to consumer), by passing space and time constraints that have been dominant [6].

In E-commerce, transactions don not not only occur between entrepreneurs and consumers, but also occurs with related parties:

1. Business to business: transactions that occur between companies, both buyers and sellers are a company and not individuals. Commonly, the transactions are carried out because they have already known each other and to establish cooperation between companies;
2. Business to customer: transactions are among companies and consumers (individuals). In this type of transaction, the products are disseminated, then consumers take the initiative to conduct transactions that are generally through the web system and producers must be prepared to receive a response;
3. Customer to customer: transactions are among individuals selling goods to each other;
4. Customer to business: this kind of transaction allows individuals to sell goods to the company;
5. Customer to government: buying and selling transactions are carried out between individuals and the government, such as, in paying taxes [7].

According to Budi Raharjo (2008), E-Commerce can be divided into several types; First, Business to Business (B2B), the characteristics are a). Trading partners, generally they have already known each other and have had a quite cooperation. Information is only exchanged with the business partner and the information sent can be arranged in accordance with the needs and the trust, b). Data exchange takes place continuously and periodically, for example every day and with the agreed data format. This is to facilitate the exchange of data for two entities which use the same standard, c). One of the business partners can take the initiative to send data without have to wait for the other business partner.

Second, Business to Consumer (B2C), the characteristics include a). Open for public, where information is distributed to public, b). Services provided are generally familiar in public by using the existing public services which have been enjoyed by people c). Service is provided by request. Consumers take the initiative to request and producers must respond to the request, d). The client / server approach is often used, where the assumption of the client (consumer) are taken by using a minimal (Web-based) system and server-side processing.

From these characteristics, it can be concluded that E-commerce is a way to shop or trade online or direct selling that utilizes Internet facilities where there are websites which provide "get and deliver" services. E-commerce can change all marketing activities and reduce operational costs for trading activities at the same time.

### III. E-COMMERCE TRANSACTION MECHANISM

Substantively the e-commerce transaction is a sale and purchase agreement that is relatively the same as conventional trading, because it contains the principle of consensualism, which means an agreement from both parties. This offer and acceptance is the beginning of an agreement between the two parties. Likewise, the process of offering and receiving online is not different from the process of bidding and receiving in general. The difference is only the media used in e-commerce transactions. It uses Internet media.

Article 19 of the ITE Law states that the parties making electronic transactions must use agreed electronic systems. Thus, before making an electronic transaction, the parties make an agreement on an electronic system that will be used to conduct transactions, unless they determine other transaction by the parties. The electronic transactions occur when the offer of the transaction sent by the sender has been received and approved by the recipient as specified in Article 20 paragraph (1) ITE Law.

Thus a new electronic transaction occurs if an offer is sent to the recipient and there is an agreement to accept the offer after the offer is received electronically. Article 20 paragraph (2) of the ITE Law states "The agreement of electronic transaction deals must be made with a statement of acceptance electronically". The next step after the agreement made is to make payment. Payments can be made by cash, transfer via ATM, credit card, or third party intermediaries such as joint account. When the payment has been completed, the item will be sent by the seller to the buyer using a shipping service. Shipping costs can be paid by the buyer or seller. It depends on the agreement of the parties.

Basically the process of buying and selling transactions electronically is not much different from the process of buying and selling transactions, however online buying and selling transactions have several stages, as follows [7]:

1. Supply. It is carried out by the sellers or business owners through a website on the internet. The sellers or business owners provide a storefront containing a catalog of products and services provided. People who access those website can look at the items offered.
2. Receipt. It depends on the offer. If the offer is via e-mail address, then receipt also via e-mail, because the offer is only intended for an e-mail address so that only the e-mail holder is addressed. Through the website, prospective buyers usually choose goods and if they are interested, the items will be saved until they are sure of their choice, then continue the payment step.
3. Payments. Direct or indirect payment, for example through internet facilities, but still relies on national finance, which refers to the local financial system. The classification of payment methods can be classified as follows: a). ATM model transactions, as transactions involving only financial institutions and account holders who will withdraw or deposit money from their respective accounts; b). Payment of two parties without intermediaries, which can be done directly between the two parties without intermediaries using their national money, c). Payment by a third party, generally it is a payment process involving debit, credit or check-in. The payment methods that can be used include: payment systems through online credit cards and checkin line payment systems [7].
4. Delivery, a process that is carried out after payment for items offered by the sellers to the buyers. In fact, the goods that are made as object of agreement are sent by the sellers to the buyers with the shipping fee as it is agreed.

Based on the E-commerce transaction process, it is known that the buying and selling process not only can be conducted conventionally, but also by internet media. It allows people who are far apart or in different locations are still able to make buying and selling transactions without bothering to invest time to meet each other directly. Thus, it increases the effectiveness and efficiency of time and costs among sellers and the buyers. Mechanically, E-commerce focuses on individual-based buying and selling transactions using the internet (digital network-based technology) as a medium of exchange of goods or services between two institutions (business to business) and direct consumers (business to consumer), which is able to pass over the space constraints and the time limit that had been the dominant problem for a long time.

#### IV. ISLAMIC HIGHLIGHTS OF THE TRANSACTIONS IN E-COMMERCE PRACTICES

On line trading, like off line trading, promises considerable profits in business. However, regarding legal status, there are halal and haram, legal and illegal ones. It truly depends on the intention, ability and system, and transactions mechanism carried out among the sellers and the buyers. When someone involves in buying and selling on line transaction, there are many temptations and challenges how to stay in the right corridors of Islam. As long as someone sells online in accordance with Islamic principles and is beneficial to others, the money obtained is a blessing is allowed, because the basic principle of all transactions forms are allowed as long as there is no argument that prohibits it.

In Islam, buying and selling, etymologically means taking and giving, while terminologically it means the transactions of assets with mutual transaction which aim to have mutual ownership. Online trading practices are allowed as long as there are no elements of usury, injustice, monopoly and fraud. The danger of usury (usury) (Surah Al-Baqarah [2]: 275, 279 and 278, QS.Ar-Rum [30]: 39, QS. An-Nisa [4]: 131). In the Prophet Muhammad SAW era, the online sale and purchase transaction did not exist, but the mode of transaction was the same, which must be fulfilled in the sale and purchase agreement.

The pillars of buying and selling according to a number of Islamic scholars: 1) Sellers 2) Buyers. 3). Goods for transactions. 4). Ijab qabul. Meanwhile the legitimate requirement of buying and selling are: 1). The terms of the contract agreement: for the people: mentally healthy and have the ability to choose. Thus crazy people, drunken people, and small children (who cannot distinguish things), cannot be declared legitimate 2) The requirements for goods are: a. Holy (halal and good) b. Benefit c. Belongs to people who carry out contracts d. Able to be surrendered by the contract agent e. Knowing the status of goods (quality, quantity, type, etc.) f. The goods can be received by those who made the contract [8].

Ideally in transaction, the buyers must ensure the goods or services to be purchased are in accordance with the characteristics of good from what the sellers inform to the buyers, in order to avoid disputes. If the item is in accordance with the seller's statement, then the sale is valid. But, if it is not appropriate, the buyer has the right of "khiyar" (the right

to choose), whether continue or cancel the sale. It is in line with the Prophet Muhammad's hadith, narrated by Daraquthni of Abu Hurairah: "Whoever buys something he does not see, then he has the right to khiyar if he has seen it".

E-Commerce transaction, iqab qabul and agreement among sellers and buyers via sms or e-mail are accepted. The important thing is the form, legal and clear ownership, as the hadith of the Prophet: "Invalid buying and selling except something that belongs to someone"(HR. Turmuziy and Abu Dawud). There is a fair price agreed by both parties, there is no element of manipulation or fraud in the transaction (HR al-Bukhariy and Muslim).

In addition, the basic principles of all forms of transactions are permitted as long as there is no argument that prohibits them. This is one of the arguments which legalize E-Commerce transaction. Unless there are deviations, manipulations, frauds, etc, the law then becomes illegitimate. E-Commerce will be unlawful when:

1. The system is illegitimate, such as money gambling, which is not permissible to determine places on land or air (online / internet);
2. Goods / services for object transactions are prohibited items, such as drugs, porn videos, online sex, copyright infringement, sites which can lead the visitors into adultery;
3. Because it violates the agreement (TOS) or contains elements of fraud; and
4. Others that do not bring benefits but only cause harm [9].

Transactions via fax or internet writing are analogous to written transactions aimed at people who are not in the transaction board. Such cases are allowed by the majority of scholars because of their mutual willingness, even though the willingness of the second party is not immediately realized. Furthermore, Ijab and qabul are required to be consecutive and the indicator is returned to the habits of the local community. Qabul does not have to be as soon as possible in order to prevent the loss of parties and to have the opportunity to consider. If the ijab is via a letter, it is required that there must be qabul from the second party when they have received the letter. Similarly, there is a need for conformity between ijab and qabul and there is no indication that one party would cancel the transaction. The majority of scholars allow those who issue the ijab (first party) to correct their ijab.

Sheikh Muhammad Bakhit al Muthi'i, Mushthofa az-Zarqa', Wahbah Zuhaili and Abdullah bin Mani', the representations of contemporary scholars allow transactions with modern devices provided, as long as there is clarity in transactions and fulfill the following conditions:

1. It does not violate the provisions of the Shari'ah of Religion, such as prohibited sale and purchase transactions, fraud, and monopoly.
2. There is an agreement between the two parties (seller and buyer) if something unexpected happens between agreement (al-*imdhah*) or cancellation (*fasakh*). As stipulated in the Jurisprudence about the forms of options or alternatives in the sale and purchase agreement (al-*khiyarat*) such as *Khiar Majlis*

(cancellation rights on the spot if there is a discrepancy), Khیار 'Aib (right of cancellation if there is a defect), Khیار Syarath (the right of cancellation if it does not meet the requirements), Khیار Taghrir/Tadlis (cancellation rights if there is fraud), Khیار Ghubun (cancellation rights in the event of fraud), Khیار Tafriq Shafqah (cancellation rights because one of the two parties is terminated before or after the transaction), Khیار Rukyah (cancellation rights for deficiency after being seen) and Khیار Fawat Washaf (cancellation rights if it is not according to its nature).

3. The existence of controls, sanctions as well as strict and unambiguous legal rules from the government (competent institutions) which guarantees online transactions.

If the trading transaction through online is not in accordance with these provisions, then the law is haram. E-commerce is a model of modern trading transactions because it implies technological innovation. In general, Islamic trade explains the existence of physical transactions, by presenting the products or items during transactions, while e-commerce is not like this system. The problem is not that simple. E-commerce is a model of sale and purchase agreement with characteristics that are different from the conventional buying and selling transaction model, especially because it can accommodate not only local but also global.

In E-Commerce case, fiqh views that buying and selling transactions in cyberspace are permissible because of mashlahah. Mashlahah is benefiting and rejecting evil in order to preserve the purpose of syara'. When e-commerce is considered as trading in Islam, it can be analogous to the first seller of a merchant (Internet Service Provider or ISP), while the buyer is a customer. Secondly, the objects of goods and services offered (there are orders such as as-salam) with various information, profiles, including prices, visible pictures of goods, and official company. Third, Sighat (ijab-qabul) is conducted with payment gateways, namely the system or software supporting (authority and monitor) for acquirers, as well as useful for online service.

## V. CONCLUSION

E-Commerce Transactions aim to make buying and selling transactions are more efficient, more effective and more flexible for everyone wherever and whenever. There are not any face to face transactions which consume too much time in all forms of transactions via the internet. Although the transactions conducted belong to cyber transaction, there is a sense of trust in each other and an electronic sales agreement. E-Commerce transactions encourage people to think modernly by using technology quickly, precisely and safely.

It relies on the consideration of E-Commerce practices are allowed in Islam because it fulfills the elements of trading with an analogy that first, the seller is a merchant (Internet Service Provider or ISP), while buyers are called customers. Second, the objects are goods and services offered (there are orders such as as-salam) with various information, profiles, including prices, visible images of goods, and official company. The last, Sighat (ijab-qabul) is conducted by payment gateways, namely the system or software support (authority and monitor) for acquirers, and is useful for online service. Furthermore, online buying and selling transaction can provide convenience and benefit for people. However, there must be cultural and legal ethics that are firmly spared from deception, cheating and tyrannizing each other.

## REFERENCES

- [1] Ramli, Ahmad M. *Cyber Law dan HAKI dalam Sistem Hukum Indonesia* (Jakarta: Refika Aditama, 2004)
- [2] Mansyur, Dikdik M. Arief and Gultom, Elisatris *Cyber Law (Aspek Hukum Teknologi Informasi)* (Bandung: Refika Aditama, 2005)
- [3] Suryodiningrat, R.M. *Perikatan-perikatan Bersumber Perjanjian* (Bandung: Tarsito, 1996)
- [4] Projodikoro, Wirjono *Hukum Perdata Tentang Persetujuan-persetujuan Tertentu*, (Bandung: Sumur, 1991).
- [5] Badruzaman, Mariam Darus, Sjahdeini, Sutan Remy, Soepratomo, Heru, Djamil, Faturrahman and Soenandar, Taryana *Kompilasi Hukum Perikatan* (Jakarta: Citra Aditya Bakti, 2001)
- [6] Putra, Gia *Mengimplementasikan Electronic ecommerce di Indonesia* (Yogyakarta: UMY, 2007)
- [7] Makarim, Edmon *Kompilasi Hukum Telematika* (Jakarta: PT. Raja Grafindo Persada, 2004)
- [8] Syafei, Rahmat *Fiqh Muamalah* (Bandung: CV.Pustaka Setia, 2001)
- [9] as-Sa'di, Abdurrahman et al. *Fiqh Jual Beli* (Jakarta: Senayan Publishing, 2008).