
Medical and Sports Equipment Online Business Practice in the Perspective of Positive Law and Islamic Law: Case Study at Desmira Medika Store, South Jakarta*

Yahya A Ashiri¹, Irvan Iswandi²

Institut Agama Islam Al-Zaytun Indonesia (IAI AL-AZIS)

 [10.15408/jlr.v4i3.27561](https://doi.org/10.15408/jlr.v4i3.27561)

Abstract

The purpose of this thesis was to find out the perspective of positive law and Islamic law on the online business practice of medical and sports equipment stores carried out by Desmira Medika Stores. The research method used by the researcher was a qualitative approach and the type of research was a case study (case approach). The data collection techniques used in this study were observations, interviews, and case study documentation on the implementation of the business that occurred. Meanwhile, the data analysis technique was carried out through interviews, then verification, and drawing conclusions obtained. Based on the research that has been conducted by the writer, the following results are obtained: When associated with positive law, the online business is a legally valid transaction according to Article 1338 paragraph (1) of the Civil Code concerning the Principle of Freedom of Contract. According to Islamic law, online business is also a legitimate transaction because nothing contradicts or violates the pillars and conditions of the legality of buying and selling.

Keywords: Online Business; Positive Law; Islamic Law

* Received: January 20, 2022, Revision: February 21, 2022, Publish: July 15, 2022.

¹ **Yahya A Ashiri** is a student of Sharia Economic Law Department. Sharia Faculty. Institut Agama Islam Al-Zaytun Indonesia (IAI AL-AZIS), alamat email: yhy.lkm1@gmail.com

² **Irvan Iswandi** is a lecturer of Sharia Economic Law Department. Sharia Faculty. Institut Agama Islam Al-Zaytun Indonesia, alamat email: irvan.iswandi10@gmail.com

A. INTRODUCTION

Due to requirements and the environment, economic and technological growth is accelerating. Who isn't familiar with the virtual world, now called the online world, where everyone can communicate and relate to each other without having to meet? Use internet services to do all you want. The internet's easy accessibility by all groups contributes to economic and technological advancement. Internet media have helped grow online buying and selling. Online business is a technological convenience. Android is a clever operating system that can handle this kind of e-commerce enterprise. Mobile devices using the Android operating system can be used to assist online business.³

Seeing these various conveniences, it is not surprising that online business is increasing, buying and selling transactions are becoming easier to do. The Internet is the perfect place to buy and sell, with the right marketing the storefront of the Internet can have more buyers. Buying and selling transactions through internet media commonly known as e-commerce. This has been regulated in Law Number 11 of 2008. The online buying and selling system can be carried out remotely using electronic media as an intermediary that acts as a bridge between the seller and the buyer.⁴

In the application and practice of an online buying and selling system like this, of course, it will greatly facilitate consumers in the process of conducting business transactions. One example of the type of e-commerce that has become a medium for selling products/goods online via the internet is Lazada, Tokopedia, Buka, Blibli, Elevenia, Shopee, and others.⁵

This makes it easy to access a business, thereby reducing marketing expenses and maximizing time and space. Numerous of them, including the Desmira Medika Medical and Sports Equipment store at Jalan Sirsak Number 25 Jagakarsa, South Jakarta 12620.

Presently, the lack of clear legislation governing online business norms creates a legal vacuum that leads online businessmen to act arbitrarily. South Jakarta, and more especially Jagakarsa, is a region where its business growth is projected to be accelerating, and researchers are conducting a study at the Desmira Medika shop to determine how best to implement this development for

³ Wahana Komputer, *Android for Online Business*, (Jakarta: Elex Media Komputindo, 2013), h.2

⁴ Timothy J. *Membangun bisnis online*, (Jakarta: Elex Media Komputindo), 2010 h. 4

⁵ Fitria, T. N., *Bisnis Jual Beli online. Bisnis jual beli online (online shop) dalam hukum islam dan hukum negara*, 2017, h. 53.

the mutual benefit of all parties. Therefore, by performing a study at the Desmira Medika Medical and Sports Equipment Store, researchers can learn how to build an online business.

B. METHODS

The type of research used in this study is a qualitative research method. Qualitative research method is a way / effort to emphasize the aspect of in-depth understanding of a problem. Qualitative researchers as human instruments function to determine the focus of research, select informants as data sources, collect data, assess data quality, analyze data, interpret data and draw conclusions from their findings.⁶

C. RESULTS AND DISCUSSION

1. Description of Research Site

Desmira Medika does online business on a variety of e-commerce platforms, including Tokopedia, Shopee, and Bukalapak. Approximately six years in a row, e-commerce-based internet business has increased. According to its online store business, the Desmira Medika store generates hundreds of millions in revenue. The entrepreneur knows that selling through e-commerce is a quick and effective way to reach a larger customer base.⁷

According to interviews done regarding the growth of e-commerce sales, "the number of sellers utilizing online techniques for e-commerce is expanding, particularly at Shoppe, Tokopedia, and Bukalapak. The development in e-commerce is attributable to a number of causes, including a broader market penetration achieved by utilizing consumer e-commerce not only from the South Jakarta region, but also from outside the city, outside the island, and even from beyond. Promotions frequently offered by e-commerce sites, such as Shoppe and Lazada, also contribute to the increase in sales.

2. Online Business Implementation at Desmira Medika's Medical and Sports Equipment Shop

When discussing the introduction of online commerce at the Desmira Medika Store, the discussion will mirror Eko Indrajit's explanation of the method.

⁶ Sugiyono. *Pemahaman Penelitian Kualitatif*.(Bandung: CV Alfabet), 2010, h. 26-27

⁷ Desmira, Wawancara Bisnis Online. Wawancara Bisnis Online Desmira Medika. 2021, Februari 21

With this approach, sellers will have multiple references for operating an internet business, such as:⁸

1. Information Sharing is a process in buying and selling transactions. In this stage the buyer will do a search about the product to be purchased. Here the marketplace will provide information about the product.
2. Online Orders is the phase in which buyers express interest in the goods or services being offered. In this section, the marketplace will provide clear information regarding the product to be acquired, including the purchasing procedure, price, and size.
3. This online transaction is the stage of the trading process that is carried out online. Where there is a bargaining process between the seller and the buyer.
4. E-payment at this stage is a payment system that is carried out electronically.

How can the Desmira Medika store's online business transaction process operate? There are several techniques to make a successful online business transaction, including:

a. Showing Photos of Items in Realpict (original)

The online storefront for Desmira Medika only sells finished goods (the goods are available in the store). In addition, the owner of Desmira Medika e-commerce explained in an interview that every product image uploaded to the online store is a real pict (original condition of the goods) without any edits, accompanied by detailed information ranging from materials, models, and prices, this is done so that consumers know the condition of the goods clearly and avoid fraud that often occurs in online businesses.

b. Establishing Good Communication with consumers

In the course of online sales, the Desmira Medika store will provide extensive confirmation regarding payment and shipment. This is done to prevent consumers from suspecting that the Desmira Medika Store will conduct fraud following the payment procedure. In order to give consumers a sense of security, this is also done to provide information about items and complaints regarding them. Biodata for Desmira Medika Stores that can be used for further communication with consumers are listed on e-commerce accounts such as

⁸ Eko Indrajit, *E-Commerce: Kiat dan Strategi Bisnis di Dunia Maya*, (Jakarta: PT. Elexmedia Komputindo), 2001, h. 16

shoppe, Tokopedia, and Bukalapak. In addition, contact is frequently conducted through responding to catalog comments on Instagram and through e-commerce. The existence of such biodata will permit further engagement with consumers and provide a sense of safety.

c. Desmira Medika's Online Business Contract Transactions

First: Ba'i Salam, is a form of transaction with a cash/immediate payment system but the delivery of goods is suspended.⁹ As-salam is a form of buying and selling with advance payment and delivery of goods at a later date (advance payment or forward buying or future sales) at a clear price, specification, quantity, quality, date and place of delivery, and agreed in advance in the agreement.¹⁰

The process of implementing sharia online business through e-commerce at Desmira Medika Jagakarsa. First, by displaying real pict (original) photos of goods that are equipped with specifications such as materials, models, colors and prices. Second, there is a bargaining process between sellers and buyers through e-commerce chat forums. Third, with the existence of a clear sighat (agreement) of Ba'i Assalam, namely the existence of an online sale and purchase contract agreement through e-commerce, the seller and buyer enter into an agreement or through the inbox (incoming message) provided by e-commerce. Fourth, after the order is received from the transaction, the process of packaging and shipping goods will be continued gradually and regularly. Fifth, after the goods have been shipped, the funds will be credited to the Seller's balance.¹¹

Second: Qard or Paylater, PayLater offers a loan product with a zero percent initial loan without a minimum transaction, and the loan provided can only be used to buy products in the marketplace with a 30-day tenor.

d. Goods delivery process

After the consumer makes a payment, particularly by transferring the money in line with the amount specified on the price of the goods in the catalog,

⁹ Gufron, A. M., *Fiqh Muamalah Kontekstual*, (Jakarta: PT. Raja Grafindo Persada), 2002 h. 45

¹⁰ Ascarya, *Akad & Produk Bank Syariah*, (Jakarta: PT Raja Grafindo Persada), 2007 h. 37

¹¹ Budhi, G. S. *Analisis Sistem E-commerce pada Perusahaan Jual Beli Online Lazada Indonesia. Electonics, Informatics, and Vocational Education(ELINVO)*, 2016, 79.

it will be immediately confirmed by the Desmira Medika Store, and the item will then be packed and sent to the buyer's location.

3. Positive Legal Perspectives and Islamic Law in Online Business Practices at Desmira Medika Stores

a. Positive Legal Perspectives Regarding Desmira Medika Online Business Procedures

In the standards for applying positive law, trade transactions or e-commerce are deemed lawful if they satisfy many prerequisites. As stated in Article 1320: "There is a lawful agreement, skill, exchange of value, and an object." The agreement is described in Article 1458, which states, "The sale and purchase is regarded to have occurred between the two parties as soon as they reach an agreement on the object and the price, even if the object has not been delivered and the amount has not been paid."

Article 1337 of the Civil Code specifies that forbidden causes include those that are illegal or contrary to decency and public order. In the mechanism of online trading or e-commerce transactions, it is necessary to have a statutory regulation to protect the rights of legal subjects and objects in the form of fulfillment of product information rights by the subject and to the legal object, as specified in the Consumer Protection Law (UUPK) and the Information and Electronic Transaction Law. The notion of contract freedom is one of the most important contract law principles.¹²

This freedom of contract is typically based on Article 1338, subsection (1) of the Civil Code, which states, "All legally made agreements are valid as law for individuals who make them." If it is seen in Article 1338, paragraph (1), the phrase "all legally made agreements" implies the presence of the principle (principle) of contract freedom.

Independence of contract ensures a person's freedom in a number of areas pertaining to the agreement. The notion of contract freedom ensures the liberty of individuals to enter into agreements. This is also inherent in the character of Book III of the Civil Code, which is merely a law that governs such that the parties might deviate from it (set it aside), with the exception of some coercive provisions.

¹² Badruzaman, M. D. *Komplikasi Hukum Perikatan*. (Bandung: Citra Aditya Bakti), 2001 hal. 132

If it is coupled with the PayLater payment system, wherein the payment is paid after the consumer has exercised his rights, it does not violate the principle of contract freedom. Because its implementation does not violate the law as it pertains to banking legislation, nor does it offend decency. This indicates that as long as the payment is made within the agreed upon time frame, there is no violation of the concept of contract freedom.

In integrating PayLater as a transaction mechanism on the Marketplace, the Marketplace acts as a financial institution. A financing institution is a corporate firm that engages in financing activities by supplying funds or capital without directly withdrawing funds from the public.¹³

According to Presidential Regulation No. 9 of 2009 pertaining to Financing Institutions, financing institutions are commercial enterprises that engage in financing activities by providing funds or capital goods. In situations where community or business actors are expected to be able to overcome one of the frequently encountered factors, namely the capital factor, financing institutions play an important role as one of the potential alternative sources of financing institutions to support national economic growth.

According to Presidential Regulation No. 9 of 2009, Consumer Finance is a financial activity for the instalment-based acquisition of consumer-driven items. In addition to previous definitions, consumer financing is a loan or credit granted by a corporation to debtors for the purchase of products and services that will be directly consumed by consumers, as opposed to production or distribution. A consumer finance firm is the entity that offers the loan described above (Customer Finance Company).¹⁴

b. Islamic Law Perspective in Online Business Practices at Desmira Medika Store

First: As-Salam Contract in Online Business Practice at Desmira Medika Store

The issue of online commerce is a contemporary fiqh issue that has never been handled in traditional fiqh texts. Therefore, in discussions pertaining to online purchasing and selling, there is a great deal of reference to the essential provisions or pillars and conditions of sale and purchase in the books of fiqh.

¹³ Siamat, D., *Manajemen Lembaga Keuangan , Edisi Kedua*. (Jakarta: Fakultas Ekonomi Universitas Indonesia), 2001, h. 117

¹⁴ Kasmir, *Bank dan Lembaga Keunagan Lainnya*, (Jakarta: Rajawali Pers), 2008, h.46

People with common sense are necessary for purchasing and selling, as are goods with advantages and owners, and there must be no manipulation or fraud in sales and purchases. On the basis of the preceding explanation, it is possible to identify the primary issue at hand, namely buying and selling online, which includes buying and selling by telephone, SMS, and other communication tools. The most essential factors include:¹⁵ 1). There are goods that are traded, halal and the owner is clear; 2). There is a fair price agreed by both parties (seller and buyer), there is no element of manipulation or fraud in the transaction; 3). The transaction procedure is correct, known and mutually agreed between the two parties.

In terms of online purchasing and selling, in addition to the aforementioned restrictions, neither the shape nor the color of the goods must meet the buyer's specifications. As long as some of these conditions are met, buying and selling in any manner is legal and allowed. Furthermore, if a form of transaction has become routine, even if others find it odd, it is nonetheless acceptable and permitted according to fiqh.

According to the Islamic principle of buying and selling, buying and selling is a manner of assisting fellow humans. People who purchase and sell are viewed not only as profit-seeking individuals, but also as those who assist their brothers. Obviously, this is an intriguing difference from conventional purchasing and selling, because the law of online purchasing and selling does not permit consumers to test or trial products or services offered online. What form or method of consumer protection is applied?

The inclusion of photographs of products for sale on the website must be visible from the front, sides, and many angles. The situation in which a consumer feels more misled by an online vendor is when the things he purchases are not in agreement with his preferences. In this instance, it is not only the responsibility of the seller to offer clear information, but also the responsibility of the customer to understand his rights as a consumer so that he may manage the information provided by the seller correctly.¹⁶

It must be underlined in As-salam contracts that the form of the object of a transaction that is justifiable is when the object is clearly recognized and its presence can be identified. In addition to preventing ambiguity in transactions,

¹⁵ Affandi, M. Y. *Fiqh Muamalah dan Implementasinya dalam Lembaga Keuangan Syari'ah*. (Yogyakarta: Logung Pustaka), 2009, h. 96

¹⁶ Affandi, M. Y., *Fiqh Muamalah dan Implementasinya dalam Lembaga Keuangan Syari'ah*. (Yogyakarta: Logung Pustaka), 2009, h. 98

this rule aims to decrease errors caused by a lack of understanding regarding the kind, shape, color, or composition of the object in question.¹⁷

The preceding explanation suggests that it is not solely the responsibility of business actors or sellers to provide clear information for consumers when buying and selling online; it is also the responsibility of consumers to determine whether the information provided by the seller is relevant and can be used as a solid basis for deciding whether or not to engage in a sale and purchase transaction.

Second: Qard or Paylater Contracts in Online Business Practices at Desmira Medika Stores

E-Banking, movie and airplane ticket reservations, online loans, and online credit are just a few of the options that make conducting business online more convenient. ShopeePayLater is one of these options; it's an online buying and selling system that allows for late or installment payments according to the terms and conditions set by Shopee; Shopee pays the seller first for the goods purchased by the buyer; if the buyer has ShopeePayLater dependents, Shopee charges the fee to the seller and buyer every month; and Shopee handles the payments.¹⁸

Most scholars, including those from the four main schools of Islamic thought (Shafi'i, Hanafi, Maliki, and Hanbali), as well as Zaid bin Ali, allow credit purchases and sales so long as the cash price and the credit price for the goods are equal or greater than the cash price and the cash price, respectively. However, this type of transaction is dependent on the parties involved clearly defining the terms of the contract and agreeing to treat it as a credit transaction. The vendor may offer two different prices—one for cash and one for credit—in this scenario. Customers must have a strong desire to make a purchase and a reliable means of payment.¹⁹

From the pillars and the legal conditions of buying and selling, it can be concluded that Shopee PayLater credit practice from the Shopee marketplace can be fulfilled; similarly, the pillars and legal requirements can be met from the Qar agreement; the buyer's willingness can be seen when the buyer confirms selecting the payment method Market Paylater; and finally, Paylater users can reap

¹⁷ Mustofa.I., *Fiqh Muamalah Kontemporer*,(Jakarta: Rajawali Press), 2016, h. 97

¹⁸ Hasanah, R., *Tinjauan Hukum Islam Terhadap Praktik Kredit Shopee Paylater dari Marketplace Shopee*,Skripsi, 2020, 3.

¹⁹ Mustofa.I., *Fiqh Muamalah Kontemporer*,(Jakarta: Rajawali Press), 2016, h. 102

benefits because they are able to shop for necessities without worrying about their ability to pay for them immediately.

D. CONCLUSIONS

From the discussion above, it can be concluded as follows:

1. The online business system for the Desmira Medika store, in practice, involves the seller, the buyer, or the Marketplace by using a contract, namely *ba'i as-salam* and *al-qard*.
2. According to paragraph one of Article 1338 of the Civil Code, the Principle of Freedom of Contract, online business is a genuine transaction if it is related with positive law. Since nothing about conducting business over the internet conflicts with or violates the tenets and requirements for the legitimacy of buying and selling under Islamic law, it is a perfectly permissible transaction.

REFERENCES:

Books:

- Affandi, M. Y. 2009. *Fiqh Muamalah dan Implementasinya dalam Lembaga Keuangan Syari'ah*. Yogyakarta: Logung Pustaka.
- Ascarya. 2007. *Akad & Produk Bank Syariah*. Jakarta: PT Raja Grafindo Persada.
- Badruzaman, M. D. 2001. *Komplikasi Hukum Perikatan*. Bandung: Citra Aditya Bakti.
- Gufron, A. M. 2002. *Fiqh Muamalah Kontekstual*. Jakarta: PT. Raja Grafindo Persada.
- Indrajit. E. 2001. *E-Commerce: Kiat dan Strategi bisnis di Dunia Maya*. Jakarta: PT. Elex Media Komputindo.
- Ibrahim, Johnny. 2010. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.
- Kasmir. 2008. *Bank dan Lembaga Keuangan Lainnya*. Jakarta: Rajawali Pers.
- Komputer, W. 2013. *Android for Online Business*. Jakarta: Elex Media Komputindo.

- Masruhan. 2013. *Metodologi Penelitian Hukum*. Surabaya: Hilal Pustaka.
- Mustofa, I. 2016. *Fiqh Muamalah Kontemporer*. Jakarta: Rajawali Press.
- Purwanto, D. 2011. *Komunikasi Bisnis*. Jakarta: ERLANGGA.
- Arkanto, Saharsimi. 2002. *Prosedur Penelitian Suatu Pendekatan Praktek*. Jakarta: Rineka Cipta.
- Siamat, D. 2001. *Manajemen Lembaga Keuangan, Edisi Kedua*. Jakarta: Fakultas Ekonomi Universitas Indonesia.
- Sugiyono. 2010. *Pemahami Penelitian Kualitatif*. Bandung: CV Alfabet.
- Timothy, J. 2010. *Membangun bisnis online*. Jakarta: Elex Media Komputindo.

Artikel Jurnal:

- Budhi, G. S. 2016. Analisis Sistem E-commerce pada Perusahaan Jual Beli Online Lazada Indonesia. *Electronics, Informatics, and Vocational Education (ELINVO)*, 79.
- Fitria, T. N. 2017. Bisnis Jual Beli online. *Bisnis jual beli online (online shop) dalam hukum islam dan hukum negara*, 53.
- Hasanah, R. 2020. *Tinjauan Hukum Islam Terhadap Praktik Kredit Shopee Paylater dari Marketplace Shopee*. Skripsi 3.
- I Imanuddin, RRD Anggraeni, A Rezki, NR Yunus, 2021. Criminal Acts Of Defamation Due To Debt Collection Through Social Media. *Natural Volatiles & Essential Oils (NVEO) Journal* 8 (4), 11685-11695.
- Rezki, A; Yunus, NR. Kemerostan Ekonomi Negara Sebagai Dampak Pembatasan Sosial Covid 19 di Indonesia. *SALAM: Jurnal Sosial dan Budaya Syar-i* 8 (6), 2111-2122
- Suhendar, S; Rezki, A; Yunus, NR. Legal Certainty in the Application of the Crime of Narcotics Abuse Judging from the Disparity of Judges' Decisions. *SALAM: Jurnal Sosial dan Budaya Syar-i* 9 (1).
- Suhendar, S; Yunus, NR; A Rezki, A. Criminalization of Birth Certificate Forgery in Minors' Marriages. *Mizan: Journal of Islamic Law* 6 (1).

- Taryono, T; Anggraeni, RRD; Yunus, NR; Rezki, A. Good Governance and Leadership; Sustainable National Development with Good Governance and Leadership in Indonesia. SALAM: Jurnal Sosial dan Budaya Syar-i 8 (2), 2021.
- Wulandari, F. M. 2015. Jual Beli Online yang Aman dan Syar'i. Studi terhadap Pandangan Pelaku Bisnis Online di Kalangan Mahasiswa dan Alumni Fakultas Syariah dan Hukum UIN Sunan Kalijaga, 202.
- Yunus, N.R.; Anggraeni, RR Dewi.; Rezki, Annissa. (2019). "The Application of Legal Policy Theory and its relationship with Rechtsidee Theory to realize Welfare State," 'Adalah, Volume 3, No. 1.
- Yunus, N.R.; Rezki, Annissa. "Kebijakan Pemberlakuan Lock Down Sebagai Antisipasi Penyebaran Corona Virus Covid-19," Salam: Jurnal Sosial dan Budaya Syar-i, Volume 7, No. 3 (2020).
- Yunus, NR; Rezki, A; Taryono, T. The Application of Political Theories in the Indonesian Political Reform Movement in 1998. JOURNAL of LEGAL RESEARCH 3 (2) 2021.
- Yusman, Y; Rezki, A; Yunus, NR. The Role of Workers Unions in the Effort to Fight for the Rights and Obligations of Workers in Companies Declared Bankrupt In Indonesia. JOURNAL of LEGAL RESEARCH 3 (1)
- Yusman, Y; Rezki, A; Yunus, NR. Legal Politics on the Regulation of Obligations to Hold General Meeting of Shareholders in Law Number 40 of 2007 concerning Limited Liability Companies. SALAM: Jurnal Sosial dan Budaya Syar-i 8 (1), 333-344
- Zulhidayat, M; Razief, IB; Rezki, A; Yunus, NR. Comparison Of Legal Policies Against Racism In Football In Indonesia And The European Union. NVEO-NATURAL VOLATILES & ESSENTIAL OILS Journal| NVEO, 11696-11705.

Wawancara

- Desmira, Wawancara Bisnis Online. Wawancara Bisnis Online Desmira Medika. 2021, Februari 21.