

A JURISPRUDENTIAL REVIEW OF BUSINESS COMPETITION PRACTICES ON THE SHOPEE PLATFORM: UNFAIR PRACTICES AND THEIR IMPACT ON SMALL BUSINESSES

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Abstract: The rapid development of technology has transformed conventional business practices, with digital platforms such as Shopee providing innovative features, such as live streaming and flash sales. However, these features have the potential to enable unfair business competition. This study examines the impact of live streaming on Shopee Live and Toko Saya flash sales on a Shopee platform from the perspective of business competition. Using a qualitative approach, this study focuses on the policies and practices surrounding these features. The findings reveal that while certain promotional practices are legitimate, the ongoing practice of providing conditional discounts and low prices may violate business competition laws and principles of business competition jurisprudence in Islam. Sellers and buyers have indicated that these practices are not based on the principles of honesty and balance and can be detrimental to smaller businesses with limited capital. This study highlights the need for businesses to prioritize moral ethics and adhere to religious and state rules to create a fair and competitive market that protects consumer rights. As digital platforms continue to grow, it is crucial to address the potential for unhealthy business competition and to ensure that all parties, including conventional business actors, can participate fairly in the market.

Keywords: *fiqh of business competition, live streaming, Shopee platform, toko saya flash sale, unfair business practices.*

Abstrak: Perkembangan teknologi yang pesat telah mengubah praktik bisnis konvensional, dengan platform digital seperti Shopee yang menyediakan fitur-fitur inovatif seperti live streaming dan flash sale. Namun, fitur-fitur tersebut berpotensi untuk memungkinkan terjadinya praktik persaingan usaha tidak sehat. Penelitian ini mengkaji dampak dari live streaming pada Shopee Live dan flash sale Toko Saya di platform Shopee dari perspektif fikih persaingan usaha. Dengan menggunakan pendekatan kualitatif, penelitian ini berfokus pada kebijakan dan praktik seputar fitur-fitur tersebut. Temuan penelitian mengungkapkan bahwa meskipun praktik promosi tertentu adalah sah, praktik pemberian diskon bersyarat dan harga rendah yang sedang berlangsung dapat melanggar undang-undang persaingan usaha dan prinsip-prinsip fikih persaingan usaha dalam Islam. Penjual dan pembeli telah mengindikasikan bahwa praktik-praktik tersebut tidak didasarkan pada prinsip-prinsip kejujuran dan keseimbangan, dan dapat merugikan usaha-usaha kecil dengan modal yang terbatas. Studi ini menyoroti perlunya bisnis untuk memprioritaskan etika moral dan mematuhi aturan agama dan negara untuk menciptakan pasar yang adil dan kompetitif yang melindungi hak-hak konsumen. Seiring dengan pertumbuhan platform digital, sangat penting untuk mengatasi potensi persaingan usaha yang tidak sehat dan memastikan bahwa semua pihak, termasuk pelaku usaha konvensional, dapat berpartisipasi dalam pasar secara adil.

Kata kunci: *fikih persaingan usaha, flash sale Toko Saya, praktik bisnis tidak sehat, platform live streaming Shopee.*

INTRODUCTION

Competition has become a business culture among entrepreneurs.¹ Economically, to obtain abundant profits, entrepreneurs will compete with their competitors in the form of quality products, services, and marketing. In practice, business competition does not always run well, and there are sometimes gaps and opportunities to take harmful and unhealthy actions, especially in today's all-digital conditions. Economic digitalization has illustrated the integration of technology in various business activities, one of which is the Shopee platform.

Technology is developing rapidly today. This development has changed various kinds of conventional methods and people's lifestyles to become more modern in all fields, such as social, cultural, economic, and others.² With the existence of technology as its backbone, shopees provide easy and efficient access to various types of products and innovative features such as live streaming, store flash sale promos, and customer loyalty programs. The various conveniences available at Shopee can be an opportunity for business people (sellers) to offer their businesses with the aim of winning the competition.

One indication of the unfair business competition model that is the object of this study is setting the Toko Saya flash sale price and high discounts on certain products continuously on the shop platform. This is because some users claim to buy products at low prices, and other users incidentally as fellow sellers feel competitive with products sold at low prices. In fact, the price of an item is higher than its production price. The quality of the goods also needs to be questioned if the products sold are priced at low prices. This can be troubling for competing business actors in running their businesses.

In addition, there is a live streaming feature of Shopee live, which is also indicated as one of the models of unfair business competition practices due to the potential for abuse by business actors or sellers. Some of the causes include dishonest discounting, price manipulation, stock, availability of goods that are not available in the storefront, and unfair treatment of customers. Basri Effendi in his article entitled "Supervision and Law Enforcement of Digital Business (E-commerce) by the Business Competition Supervisory Commission (KPPU) in Unfair Business Competition Practices" explained that along with the increasing development of digital-based industries, it will open up

¹ Rumadi Ahmad, dkk, *Fikih Persaingan Usaha*, (Jakarta: Lakpesdam PBNU, 2019), 13.

² Moha, M.R. dkk. "Urgensi Pendaftaran Penyelenggaraan Sistem Elektronik Bagi Pelaku Usaha E-Commerce". *Jambura Law Review*, vol.2 (2020), 102.

opportunities for unhealthy business competition. Unhealthy business competition can occur between business actors with digital platforms and conventional business actors.³

In Islam, the use of objects around the world is beneficial. Thus, these activities should be in line with Islamic teachings, or at least not contradict Islamic teachings, including muamalah activities carried out every day by the community. Business competition in accordance with sharia (*al-munāfasah at-tijāriyyah al-masyrū'ah*) is competition between business actors that are healthy and reasonable, in accordance with the boundaries of religious and state rules, and does not contain agreements that can harm other parties, in accordance with business ethics and community habits that are considered good. In the jurisprudence of business competition, businesses do not justify all means, but must prioritize the principles of moral ethics and charity.⁴ These principles aim to create a fair, competitive market that protects consumer rights.

Thus, sellers and buyers feel that there are indications of unfair competitive practices that are not based on the principles of honesty and balance, such as setting very low prices for certain products. It covers the fields of fashion, care, and beauty. The use of live streaming features on Shopee Live and Toko Saya flash sale promos are indicated as forms or models of unhealthy business competition practices by business actors at Shopees, which are all less profitable for weak parties, especially business actors who have small capital. Thus, this study examines the impact of business competition on the praaktik of live streaming business competition on Shopee Live and Toko Saya flash sales on the Shopee platform.

Related to this research, there are several relevant previous studies that discuss business competition in the offline industry and forms of business competition according to business competition jurisprudence: First, Natasyalia Anisatul 'Azizah's research entitled "Business Competition in Pondok Village, Babadan District, Ponorogo Regency: Perspective on Business Competition Fiqh and Law No. 5 of 1999" with the results that in practice marketing strategies by providing low prices and systems THR with the condition that you must be a regular customer is allowed as long as it is still a reasonable limit and does not violate religious rules. On the other hand, in the practice of setting low prices, that is, wholesale prices that are equated between traders and consumers are not

³ Basri Efendi, "Pengawasan Dan Penegakan Hukum Terhadap Bisnis Digital (E-Commerce) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Usaha Tidak Sehat," *Syiah Kuala Law Journal* Vol.4 (2020), 22.

⁴ Rumadi Ahmad, dkk, *Fikih Persaingan Usaha*, (Jakarta: Lakpesdam PBNU, 2019), 19.

in accordance with the permissible competition law (*al-munāfasah at-tijāriyyah al-masyrū'ah*) that is, one of them does not harm the other party.⁵

The difference between this study and the researchers' research lies in the object of the research. Natasyalia's research discusses business competition in Pondok Village, Babadan District, Ponorogo from the perspective of business competition fiqh. This study also discusses how the business competition practice model on the Shopee platform applies to jurisprudence.

Second, Edi Saefurrohman's research, entitled "Review of Islamic Law on Business Competition Practices with a Predatory Pricing System (Case Study on Shopee Application Store Promo) with the results that sellers with stores named Elsa738 and Joper_store according to Sharia, the activities carried out as *siyasah al-ighraq* are sporadic and do not carry out a predatory pricing system. Meanwhile, in its activities, the Fashionbyelisa store is referred to as *siyasah al-ighraq*, which is predatory and has been indicated to trade with a predatory pricing system that uses the store's promo feature in the Shopee application.⁶

The difference between this study and the present one lies in the object studied. Edi's research discusses how business competition practices with a predatory pricing system in shop store promos are reviewed based on Islamic and business competition laws. This study also discusses the business competition practice model on the shop platform in the application of business competition jurisprudence.

Third, Putri Wita Stefhani's research found that business competition in Banjarrejo Village is not in accordance with Islamic business ethics. This is due to the limited knowledge they have where they only know business competition limited to the application of strategies that can generate as much profit as possible without following the provisions stipulated in Islamic law.⁷

The difference between this study and the present one lies in the object of this research. Putri's research discusses business competition in traveling vegetable vendors and vegetable stalls from the perspective of Islamic business ethics. This study also

⁵ Natasyalia Anisatul 'Azizah, *Kompetisi Platform e-Commerce Ditinjau dari Hukum Persaingan Usaha*, *Skripsi*, (Ponorogo: IAIN Ponorogo, 2023).

⁶ Edi Saefurrohman, *Tinjauan Hukum Islam terhadap Praktik Persaingan Usaha dengan Sistem Predatory Pricing (Studi Kasus pada Promo Toko Aplikasi Shopee)*, *Skripsi*, (Semarang: Universitas Islam Negeri Walisongo, 2022).

⁷ Putri Wita Stefhani, *Persaingan Usaha dalam Perspektif Etika Bisnis Islam (Studi Kasus Pedagang Sayur dan Warung Sayur di Desa Banjarrejo Kecamatan Batanghari Kabupaten Lampung Timur)*, *Skripsi*, (Lampung: IAIN Metro, 2019).

discusses how the business competition practice model on the Shopee platform applies to jurisprudence.

This study uses a qualitative approach with empirical normative research methods that focus on the analysis of legal texts and refers to the study of legal documents, such as laws or regulations, which in this case are related to regulations or policies on the Shopee platform, such as terms and conditions of live streaming on Shopee live and flash sales. In addition, it involves collecting real data, namely the results of observations and interviews, to understand a legal phenomenon in a social context, including the model of business competition practices on the shop platform.

DISCUSSION

1.1 The Concept of Business Competition in Islam

According to the Indonesian Dictionary (KBBI), competition comes from the basic word "competitiveness", which is an effort that shows superiority about something done by individuals, companies, and countries in the fields of trade, production, and defense.⁸ Competition in English refers to competition, which means competition or competing activities, matches, or competitions.

Competition can be interpreted as a social process in which an individual or a group of humans competes for advantages in the field of life by attracting attention from other individuals.⁹ Business is an activity that takes place because individuals depend on one another, and there are international opportunities through the process of exchanging goods, services, and money that are mutually beneficial and beneficial. In addition, it is carried out to maintain and improve living standards.¹⁰

Business competition is a social phenomenon between business actors who independently obtain market share, customers, and profits by offering high-quality product prices. The essence of business competition is to strive optimally for the creation of healthy and competitive competition through product and service innovation, improving product quality and operational efficiency, and creating competitive advantages to compete with its competitors. Three elements must be considered in business competition according to Islamic views: competing parties, ways of competition, and competitive service products, all of which must meet the principles of Islamic business ethics.

⁸ Andini dan Aditiya, *Kamus Besar Bahasa Indonesia*, (Surabaya: Prima Media, 2002).

⁹ John Lewis Gilin dan John Philip Gilin, seperti yang dikutip Soerjono Soekanto, *Sosiologi: Suatu Pengantar* (Cet. 3; Jakarta: Raja Grafindo Persada, 2001), 91.

¹⁰ Ika Yunia Fauzia, *Etika Bisnis dalam Islam*, (Sidoarjo, Kencana Prenada Media Group, 2012), 3.

Islam allows business activity and encourages the economy as long as it is within the limits of fairness and in accordance with the values of the Shari'a. Islam does not want to intervene in the business world by setting prices or commodities. Islam gives business actors freedom, as long as it does not harm others. Therefore, to build an economy, fair and constructive competition is needed to create a healthy business environment.

1.2 The Concept of Business Competition Jurisprudence

In contemporary jurisprudence literature, business competition matches the term *al-munāfasah at-tijāriyyah*.¹¹ Business competition (*al-munāfasah at-tijāriyyah*) in Islamic jurisprudence is a discussion of *mu'amalah*, which is an economic relationship involving business actors (*at-tujjar*) to obtain public benefits and benefits in economic relations. The discussion of *mu'amalah* is an area of *ijtihādiy*, where innovation and creativity are open to developing businesses according to the development and demands of the times.¹² Thus, it can be understood that the basic Islamic principles of *mu'amalah* as a guide in running a business have become very important and absolute.

As for jurisprudence of business competition, there are two types of business competition:

1. Business competition that is not allowed (*al-munāfasah at-tijāriyyah ghayr al-masyrū'ah*)

Business competition that is not allowed or sanctioned (*al-munāfasah at-tijāriyyah ghayr al-masyrū'ah*), namely business competition that is unfair and unreasonable, exceeds the limits of tolerance by using negative practices or methods, leading to monopolistic practices, violating good habits, and contrary to business ethics. In other words, unfair business competition is any business practice that harms other parties in ways that violate religious rules and laws in force.¹³ The following are businesses prohibited by Islamic law:

- a. *Al-ghisysyu* (Fraud)
- b. *Najsy* (Fake Offer)
- c. *Talaqqi Rukban* (Intercept Seller)

¹¹ Amal Ahmad Mahmud, *al-munafasah at-Tijariyyah fiy al-Fiqh al-Islamy wa Atsaruha 'ala as-Sug: Risalah Majister* (Nabulsi: Jami'ah an-Najah al-Wathaniyyah, 2012), 23.

¹² Rumadi Ahmad, dkk, *Fikih Persaingan Usaha*, (Jakarta: Lakpesdam PBNU, 2019), 46.

¹³ Rumadi Ahmad, dkk, *Fikih Persaingan Usaha*, (Jakarta: Lakpesdam PBNU, 2019), 46.

2. Permissible Business Competition (*al-munāfasah at-tijariyyah al-masyrū'ah*)

Islam categorizes *al-munāfasah at-tijariyyah* as a form of *mu'amalah* that is permissible as long as it does not cause negative, destructive, or detrimental effects on business actors. In fact, Islam does not want any form of interference with price determination that occurs in the market, as long as it does not violate the rules that have been set. It can be understood that the law of origin of business competition is permissible (*mubah*).¹⁴ Three elements must be met by business competition, which is considered in accordance with Islamic law.¹⁵

- a. No Element of Deception and Misdirection (*'adam qiyām al-munafāsah 'alā al-ghissi wa at-tadllil*)
- b. Mastering the business involved and producing good products (*itqān al-amal wa ijadāt al-muntijāt wa tanawwuhah*)
- c. Not harming others (*'adam al-idlrār bi al-ghayr*)

In practice, business transactions must comply with Sharia principles so as not to cause harm. Every *mu'amalah* or transaction in a business competition is declared healthy if there is no element of *gharar* (fraud). That is, if there is an indication of *gharar* in a transaction, it is punished haram and declared unhealthy. In addition, the *mu'amalah* must uphold the principle of honesty, both honest with the products sold, product specifications and descriptions, pricing, and so on. The principle of fairness and balance between fellow sellers and buyers is also the main foundation of *mu'amalah*, including online buying and selling, which is currently a business culture in the digital era.

1.3 Shopee Platform Profile and History

Shopee is an electronic commerce website founded by Sea Limited (formerly known as Garena) in 2009, initiated by Forest Li, and headquartered in Singapore.¹⁶ Shopee was first launched in 2015 as the first mobile e-commerce platform in Southeast Asia, specifically in Singapore. Shopee CEO Chris Feng began to expand to several countries in Southeast Asia, including Thailand, Indonesia, Malaysia, Vietnam, the Philippines, and Taiwan.

¹⁴ Rumadi Ahmad, dkk, *Fikih Persaingan Usaha*, (Jakarta: Lakpesdam PBNU, 2019), 59.

¹⁵ Hasan Muhammad Baudi, *Dlawabith al-Munafasah at-Tijariyyah*, 13.

¹⁶ Nur Atifi. "Tech in Asia - Connecting Asia's startup ecosystem". www.techinasia.com (in English). August 22, 2018, <https://www.techinasia.com/Shopee-sales-surge-helps-sea-hit-record-revenue>. (accessed December 14, 2023).

Shopee officially entered Indonesia in December 2015 and was headquartered in West Jakarta.¹⁷ Indonesia is the target of Shopee expansion because it has a large population in Southeast Asia. Shopees have been present in the form of mobile applications and websites that aim to make it easier for users to make online shopping transactions, including users who can more easily shop, browse, and sell any product at any time. In addition, shopees are online buying and selling facilities that provide various types of products ranging from fashion, snacks, care and beauty, household appliances.

Since Shopee's launch in Indonesia, the marketplace has offered various programs to attract new users.¹⁸ One program in which shopees are interested is free shipping and store flash sales. The program attracts the hearts of Indonesian people to continue selling and shopping at shops. To date, the Shopee application has been successfully downloaded by more than 100 million users available at play and app stores.

1.4 Live Streaming Practice Model on Shopee Live

One of the offerings on the Shopee platform is the Shopee Live feature that enables sellers to increase the visibility of their products. Shopee Live is a cutting-edge e-commerce solution that enables sellers and businesses to conduct live streaming sessions and promote their stores and products directly to buyers.¹⁹ The live broadcast function on Shopee Live enables consumers to engage with vendors in real time, allowing them to gather additional information about the product and make purchases directly on the streaming page, thus enhancing sales and attracting new customers.²⁰ Vendors can market their offerings by placing products in orange baskets. On the buyer's side, they can view content regarding the products sold, engage with sellers directly, and even inspect items without departing from streaming sessions..²¹

The terms and conditions of live streaming on Shopee Live include product and content provisions that must be followed by streamers.²² Streamed products must comply with Shopee's product policies, including the stipulation that products placed on orange

¹⁷ Shopee Indonesia, "Tentang Shopee", dalam <https://careers.Shopee.co.id/about>, (accessed December 14, 2023).

¹⁸Nandy, "Pendiri Shopee dan Kisah Perjalanan Karirnya", dalam <https://www.gramedia.com/literasi/pendiri-Shopee/#googlevignette>, (accessed December 14, 2023).

¹⁹ Pusat Edukasi Penjual Shopee Indonesia, <https://seller.Shopee.co.id/edu/article/18646>, (accessed January 13, 2024).

²⁰ Sinta Puspita Sari, "Analisis Komunikasi Bisnis dalam Meningkatkan Penjualan UMKM Sishop_Id pada Fitur Live di Aplikasi Shopee", *Student Research* 1, no.3 (2023), 176-189.

²¹ Alsa (Customer Service Shopee), *Interview Results Via Chat in the Shopee Application*, January 31, 2024.

²² Pusat Bantuan, Help Center Shopee Live, <https://seller.Shopee.co.id/edu/article/18646>, (accessed January 25, 2024).

carts can only come from the store itself. There are provisions regarding content, minor, and serious violations. The streaming preparation process consists of the streaming equipment that must be prepared, the concept of streaming, titles and covers, and the media used.



Figure 1. Streaming Equipment²³

Utilizing live streaming features to promote products can potentially lead to unjust business competition because sellers are able to showcase freely and display their offerings without considering the regulations governing live streaming on employees. Additionally, sellers may exploit the opportunity to manipulate stock levels, availability of goods, and engage in product fraud. According to an interview with one of the store's consumers,

*"In my experience I have also received products that do not match the picture, at that time if it was not wrong to buy pants, the specifications of the goods had been explained clearly during live streaming at Shopee, but when the goods came very inappropriate where the size was very small and the fabric was substandard and made me disappointed with the store."*²⁴

According to the findings of the interviews conducted earlier, it is indisputable that the incorporation of live streaming in the Shopee application creates numerous

²³ Pusat Edukasi Penjual, "Tentang Shopee Live", <https://seller.co.id/edu/article/18646>. (accessed on 25 January 2024).

²⁴ Otavia Berlina Cahya Putri, *Interview results*, Ponorogo, 5 January 2024.

opportunities for unscrupulous sellers to boost their sales through various means. Furthermore, setting a reasonable price is the primary consideration before promoting a product through live streaming on Shopee Live, as this can influence consumer interest in purchasing an item..²⁵

On the Shopee platform, there are numerous stores or industries that utilize the live-streaming feature of Shopee Live. One such industry is fashion, which includes stores selling various models of women's tops such as shirts and blouses, as well as women's trousers. Regarding women's top fashion products, researchers conducted interviews with several sellers, including n_rt_tv_04, sherin.id, and fn_store10 stores. Overall, the business competition practice model on the Shopee platform has been implemented in a healthy manner; however, some business actors have taken actions that could potentially lead to unfair business competition.

I conducted interviews with n_rt_tv04 stores in West Jakarta, which revealed that these establishments engaged in live streaming for six hours per day. Observations by the researchers indicated that the product offerings at these stores were diverse, with a significant focus on women's tops, including shirts in various models and styles. Live broadcasts on Shopee featured two hosts and attracted a substantial viewer base, with numbers ranging from to 500-530. The hosts actively demonstrate the products displayed in the shop window during the broadcast.

However, there is a concern that the products showcased and promoted are not actually available on the storefront. Interviews with storefront sellers revealed that even interested buyers must inquire about product numbers before making a purchase. One of the products, a shirt with various models and colors, was not available on the storefront, but had to be ordered by contacting the seller first, and payment was made via bank transfer. This practice appears to be aimed at attracting more viewers to the live stream by offering discount vouchers and free shipping services..²⁶

The following information was obtained from the Sherin.id store. In 2022, this store joined Shopee, a marketplace platform, as a sales strategy to promote products, particularly women's fashion items, such as shirts and blouses. The seller conducts live streaming sessions every day for ten hours, divided into three sessions: morning, afternoon, and evening. Different hosts are presented to showcase and promote the products with the aim of making the audience engaged and efficient. Additionally, the seller offers discounts of 10-15% on each product displayed on the storefront and free

²⁵ A, Made, "Analisis Penentuan Harga Jual untuk Barang *Preloved* (Studi Kasus pada Bisnis Barang *Preloved* @Bekasberkualitas)." *Jurnal Ilmiah Mahasiswa Akuntansi* Vol.11, (3), (2020), 440.

²⁶ n-rt-04, *Interview results a via chat whatsapp*, 30 January 2024.

shipping for a minimum purchase of 30k, to provide a memorable shopping experience to buyers and encourage them to become customers.

The next store is fn_store10, which is located in Pekalongan and Surakarta in Central Java. The seller joined Shopee in 2018 and sold on the platform because of its extensive market reach and large buyer interests. To attract consumers during live-streaming sessions, the seller offers free shipping vouchers and high discounts to followers who become regular customers and tap love on the screen. The seller believes that this approach increases store followers, boosts product sales, and earns positive customer reviews..

1.5 Toko Saya Flash Sale Practice Model on The Shopee Application

Toko Saya flash sale is a feature in the seller center and Shopee application where sellers can choose and create their own flash sale promos to be displayed on the store page. This feature helps attract more visitors to the seller's store by providing limited offers for selected products.²⁷ Sellers can run multiple Toko Saya flash sales promotions on one day. This is useful if the seller wants to spend stock efficiently.

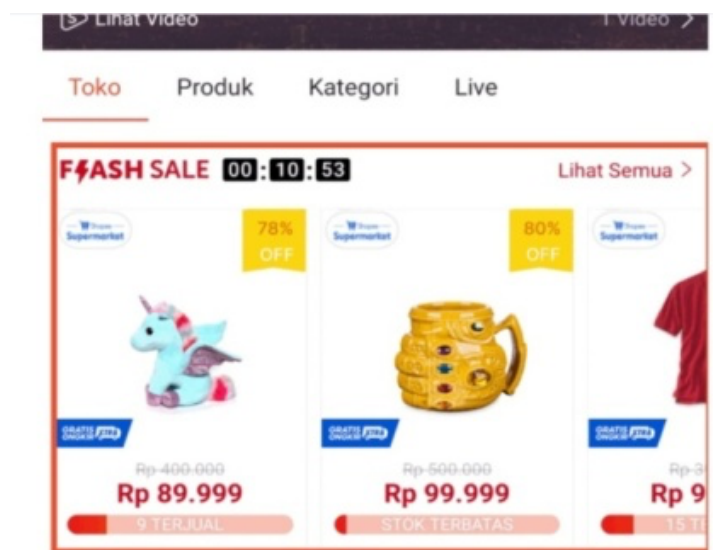


Figure 2. Toko Saya Flash Sale Display in Seller Operation²⁸

Figure 1 shows an example of multiple Toko Saya flash sales promotions that run simultaneously. Sellers can display various products with significant discounts, such as

²⁷ Pusat Edukasi Penjual Shopee Indonesia, "Tentang Flash Sale Toko Saya", dalam <https://seller.Shopee.co.id/edu/article/1912>, (accessed on 25 January 2024).

²⁸ Pusat Edukasi Penjual Shopee Indonesia, *Tentang Flash Sale Toko Saya*, <https://seller.Shopee.co.id/edu/article/1912>, (accessed on 25 January 2024).

those shown in the image, where a plush unicorn and novelty mug are offered at 78% and 80% off, respectively. This setup is useful for sellers who want to manage their stock efficiently by creating urgency and attracting buyers with limited-time offers, ensuring quick inventory turnover.

The regulation and management of Toko Saya flash sales are entirely overseen by sellers who satisfy the specified conditions for Shopee. These sellers have the discretion to decide on the items they wish to present in the Toko Saya flash sale and are free to determine their prices, discounts, and promotions. Furthermore, there are several advantages of using Toko Saya flash sales for sellers on Shopee, such as the ability to create and customize sales, increase sales revenue, and capitalize on sales spikes during large-scale campaigns. Figure 3 illustrates the benefits of using Toko Saya flash sales for Shopee sellers.



Figure 3. Benefits of Toko Saya Flash Sale for Seller on the Shopee Platform²⁹

Figure 3 illustrates the benefits of using Toko Saya flash sales for sellers on Shopee. This result highlights three main advantages. First is the flexibility to create flash sales at any time, with the automatic approval of product nominations once the criteria are met. Second is the ability to significantly increase orders and revenue, with flash sales boosting orders by up to 45%. Third, there is the potential for a sales surge during major

²⁹ Pusat Edukasi Penjual Shopee Indonesia, *Tentang Flash Sale Toko Saya*, <https://seller.Shopee.co.id/edu/article/1912>, (accessed on 25 January 2024).

campaigns, such as the 9.9 Super Shopping Day, where sales can increase by up to 94%, leveraging the high traffic and promotional atmosphere.

Shopee offers a Toko Saya flash sale promo feature, which is intended for shop sellers with strict quality product criteria.³⁰ Each product shown must be ready to ship within three days, have between five and 300 stocks for each variation, and exclude preorders. Sellers were advised to provide discounts of at least 1% for mobile and tablet products and 5% for other categories. This is done to make the promo more attractive, and it should be noted that the price of the product during the flash sale must be lower than the price in the last seven days without markup before the promo.

From the observations, there are two product categories: care and beauty products, and women's fashion products. The category of care and beauty products includes several store sellers: magic_teethlogy and ismileusaofficial. The magic_teethnology store sells a variety of care and beauty products, one of which is the original ISMILE USA Dental Polisher. The product is included in the Toko Saya flash sale storefront, which is sold at a price after the flash sale promo discount of Rp.400,000. Sellers use the Toko Saya flash sale promos to increase sales, and goods run out quickly, so that sales targets are achieved. After the product runs out, it is restocked again to attract consumers to become regular customers. On the other hand, regarding the Toko Saya flash sale period, sellers set flash sale promos a week to 3-4 times with a period of one flash sale of 1-2 hours. This is because the products sold are original at comparable prices, and when given a flash sale promo, the store with large discounts and limited stock makes buyers enthusiastic about buying the product.³¹

The ISMILE USA official store is a feature that sellers use to boost sales and ratings. Authentic ISMILE USA dental software products are available at a fixed price of US\$ 449,000 during flash sales. These promotions can be conducted at any time, with the discount amount adjustable by the seller as long as it remains within reasonable limits and does not compromise the store's integrity. Toko Saya flash sales are occasionally offered during events on shopees to entice shoppers..³²

Unlike the types of stores above, there is a category of women's fashion products, namely, sherin.id and fn_store10 stores. The first is the sherin.id Store. The reason sellers use the Toko Saya flash sale is not much different from the category of care and beauty products, namely, to attract consumers, increase the number of products sold and store

³⁰ Pusat Edukasi Penjual, "Syarat dan Kriteria Produk dan Penjual Flash Sale Toko Saya", dalam <https://seller.Shopee.co.id/edu/article/6997>, (accessed January 25, 2024).

³¹ Hesti Dyah, *Interview results*, Ponorogo, January 5, 2024.

³² Andi Zulianto, *Interview results*, Ponorogo, January 6, 2024.

ratings, and spend the stock of goods. One of the women's fashion products sold with the Toko Saya flash sale promo is the Alya Shirt, which is offered at a price of Rp.52,900. Sellers use the Toko Saya flash sale promos at any time with a period of 2-3 hours per day, not only on these products, but also on several other products.³³

Then, the store fn_store10 seller uses the Toko Saya flash sale, the main reason for which is the same as the previous store, which attracts buyers and increases the market share. Women's fashion products sold with the Toko Saya flash sale promo, Alya Shirt, were offered at a price of Rp.56,000. Sellers use the Toko Saya flash sale promo at certain times and hours as desired and see the enthusiasm of buyers. If there is a lot of demand, then the price is increased but still within reasonable limits, and vice versa if demand is low, then provide a store flash sale promo to attract buyers.³⁴

1.6 Implementation of Live Streaming Practice Model on Shopee Live

1.6.1 Business Competition Jurisprudence Analysis of Live Streaming Practice Model in Shopee Live

The terms and conditions of live streaming on Shopee Live from the perspective of business competition fiqh regulate the products and content streamers must follow. Products featured in live streams must comply with Shopee's product policy, including the requirement that products placed in the orange basket come from the store itself. Violations of these provisions result in sanctions ranging from light to severe depending on the nature of the violation. This policy aligns with the principle of transparency in business competition fiqh and ensures fairness, as it avoids fraudulent practices in product trading.

The live streaming practice model on Shopee Live is examined through the field of business competition, particularly focusing on the activities of sellers at fn_store10. These sellers promise discounts and free shipping under certain conditions, which fall under the category of conditional buying and selling (*Ta'alluq*) and are prohibited in Islam if the seller insists on their terms. Such transactions are considered forced sales, and can be detrimental to other sellers offering similar products. Sellers should adhere to Islamic trading principles of trustworthiness and allow buyers freedom to choose or decide on contracts in online shopping transactions. The element of mutual consent is crucial in online transactions; while offering discounts or free shipping is acceptable, imposing special conditions on buyers is not.

³³ Sherin, Sherin, *Interview results via chat on the Shopee app and WhatsApp call, January 25, 2024.*

³⁴ Fn_store10, *Interview results via the Shopee app, January 26, 2024.*

In contrast, the practice at t_nt_tv04, where products are promoted through live streaming without being available on the storefront, violates Shopee's policies. According to Shopee's terms, featured products must be available in the storefront, and items in the orange basket must come from the store itself. This policy prevents transactions outside the shop for various reasons. Stores requiring buyers to contact them first for an order number are not compliant with Shopee's policies, and do not align with the principles of transparency and fairness in business competition jurisprudence.

These studies present a multifaceted view of Shopee's adherence to policies and principles of transparency and fairness in business competition. Munifa and Aini suggest that Shopee's contracting system, which includes wakalah and ijarah contracts, conforms with Islamic buying and selling terms and conditions, implying a level of compliance with Shariah law.³⁵ In contrast, Marpaung et al.³⁶ highlights a contradiction, revealing that the application of business ethics to Shopee has not been fully realized, with instances of dishonesty and misrepresentation in product listings. This finding suggests departure from the principles of transparency and fairness. Interestingly, while Putri et al.³⁷ and Koto et al.³⁸ focus on factors influencing consumer purchasing decisions, such as product reviews and price, they do not directly address policy compliance or ethical considerations. Roliansyah et al.³⁹, on the other hand, touches upon the ethical aspect by noting that online transactions should adhere to Islamic business ethics, which include principles of truth and honesty. Cahya and Widyastuti further emphasized the importance of Islamic branding and security in purchasing decisions, which could be interpreted as contributing to fair business practices. In summary, while Shopee's contracting system appears to align with certain ethical standards⁴⁰, there are indications

³⁵ Munifa Munifa and Syarifah Aini, "Application of Akad and Sharia Compliance to Online Shop Shopee in an Islamic Economic Perspective," *Muhasabatuna : Jurnal Akuntansi Syariah* 4, no. 2 (February 27, 2023): 047–056, <https://doi.org/10.54471/muhasabatuna.v4i2.2238>.

³⁶ Irma Rahmayani Marpaung, Nuri Aslami, and Zuhrial M Nawawi, "Analysis of the Application of Business Ethics in Online Buying and Selling Transactions on the Shopee Marketplace," *Journal Of Social Research* 1, no. 12 (November 3, 2022): 499–507, <https://doi.org/10.55324/josr.v1i12.347>.

³⁷ Mutiara Eka Putri, Hanif Hanif, and Tulus Suryanto, "The Influence Of Product Review Features And Shipping Cost Subsidiaries On Purchase Decisions In The Shopee Marketplace," *International Student Conference on Business, Education, Economics, Accounting, and Management (ISC-BEAM)* 1, no. 1 (February 17, 2024): 113–23, <https://doi.org/10.21009/isc-beam.011.07>.

³⁸ Rahmadani Koto, Ocdy Amelia, and Cahyo Pramono, "Effects of Product Quality and Price on the Purchase Decision in Shopee Marketplace (A Case Study at Department of Business Administration, Politeknik Negeri Medan)," *Konfrontasi: Jurnal Kultural, Ekonomi Dan Perubahan Sosial* 9, no. 2 (June 2, 2022): 236–47, <https://doi.org/10.33258/konfrontasi2.v9i2.211>.

³⁹ Arhadian Roliansyah et al., "ANALISIS TRANSAKSI JUAL BELI ONLINE DI MARKETPLACE SHOPEE MENURUT KONSEP BISNIS ISLAM PADA MASA PANDEMI COVID 19," *Juremi: Jurnal Riset Ekonomi* 1, no. 5 (March 9, 2022): 443–56, <https://doi.org/10.53625/juremi.v1i5.1675>.

⁴⁰ Munifa Munifa and Syarifah Aini.

of ethical shortcomings in business practices on the platform, such as misrepresentation and discrimination against buyers.⁴¹ These studies do not provide a consensus on Shopee's overall compliance with policies and principles of transparency and fairness, suggesting that while some aspects may be compliant, others require improvement. These findings underscore the complexity of ensuring ethical conduct in online marketplaces and the need for continuous monitoring and enforcement of fair business practices.⁴²

Transparency and fairness are pivotal in *muamalah* (Islamic commercial transactions), as they foster trust among buyers, which is essential for the success of online platforms such as Shopee.⁴³ These principles build the buyers' trust, emphasized the importance of business ethics based on *maqashid sharia* (objectives of Islamic law), which includes transparency and fairness, in maintaining trust between buyers, sellers, and the platform itself. This ethical foundation is crucial to the continuity of Shopee's business.⁴⁴ If the seller avoids fraud or misleading information, the contract remains valid. However, all *muamalah* actions must fulfill certain conditions and foster good relationships. Sellers using Shopee Live must adhere to Shopee's policies and conditions regarding live streaming to enhance security and trust among consumers.

Interestingly, while transparency and fairness are critical, the literature also reveals the challenges in maintaining these principles.⁴⁵ For instance, highlighted the threat of counterfeit products in online retail, which undermines trust and brand integrity. This study suggests that blockchain technology can be used to enhance brand traceability and combat counterfeits, thereby promoting transparency and fairness in online transactions.⁴⁶ F et al. also notes the complexity of trust in e-commerce, indicating that multiple factors, including website security and customer reviews, influence consumer trust.⁴⁷ In summary, scholarly literature underscores the significance of transparency and fairness in online transactions on platforms such as Shopee, as these

⁴¹ Irma Rahmayani Marpaung, Nuri Aslami, and Zuhrinal M Nawawi.

⁴² Artha Cahya and Emy Widyastuti, "DETERMINANTS OF PRODUCT PURCHASE DECISIONS ON THE SHOPEE MARKETPLACE," *Journal of Islamic Entrepreneurship and Management* 2, no. 1 (June 16, 2022): 29–42, <https://doi.org/10.18326/jiem.v2i1.29-42>.

⁴³ Ruslang Ruslang, Muslimin Kara, and Abdul Wahab, "Etika Bisnis E-Commerce Shopee Berdasarkan Maqashid Syariah Dalam Mewujudkan Keberlangsungan Bisnis," *Jurnal Ilmiah Ekonomi Islam* 6, no. 3 (November 19, 2020): 665, <https://doi.org/10.29040/jiei.v6i3.1412>.

⁴⁴ Ruslang Ruslang, Muslimin Kara, and Abdul Wahab.

⁴⁵ Xunbo Wu, Wenqi Jiang, and Lingjie Meng, "Sustainable E-Commerce: Blockchain and Channel Structure in Online Retail Platforms," July 2, 2024, <https://doi.org/10.20944/preprints202407.0181.v1>.

⁴⁶ Xunbo Wu, Wenqi Jiang, and Lingjie Meng

⁴⁷ Torres Princess Janel F et al., "Trust and Online Transactions: An In-Depth Case Study of Consumer Perceptions and Behavior in E-Commerce," *International Journal of Advanced Multidisciplinary Research and Studies* 4, no. 3 (May 20, 2024): 416–20, <https://doi.org/10.62225/2583049x.2024.4.3.2802>.

principles are integral to building and maintaining buyer trust. Challenges such as the presence of counterfeit goods, efforts to enhance consumer protection, and the application of business ethics in line with maqashid sharia are steps toward fostering a sustainable and trustworthy e-commerce environment.

1.6.2 Business Competition Jurisprudence Analysis of Toko Saya Flash Sale Practices on the Shopee Application

The terms and conditions of the Toko Saya flash sale practice model on the Shopee application include criteria aimed at stores and sellers of Shopee. These criteria require sellers to be registered with Shopee, have active stores within the last seven days, and not be in holiday mode. Additionally, the store's rating must be approximately 3.5 with a minimum of five ratings from buyers, a fast chat response rate of at least 50%, and no more than two penalty points. The principle of transparency is a fundamental aspect of fiqh (Islamic jurisprudence) business competition, as it ensures fair and healthy competition, honesty, and justice in market activities.⁴⁸

The business competition practice model using the Toko Saya flash sales feature by some sellers can lead to tight and unhealthy competition. Sellers can create their own flash sale promotions, set a flash sale period, and determine the discount amounts for specific products. In the care and beauty category, sellers of ISMILE dental software products have set varying flash sale prices, resulting in a noticeable price difference of Rp. 49,000 of similar products. For instance, Magic_teethnology frequently conducts flash sales with large discounts and limited stock, attracting enthusiastic buyers. This practice can lead to ongoing flash sale promotions that may not align with permissible competition laws (*al-munāfasah at-tijariyyah al-masyrū'ah*) that aim to avoid harming other parties.

The practice of ongoing flash sales promotions, as described in the provided context, raises concerns about their alignment with competition laws designed to prevent harm to other parties. Flash sales, characterized by significant discounts for limited periods, can potentially distort market competition and may be scrutinized under antitrust laws.⁴⁹ The primary objective of these laws is to protect competition rather than individual competitors, ensuring that anti-competitive practices do not compromise

⁴⁸ Ahmad Zaky Muzakkir, "MEKANISME PASAR PENDEKATAN RETROSPEKTIF EKONOMI ISLAM," *JURNAL AL-QARDH* 5, no. 2 (December 31, 2020): 153-64, <https://doi.org/10.23971/jaq.v5i2.2200>.

⁴⁹ Fitri Fitri and Sri Jaya Lesmana, "INDIKASI PREDATORY PRICING PADA PRAKTEK FLASH SALE PELAKU USAHA E-COMMERCE DALAM PERSPEKTIF HUKUM PERSAINGAN USAHA," *SUPREMASI HUKUM* 17, no. 02 (July 21, 2021): 48-53, <https://doi.org/10.33592/jsh.v17i2.1365>.

consumer welfare.⁵⁰ Interestingly, while flash sales can incentivize consumer purchases and stimulate market activity, they may also be indicative of predatory pricing strategies if they involve selling below the cost with the intention of eliminating competition.⁵¹ This could lead to a temporary monopoly, allowing the seller to increase prices later to recoup losses, which is detrimental to both competitors and consumers. However, the enforcement of competition laws varies and not all flash sales violate these laws. Assessing whether a flash sale is anti-competitive often requires a nuanced analysis of market dynamics and the intent behind the pricing strategy.⁵²

While sellers can freely set prices and promo periods, they must do so within reasonable limits. Arbitrary pricing in some flash sale promotions does not adhere to permissible competition laws that emphasize fairness and avoids harm to others. Ismileofficial offers flash sales promotions aimed at increasing sales, with discounts adjusted within reasonable limits and timed to attract buyers during specific events. This practice aligns with permissible competition laws as it does not harm other parties.

In the women's fashion product category, stores such as *fn_store10* and *sherin.id* engage in flash sale promotions to attract buyers and boost sales. *Fn_store10* conducts flash sales at specific hours, while *sherin.id* sets low prices for its products, such as the Alya Shirt, with minor price differences compared with *fn_store10*. The flash sale periods at *sherin.id* are conducted to improve the store's rating, and are not done continuously. The flash sale practices of both stores align with permissible business competition laws (*al-munāfasah at-tijariyyah al-masyrū'ah*), ensuring that they do not harm other parties.

CONCLUSION

The conclusion of this study highlights that the use of the live streaming feature on Shopee Live does not include the category of business competition that is prohibited in the context of fiqh. This study finds that the practice of live streaming, which is prohibited in unfair business competition, is a form of providing discounts and free shipping with conditions that fall into the category of conditional buying and selling (*Ta'alluq*). In addition, the practice of live streaming that requires buyers to contact the seller first to

⁵⁰ Eleanor M Fox, "We Protect Competition, You Protect Competitors," *World Competition* 26, no. Issue 2 (June 1, 2003): 149–65, <https://doi.org/10.54648/woco2003002>.

⁵¹ Ahmad Saoki Andriyana, Agus Wibowo, and Suparno Suparno, "The Effect of Flash Sale on Purchasing Decisions: A Theoretical Approach," *International Student Conference on Business, Education, Economics, Accounting, and Management (ISC-BEAM)* 1, no. 1 (February 23, 2024): 651–58, <https://doi.org/10.21009/isc-beam.011.46>.

⁵² Rosa M Abrantes-Metz, "Regional Competition Center for Latin America: Antitrust Guidelines for Exchanges of Information Among Competitors," *SSRN*, December 17, 2018, <https://doi.org/10.2139/ssrn.3291659>.

obtain the desired product can be said to have violated Shopee's policy and does not reflect the principles of transparency and fairness in business competition. In addition, the business competition practice model through the Toko Saya flash sale project cannot be said to be unfair business competition or prohibited in the fiqh of business competition, except in terms of setting a very low and sustainable flash sale price. Setting a very low price can be detrimental to other parties (*'adam al-idlār bi al-ghayr*) and is not included in permissible business competition (*al-munāfasah at-tijariyyah al-masyrū'ah*). Efforts are made to avoid unhealthy business operations on the Shopee platform, namely, for business actors who are required to run a business in accordance with the rules of religion, state, and shop policies. For a wider community, manipulative promotions should not be affected. Especially for the Shopee platform, it is necessary to strengthen policies and provisions regarding online buying and selling transactions between sellers and buyers, so that a healthy and safe competitive environment is always created for users.

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Conflicts of Interest

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Diyana Munawaroh is a graduate student of the Sharia Economic Law study program at the Ponorogo State Islamic Religious Institute. As a graduate of Sharia Economic Law, she is very passionate about Islamic Law and Sharia Economic practices. Through her first research, she hoped to continue developing her knowledge and make a positive contribution to the field. In addition, she is active in the Indonesian New Generation community under the auspices of the Bank Indonesia Kediri Region. This is in line with the field of study that is taught, discussing Indonesia's economic stability and various programs that include economic, social, educational, and so on.

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