E-Commerce from an Islamic perspective

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Abstract

Whilst E-Commerce is spreading world-wide, many Muslims are wondering whether this new form of commerce is acceptable from the Syariah (Islamic Law) point of view. Thus, this research paper is meant to study the Islamic perspectives in e-commerce, particularly in its transaction, as well as the rights of the producers and customers. Issues on the legality of E-Commerce in Islam are examined to expose to Muslims around the world so that they could benefit from this new technology if it is proved legal and acceptable in Islam. Regarding transactions, the issues of payment through credit card will be studied to clear the Muslims doubt on the Islamic prospect of E-Commerce. Moreover, the paper discussed about E-Commerce and Transaction, Business in Islam, E-Commerce in Islamic Perspective which will cover the legality of E-Commerce, Islamic Business Ethics in E-Commerce, Legitimacy of E-Commerce Contract, Types of Contract in Islam, The Validity of E-Commerce From Islamic View, and Payment for E-Commerce Transaction, Characteristics of Producers, Rights of Producer, and Rights of Consumer. This research paper concludes the above mentioned area with the support mainly from the Holy Book (The Quran) and the practices of Prophet Muhammad (peace be upon him). © 2004 Elsevier B.V. All rights reserved.

1. Introduction

In the last two decades, the information technology has been reshaping how the world com-
IT and the acquisition of knowledge. The importance of seeking both the divine and worldly knowledge in Islam is stressed since the first revelation. As stated in the Quran:

“Read in the name of your Lord and Cherisher, Who created- Created man out of a clot of congealed blood” (96:1–2).

Accordingly, IT is one of the knowledge that must be explored by Muslims and utilized its potential for good purposes.

The development of IT has brought the most essential revolution to our lives, which is the transition to an Internet–based society. One of the major areas that is significantly affected is the way people conducted transaction, business and commerce in this new and competitive environment [7]. The global availability of the Internet for the exchange of transactions between buyers and sellers has fueled the growth of what is known as Electronic Commerce. Electronic Commerce, or e-commerce, is the process of buying and selling goods and services electronically with computerized business transactions using the Internet, networks and other digital technologies [4].

Even though e-commerce is spreading worldwide, many Muslims still did not know about the status of their transactions according to the Islamic perspective and Islamic business ethics. Therefore, this research paper is meant to study the Islamic perspectives in e-commerce, particularly in its transaction, as well as the rights of the producers and customers.

Issues on the legality of E-Commerce in Islam are examined to expose to Muslims around the world so that they could benefit from this new technology if it is proved legal and acceptable in Islam. Regarding transactions, the issues of payment through credit card will be studied to clear the Muslims doubt on the Islamic prospect of E-Commerce.

In Section 2, the paper discussed about E-Commerce and Transaction, in Section 3 covered on Business in Islam, Section 4 is E-Commerce in Islamic Perspective which will cover the legality of E-Commerce, Islamic Business Ethics in E-Commerce, Legitimacy of E-Commerce Contract, Types of Contract in Islam, The Validity of E-Commerce From Islamic View, and Payment for E-Commerce Transaction, Section 5 discussed on Characteristics of Producers, and Section 6 covered Rights of Producer, while Section 7 covered Rights of Consumer, Section 8 is the conclusion of the whole paper, followed by references, and Appendices A, B, C.

2. E-Commerce and transaction

The growth of E-Commerce in the past few years has generated considerable diversity and complexity in its structure and applications. E-Commerce referred to the use of information and communication technologies to network economic activities and processes, in order to reduce information related to transaction costs to gain a strategic, information advantage [5].

From Islamic point of view, e-commerce has a similar definition with the conventional commerce, but some rules and obligations must be aligned with the need of Islamic principles and permissible by Islam. As mentioned in Holy Quran:

“And when the prayer is finished, then you disperse through the land, and seek the Bounty of God, and remember God much, that you will prosper” (62:10).

This verse clearly shown that Allah allowed His servants to do whatever activities on earth as long as it did not contradict with the Islamic principles. In Islam there is no isolation between the spiritual and material (ritual and ordinary actions), for all actions performed in obedience to the command of God are considered as the acts of virtue and half of the religious duty including e-commerce.

Rights carried many definitions in Islam. Classical Islamic jurist Ibn Nujaiym, defined rights as “the entitlement of a person to a thing and an exclusive assignment”, which is the basic ingredient of the general concept of rights for the rights bearer.

Modern scholars have made advancement on several definitions for the concept of rights in various perspectives. Some of the definitions, viewed rights from the Islamic laws, while others tend to
emphasize the concept of interest. To avoid engaging in technicalities to overlap, the author, [6] made a conclusion to define rights as “an exclusive appropriation or power over something, or demand addressed to another party, which the Islamic laws has validated in order to realize a certain benefit”.

In the e-commerce, the example of rights which concerned here are the rights of privacy, consumer data protection, rights to be secure in dealing with the transactions, rights to know the detailed of the product, rights of producer to get information from customer, rights to get the payment when the products are delivered and many more.

3. Business in Islam

The fundamental teachings of Islam derived from four sources; the Quran and the Sunnah (practices of the Holy Prophet), intellect (wisdom), and consensus of religious scientist. The Quran viewed the life of man as a continuous process. Man had to work for success and comforts not only for this world but also for the hereafter. Therefore, the Quran not only permitted and encouraged man to involve in all sorts of productive work (such as business), but also enjoined it as a duty upon Muslims.

In Islamic business concept, Muslims should be very faithful and God-fearing in any kind of business or trade. As stated in the Quran:

“... God has permitted trade and forbidden usury. Those who after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for God; but those who repeat the offence are Companions of the Fire: they will abide therein forever” (2:275).

Hence, the Quran regarded business as lawful, good and beneficial for both the individual and the society. Fair trade and honest business are praised, recommended and strongly exhorted to by the Quran.

4. E-Commerce in Islamic perspective

As far as Muslims’ welfare is concerned, Islam accords a paramount importance to the Trading sector as a major source of wealth and gale force wheel of the economy.

In this respect, the holy Quran abounds with many references to the trade and commercial activities. For example, the Quranic ayats that support this statement are:

“Woe to Al-Mutaffifin [those who give less in measure and weight (decrease the rights of others)]” (83:1).

“O you who believe! Eat not up your property among yourselves unjustly except it be a trade amongst you, by mutual consent. And do not kill yourselves (nor kill one another). Surely, Allah is Most Merciful to you” (4:29).

What is more striking for a Prophetic authority dated backward to as long as fourteen centuries ago, is that Islamic teachings had been even aware of what is conventionally known as “Trading Data Management”. This is justified by the fact that the religion of Islam is broken into four major legalistic sections, among which is “Islamic Business Transactions” (Fiqh al-Mu'amalat). Needless to speak about the very ample provisions set by Islamic laws in regard to the efficient treatment of wealth. However, this research drew on the means of the smooth functioning of business transactions and commercial activities from the Islamic prospect. More particularly, what does Islam cater for the “E-Commerce”? Rights from the very outset, our eminent Sunnah (act of Prophet SAW), in some aspects, preached for the same quality-values offered by “E-Commerce”, particularly, accuracy and veracity, flexibility, convenience, contract standardization, speed, cost effectiveness, and others. In this connection, our Prophet (SAW) said:

“Allah showers his mercy and compassion upon the one who is tolerantly flexible, both when buying and selling”.

Nonetheless, there are a number of serious legal drawbacks that are likely to arise in the field of “E-Commerce”, particularly, short selling, and absence of concrete (hand to hand) delivery, uncertainty (Gharar), juridical authentication’s problems, and much more.

According to the analysis done by [3] in her research, she found that Islam accepted the conduct of E-Commerce as a new way or technology to facilitate economic transactions. This is based on the Syariah (Islamic Law) legal values, namely
the obligatory (Wajib), recommended (Mandub), permissible (Mubah), reprehensible (Makruh), and forbidden (Haram). In an interview with Ustaz Mustafa Omar (please refer to 10.1 Appendix A), he also mentioned that Islam is not against E-Commerce; instead Islam basically encouraged E-Commerce as one of the new way of conducting business. He further explained that traditionally, business was conducted verbally face to face but today the two contracting parties are connected together via computer. However, [3] added that what is much of a consent in conducting E-Commerce is the moral perspectives that lead to a more accountable and responsible trader. As such, a few Syariah issues may be referenced while discussing some matters related to the ethical principles in Islamic business.

4.1. Legality of E-Commerce

Based on earlier discussion, it is clear that Quran (Holy book) not only permitted but also encouraged the Muslims to engage in an honest and mutually beneficial trade. Related to commerce, Quran revealed two prerequisite for the validity of any given transaction; namely, permissibility and harmlessness. Permissibility means that the commodity and service in question must be permissible by the Syariah (Islamic Law); while harmless means that the commodity or the service must not be harmful for the contracting parties or the general public. Hence, regardless of whether the transaction is conducted in the traditional commerce or electronically, the above prerequisites must be fulfilled by all Muslim businessmen.

Since E-Commerce is conducted using computers and networks, there are certain conditions that must be observed to ensure the legality of E-Commerce in Islam. First, there should be clarity in the communication and the products offered must be clearly defined, for example, the pictures of the products must be clearly displayed on the screen, give detailed specifications, the prices, the mode of delivery and the mode of payment must be clearly stated. Second, both contracting parties must receive the message in order to achieve conformity in the agreement (concluding the contract). Third, there must be continuity in the communication, whether in the transmission of message or in consulting between one another via e-mail [Ustaz Mustafa Omar].

4.2. Islamic business ethics in E-Commerce

Truthfulness, sincerity and honesty are basic ethical value of Islam. A businessman has to be honest, truthful and straightforward in all his business dealings. There is no scope of cheating, speaking lies, swearing too much and false advertising in Islamic framework of business. Even in the Hadith, the Prophet said:

“He who has reinforced the truth with his tongue, his reward will continue growing until the Day of Resurrection where Allah will pay him his full reward.”

While effort put to persuade people to buy their products, advertisers are prone to exploit ambiguity, conceal facts, exaggerate and use psychological approach to persuade customers to buy according to their emotional needs, not to reasons. These tricks are especially effective and put the customers in more vulnerable position under the E-Commerce environment, as customers only rely on Web information to make purchasing decision. Thus, confidence of customers played an important role in the advancement of any business concern. As stated in the Quran:

“Allah do command you to render back your trust to those to whom they are due; and when you judge between man and man, that you judge with justice…” (4:58).

The concept of trust is very important because without trust, development of E-Commerce could not reach its potential.

4.3. Legitimacy of E-Commerce contract

Islam defined contract as an agreement of both parties to the fulfillment of a certain things rising from the agreement and the concurrence of the offer and acceptance, according to Mahmood Sanussi. As stated in the Quran:

“Oh you who believe! Fulfill (all) obligations…” (5:1).

According to most Muslim scholars, there are four pillars of contract that must be fulfilled,
which are offer (ijab) and acceptance (qabul), two contracting parties, subject matter and the mode of expression (sigha) [Ustaz Mustafa Omar].

First, the offer is made by the first party to the contract. Then, it gave and confirmed the freedom of acceptance from the second party. The offer and acceptance must be clear to both parties, confirmed by both parties and there must be continuity from the offer to the acceptance (there is a connection between offer and acceptance). Second, the capacity of the two contracting parties to enter into a valid contract is majority, the age of puberty and has a sound mind. Third, the subject matter is the object of the sale and it must be beneficial, lawful in Islam (halal), valuable, under possession, in existence and deliverable. Fourth, the mode of expression is the utterance of both contracting parties expressing their wills and it could be through words (act) or in writing, but it should be clear to both parties [2].

In Quran mentioned:

“O you who believe! When you contract a debt for a fixed period, write it down. Let a scribe write it down in justice between you. Let not the scribe refuse to write as Allâh has taught him, so let him write. Let him (the debtor) who incurs the liability dictate, and he must fear Allâh, his Lord, and diminish not anything of what he owes. But if the debtor is of poor understanding, or weak, or is unable himself to dictate, then let his guardian dictate in justice. And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her. And the witnesses should not refuse when they are called on (for evidence). You should not become weary to write it (your contract), whether it be small or big, for its fixed term, that is more just with Allâh; more solid as evidence, and more convenient to prevent doubts among yourselves, save when it is a present trade which you carry out on the spot among yourselves, then there is no sin on you if you do not write it down. But take witnesses whenever you make a commercial contract. Let neither scribe nor witness suffer any harm, but if you do (such harm); it would be wickedness in you. So be afraid of Allâh; and Allâh teaches you. And Allâh is the All-Knower of each and everything” (2:282).

Based on the Syariah, contract in E-Commerce is legitimate because all the four pillars of Islamic contract are fulfilled.

4.4. Types of contract in Islam

There are various types of Islamic contract. Some of them which related to E-Commerce are Ordered Sale (Bai’ Al-Salam), Manufacturing Sale (Bai’ Al-Istisna’) and Deferred Sale (Bai’ Muajjal).

Ordered Sale (Bai’ Al-Salam) is a contract of sale in which the price is fully paid in advance while the product will be delivered in future [2]. The Ordered Sale is legal in Islam and there are verses in the Quran which proved the legality of this contract. Besides, there is one Hadith narrated by Ibn Abbas that stated:

When the Prophet came to Madinah, the people were making salam (ordered) sale of the future harvest of their fruits (in one, two and three years). Prophet then said:

“Whoever wants to make salam sale, do so upon specified weight and for a specified duration of time”.

There are necessary conditions for the subject matter of Ordered Sale:
1. Must be able to be specified.
2. Must be delayed in its delivery.
3. Must be available in the market.

The rulings on Ordered Sale is that the ownership of the ordered subject matter is established to the buyer (upon receipt of the subject matter due to the buyer later and obligatory upon the seller until he delivered the ordered subject matter) [2].

Manufacturing Sale (Bai’ Al-Istisna’) is a contract of sale where the buyer gave an order to a workman (seller) to make a definite thing with an agreement to pay definite wage or price for that thing when it is made. It is similar to Ordered Sale since it is also something non-existence; but the price need not be paid in advance; no specification of delivery and the subject matter is not available in the market [2].

Deferred Sale (Bai’ Muajjal) is a contract of sale in which both contracting parties agree that the payment of price for the product shall be deferred [2]. The Deferred Sale is legal in Islam and there are verses in the Quran which proved the legality of the contract. There are Syariah rules of sales which are applicable to the Deferred Sale:
1. Subject matter must be in existence.
2. Subject matter must be owned and possessed by the seller.
3. Sale is instant and absolute. It is not pending on future date.
4. The price is certain.
5. No conditions attached.

So, E-Commerce falls under which type of contract? E-Commerce may fall under any of the three types of Islamic contract mentioned above, depending on the mode of communication and the type of business being conducted. When a company which is conducting sales online took the money first from the customer and delivered the product in the future, it is an Ordered Sale. If the company made an agreement with the customer to produce the product ordered and take money from the customer only after the product is made, it is a Manufacturing Sale. And if the company agreed to sell the product to the customer in deferred price or in installment, then it is a Deferred Sale.

4.5. The validity of E-Commerce from Islamic view

According to Ustaz Mustafa Omar, initially there are five stages that were recommended by Islam to ensure the validity of the e-commerce. There are:

4.5.1. Initiating a contract (Al-Ta’aqut)

This is the first stage of initiating the contract where both parties checked whether all four pillars to bind the contract are present. Usually there are offer and acceptance, two contracting parties, subject matter, and the mode of expression must be met. If the owner of the product is not able to present, there should be an agent to ensure that the company is exist. Even if the agent acted as the representative of the company, he or she should produce an authentication certificate to ensure that he or she is the entitled person to act on behalf of that company.

Regarding the subject matter, other than the conditions mentioned before, which must be something permissible, deliverable, and owned by people, the subject matter must be available somewhere in the market (global market). Regarding the mode of expression, since the contract is performed online, the communication must be clear and the system worked properly without any interruption such as server down and virus attack.

The most important thing in that initiating stage is that the contract should meet the Islamic requirements. For example, the contracting parties must be sound mind, and sound judgment to make sure that one dealt with the rights person. Thus, the possibilities they would be exploited is reduced.

4.5.2. Confirming the validity (Sihha)

During the process of negotiation, the contract must be free from the following elements:

1. Interest (Riba’) is defined as “an increase or excess in an exchange or sale of commodities, which accrues to the owner without giving in return any equivalent counter value” [8]. Islam strictly prohibited interest, as stated in the Quran:

   “O you who believe! Devour not usury, doubled and multiplied; but fear Allah; that you may (really) prosper” (3:130).

2. Uncertainty (Gharar) in business means “to undertake anything blindly without sufficient knowledge and there is an element of risk” [8]. For example, during the negotiation, the subject matter is concealed from the buyer without the buyer knowing exactly its future result; and Quran has clearly forbidden this kind of business transaction.

3. Deceit or fraud is “a statement by which one party is induced to enter into the contract with the expectations that he could get profit or gain out of the contract; but unfortunately it was otherwise” [8].

4. Duress is defined as “threat of something disagreeable for getting an act done by the person without his consent” [8].

5. Any elements of gambling (Maisir).

4.5.3. Implementation (Nafath)

In this stage, two things must be ensured:

a. The person offering the product is the real owner of the product sold and has the absolute rights over the product (has authority).

b. The product is free from any liabilities.
4.5.4. Binding (Ilzhâm)

In this stage, both contracting parties have to sign a contract which is binding (lawful contract). Before signing the contract, the buyer must verify the company (seller) and the product sold through agents or any other people to confirm its existence. The reason is that the buyer could only see the company through its’ website (on the computer screen) and websites could be developed by anybody. So the real existence of such a company is actually a question mark. After signing the contract, the buyer must keep the contract copy of the agreement in any format, paper or electronic for later reference to avoid any manipulation or exploitation.

4.5.5. Delivery (state of exchange)

This is the final stage where both contracting parties have to exchange the counter values that are the price and the product. Normally, E-Commerce use credit card as the mode of payment, but Muslims should avoid using credit card because it involves interest (Riba’). Muslims may used other alternatives such as payment through bank (will be explained in the next section). Once the buyer received the product, the buyer has to check and confirm whether the product met the buyer’s conditions and specifications. Here, the buyer could practice the option of condition if there are certain conditions did not meet, but it must be stipulated before in the contract. In Islamic contract, there are also other options that could be practiced by both the contracting parties accordingly such as the option of defect, option of sight, option of determination and option of meeting (Majlis).

4.6. Payment for E-Commerce transaction

The most debatable issue in E-Commerce is the method of payment. The core concept is that the customer should be able to make payment over the network easily and in secure. Today, the most common method of payment for purchasing on the Web is via credit cards. Assume that using credit cards to settle payments in E-Commerce is permissible or halal. It could be halal if the customer paid the whole bill before the due date. However, the issue of Islamicity of E-Commerce is in question when the customer only pays the 15% minimum requirement where the issuing bank would charge him or her 2% monthly interest rate on the remaining balance [3]. Regarding this issue, Ustaz Mustafa, while highlighting that there is still not exist any Islamic credit card system, suggested using the Murabahah System.

Murabahah is generally defined as a sale with Mark-up or a cost plus profit sale. It is the sale of a product for the price at which the seller has purchased it, with the addition of stated profit to be known to both parties-the buyer and the seller. Murabahah is used as an Islamic contract of financing because it allowed the bank to use it as a credit vehicle to finance the buyer against a predetermined profit without bearing any risk [2]. The Murabahah System is considered legal in Islam based on evidence from the Quran:

“O you who believe! When you deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing...” (2:282).

Even in one Hadith, it is stated that the Prophet bought a camel from Jabil and the payment was made in Madinah after arrival; and when asked regarding the matter, the Prophet answered:

“A sale for a deferred payment by installment is good”.

Therefore, in E-Commerce transaction, the Murabahah System could be used as the alternative method of payment replacing the credit card. Moreover, there exist different ways to online payments such as payments via electronic checks, and debit cards.

5. Characteristics of producers

There are some guidelines that the seller or producer must know when they involved in commerce regardless of whether it is traditional or electronics commerce.

Islam said that the first goal of a Muslim doing business is to seek the pleasure of Allah and they should aim higher goal when they do business.
Higher goal is meant by, improving the inventory, the types of product in it and strived to find ways to improve services and profit margin. Therefore making profit is the secondary aim for them but it must be balance between seeking profit and for achieving the pleasure of Allah in here and here after.

Secondly, they should be truthful and honest. Prophet Muhammad said:

“The honest and truthful businessmen will be in paradise amongst the prophets, the truthful, and the mytys”.

In the case of e-commerce these two elements are essential to gain customers’ confident to deal through the Internet.

Thirdly, seller should open to the critics, scrutiny and to be clean. By practicing these three elements indirectly lead other people to respect such businessmen. Here, clean did not just meant by the products should be permissible, but also clean in all aspects of business such as not exploiting customers for private interest and not practicing usury. This included the ingredients of the products which should be permissible and it should not contain anything that lead to ambiguous conditions. For example as prophet Muhammad said:

“Cleanliness invites towards faith (Iman) and faith leads its possessor to paradise” (Tabarani).

Furthermore, Islam encouraged Muslim businessmen to work with others in the market (aiming to market the same product). This may be hard to practice but in Islam brotherhood in the society should not be forgotten. By cooperating with each other they would share the experience and learnt how to cooperate, as well as and built a bigger business.

6. Rights of producer

Similar to the consumers, producers also played important roles to ensure the e-commerce progress efficiently. They are the one who supplied products and advertised them on the Internet.

Basically in Islam, producers must possess the elements of justice because in dealing with virtual communication indirectly lead to the mishandling the information, exploitation of consumers’ data and many other issues. When something bad happened, people tend to point to the producers of the products. Therefore, to be on the safe side, Islam suggested them to practice the concept of justice. Justice means placing things in the rights place where they belonged. As Allah mentioned in the holy Quran:

“God doth command you to render back your trusts to those to whom they are due; and when ye judge between man and man, that ye judge with justice: verily how excellent is the teaching which he giveth you! For God is He Who heareth and seeth all things” (4:58).

This verse clearly showed that Allah commanded Muslim to practice justice on the rights place and to whom they would deal with. They should not be bias in making decision. At the same time they have to know their rights, such as the rights to get the payments when goods are delivered, and the rights to force consumers to buy the products when they met all the requirements at the time contract is bound between both parties.

Furthermore Islam said that if the producers wanted to practice the concept of agent, they should clearly define the condition, which entitled the agent to be on behalf of the producers. This removed the ambiguous situation when a consumer dealt with the related company. Indirectly, the consumers could gain confidence in buying the products.

Besides, Islam also suggested few replacements of using credit card as a method of payment such as letter of credit, bank draft and many more. Muslim producers should think any alternatives to improve the efficiency of payment system in e-commerce. This is because in Islam, anything that involved in usury should be avoided as we have covered in Section 4.5.

7. Rights of consumer

Consumer is one of the important elements which lead to the successful of e-commerce.
Muslim should alert with the changes of the technologies around them especially the growth of e-commerce. Otherwise they would be left behind. The main reasons which lead to the lack of knowledge about e-commerce are; the attitude of Muslim community themselves, lack of publicity, campaigns and exposures about the consumer rights, which result to less understanding from consumer perspectives concerning these issues. Some famous issues which always been highlighted are privacy, data protection, and the rights to know the details of the products which are discussed more in Appendices A, B, C.

8. Conclusion

E-Commerce is a new fundamental business paradigm that went against the traditional business paradigm. It emerged from the convergence of several major information technologies and business practices. The ability of E-Commerce to reduce the transaction cost that is inherent in the traditional way of doing business is one of the determinant factors that cause e-commerce to evaporate in its success continuously. On the other hand, issues such as the legality of E-Commerce, the legitimacy of the contract and its transaction have become the major concerns of many Muslims. Islam encourages E-Commerce as a new way of conducting business. Traditionally, business was conducted verbally face to face but today the two contracting parties are connected together via computer. However, there are conditions that need to be observed for the validity of E-Commerce in Islam. According to most scholars, there are four pillars of Islamic contract, namely ijab and qabul, two contracting parties, the subject matter and sigha (the mode of expressions). Traditionally, when two contracting parties involved in a contract, the place is called ‘majlis’ (meeting) where both parties communicate face to face. Today, with the emergence of E-Commerce, we have to redefine ‘majlis’ as the communication which takes place via computers.

Since E-Commerce is conducted using computers and networks and this is a new mode of conducting business, how about its legality in Islam? Can you explain it from the Syariah point of view?

There are certain conditions that must be observed to ensure the legality of E-Commerce in Islam. First, there should be clarity in the communication and the products offered must be clearly defined, for example, the pictures of the products must be clearly displayed on the screen, give detailed specifications, the prices, the mode of delivery and the mode of payment must be clearly stated. Second, both contracting parties must receive the message in order to achieve conformity in the agreement (concluding the contract). Third, there must be continuity in the communication, whether in the transmission of message or in consulting between one another via e-mail.

What are the drawbacks of E-Commerce according to Islam? (the problems that arise from E-Commerce)

There must be much concern on the mode of payment and the delivery. First, the mode of
payment must be Islamic. Second, the mode of delivery-the product must reach the buyer. This two, I could say, are problems that the buyer always faced when purchasing online (through E-Commerce).

The most common method of payment in E-Commerce is via credit card. When customer use credit card, he/she only pays the 15% minimum requirement where the issuing bank will charge him/her 2% monthly interest rate on the remaining balance. Here, the issue of Islamicity of E-Commerce is in question. So, can you give some explanation regarding this issue? Is there any halal credit card system for such transaction or is there any other alternative method of payment for E-Commerce transaction?

Credit card involves the element of Riba’ and as I know, there is still not exist any Islamic credit card system. So, I would suggest using the Murabahah system where the buyer can ask any Islamic bank to purchase the product on behalf of him and he buys back the product and does payment in installment. The form is called Letter of Credit.

How can a Muslim who conducts business online ensure he is doing halal business and making profit in halal or correct way?

There are five stages that a Muslim businessman should follow to ensure he is doing business online in a correct way:

1. Initiating a contract (Al-Ta’aqut)

In this stage, all the four pillars of Islamic contract, namely offer and acceptance, two contracting parties, subject matter and the mode of expression must be met. Regarding the subject matter, other than the conditions mentioned before, the subject matter must be available somewhere in the market (global market). Regarding the mode of expression, since the contract is performed online, the communication must be clear and smooth without any interruption such as server down and virus attack.

2. Confirming the validity (Sihha)

During the process of negotiation, the contract must be free from the following elements: interest (Riba’), uncertainty (Gharar), deceit, duress and any elements of gambling (Maisir).

3. Implementation (Nafath)

In this stage, two things must be ensured:

a. The person offering the product is the real owner of the product.

b. The product is free from any liabilities.

4. Binding (Ilzham)

In this stage, both contracting parties have to sign a contract which is binding (lawful contract). Before signing the contract, the buyer must verify the company (seller) and the product sold through agents or any other people to confirm its existence. After signing the contract, the buyer must keep the hardcopy of the agreement for later reference to avoid any manipulation or exploitation.

5. Delivery (state of exchange)

This is the final stage where both contracting parties have to exchange the counter values that are the price and the product. Once the buyer received the product, the buyer has to check and confirm whether the product met the buyer’s conditions and specifications. Here, the buyer can practice the option of condition if there are certain conditions not met, but it must be stipulated before in the contract.

On the consumer side, how can they ensure that the products sold online are halal? For example, selling chocolate online, the chocolate must be made from halal milk; or selling leather products like shoes, the shoes must be made from halal animal skin; the animal is slaughtered correctly and so on. Can you explain on this issue?

The consumer can verify about the ingredients of the product from any Muslim organizations that is in that country. For example, the consumer buys product from US, he can go to any Islamic websites that is also at US to verify the product. Alhamdulillah, now we have a lot of Muslim websites which deals with different area of business. So there is no problem.

E-Commerce falls under what type of Islamic contract?

E-Commerce is a mode of production that can interact with so many types of Islamic contract. It depends on the mode of communication and the type of business being conduct. For example, E-Commerce may be categorized as Bai’ Al-Salam (Ordered Sale), Bai’ Al-Istisna’ (Manufacturing
Sale) or Bai’ Muajjal (Deferred Sale). So, there is no specific type.

From Islamic perspectives, what are the rights that both parties must know when they involved in e-commerce?

Islam has provided rights for both parties. Among the rights of consumers are the rights to know about the goods, prices, time of delivery, and also the rights to exercise to option (to accept or to reject the product if it meet the certain requirement). Beside that consumer also has the rights to get privacy when they get involved with the e-commerce.

Beside, the seller has the rights to receive the price and also the rights of option to force the buyer to buy the products if it fulfills the requirements that is needed.

Regarding the issues of privacy and data protections, what is your comment?

If we look to the situation, e-commerce is a global market and when people engaged in this new system, the will automatically are open to the global market. Internet is not secured, although we have the rules that everybody should follow but at the same time the system is not guaranteed the security of the technology. Therefore, the failure of the system to provide the security and privacy is the subject matter not the laws. As long as the system does not provide a strong and reliable mechanism in the e-commerce the privacy and data protection issues cannot be settle.

What consumer should do in order to know that products available in the website is made from permissible ingredients?

According to my knowledge, there are a lot of Muslim website in Western countries and some of them will provide the information if we ask about the ingredients of the products and the related information that is required by the user especially Muslim consumer. Therefore, we will use that facilities or services in order to have clear pictures about the product and the most important things is that the product is permissible by Islam.

Regarding the methods of payment (payment through credit cards) and the methods of delivery, what Islam says about it and is it permissible by Islamic laws and what is the appropriate way to deal with the company that sent the product not in proper way?

Actually credit cards are one of the methods of payment and as we know the credit card involved in usury. As a Muslim we should avoid anything that related to usury. If possible, Muslim should try to keep away from getting involved with this method of payment and use other options such as bank draft, letter of credit and many more.

Appendix B. Islamic business ethics

There are many principles that governed the Islamic business ethics. According to F.R Faridi, there are nine specific principles but only the first four related to the conduct of E-Commerce which is:

1. Adherence to contract. Islam attached extraordinary importance to the fulfillment of contracts and promises. A Muslim trader should be truthful, kept up his trusts, promises and contracts. According to Islam it is desirable to put in black and white all the business contracts and dealings. As stated in the Quran:

   “O you believers! Fulfill your contracts” (5:1).

2. False advertising and misrepresentation. One of the most common unethical practices in modern business is to deceive customers by launching misleading advertisements and publicity campaigns. Islam strongly condemned all these practices and urged its followers to avoid them. As stated in the Quran:

   “And do not withhold from people the things that are their due and commit not evil in land with interest to spread disorder” (11:85).

3. Accurate measurement and weights. Deceiving in weight is a very old type of exploitation. It was due to such fraud that the people of Shuaib were annihilated. The Quran has emphasized the ethical responsibility of business regarding weight and measurement.

   “Give full measure when you measure and weight with a balance that is straight...” (17:35).

4. Interest and unlawful trade. Islam declared the interest (Riba) as the one of root causes of some
economic evils. Islam offered an interest-free business system based on Islamic principles. There are many Quranic verses revealed on the prohibition of *Ribā* such as:

“Those who eat *Ribā* (usury) will not stand (on the Day of Resurrection) except like the standing of a person beaten by *Shaitān* (Satan) leading him to insanity. That is because they say: ‘Trading is only like *Ribā* (usury),’ whereas Allah has permitted trading and forbidden *Ribā* (usury). So whosoever receives an admonition from his Lord and stops eating *Ribā* (usury) shall not be punished for the past; his case is for Allah (to judge); but whoever returns [to *Ribā* (usury)], such are the dwellers of the Fire – they will abide therein” (2:275).

“O you who believe! Be afraid of Allah and give up what remains (due to you) from *Ribā* (usury) (from now onward), if you are (really) believers” (2:278).

5. **Hoarding and profiteering.** The lust for money and the overemphasis on profit maximization leads to hoarding of essential commodities during the periods of scarcity or crises, with a view to sell the same at high prices. Islam strongly condemns hoarding and speculative buying and warns businessman about the dreadful consequences on this behaviour. This is supported by one Hadith narrated by Ibn Majah that stated:

“The one who brings food to the market, Allah will help him, provide well for his family and the one who hoards is cursed by Allah”.

6. **Destruction of surplus produce.** One of the “modern” methods of maximization adopted by western business organizations is to destroy the surplus produce with a view to create artificial scarcity of goods and increase price by artificial excess in demand. Islam strictly prohibits this practice of trade. In one Hadith, the Prophet said:

“I dislike three things of you: useless argumentation, wasting goods, and excessive questioning”.

7. **Fair recruitment practices.** One of the most important areas of public concern is the employment practices in organizations. Islam urges Muslim traders to practice fair recruitment and avoid discrimination, nepotism, corruption, and bribery which are very common in big organizations. As stated in the Quran:

“Allah do command you to render back your trust to this to whom they are due; and when you judge between man and man, that you judge with justice...” (4:58).

8. **Fair treatment of workers.** Employers should not treat workers as machines or tools, but as human beings. Fair wages, good working environments, suitable work and excellent brotherly treatment should be provided to workers. Even in the Hadith, Prophet said:

“Give the laborer wages before his perspiration be dry”.

9. **Protection of environment.** According to Islam, no individual or organization has the rights to utilize its resources in such a way that damage or cause inconveniences to people or society in general. This is mentioned in one Hadith that stated:

“There is no scope for causing damage in Islam neither in the case of independent action nor as a reaction”.

### Appendix C. Rights of consumer

Some famous issues which always been highlighted are privacy, data protection, and the rights to know the details of the products.

#### C.1. Privacy

The CEO of Jagat ICT law consulting stated that “Internet is not only as a means of by which people can communicate but also providing opportunities for the marketing of data and information within a second at negligible cost”. Parallel with the growth of the e-commerce, the CEO added that this fact has given rise to growing concern about the rights to privacy of more than 655 million people worldwide, including 5.7 million internet users in Malaysia, South-East Asia’s largest Internet center.

The recognition of privacy in general deeply ingrained in history and the religious teachings. This clearly shown in the Holy Quran:

“O ye who believe! Enter not houses other than your own, until ye have asked permission and saluted those in them: that is the best for you, in order that ye may heed (what is seemly). If ye find no one in the house, enter not until permission is given to you: if ye are asked to go back, go back: that makes for greater purity for your-
The above verse clearly highlighted the important of one to respect the privacy of other people. The similar concept is applied in e-commerce where the unauthorized parties should not intercept others’ secret information when they dealt through the Internet. According to Ustaz Mustafa Omar, when the consumers started using the internet or e-commerce as the medium of transactions, it is impossible for them to get any privacy because e commerce is open market which leads them to be exposed to the global situations.

According to Prof. Abu Bakar, the aspects that have always been highlighted in privacy related to e-commerce are, privacy of information which involved the establishment of rules governing the collection and handling of personal data such as credit information, and also the privacy of communications which covering the security and privacy of mail, telephones, email and other forms of communication.

Ustaz Mustafa Omar stated that, the issue of privacy is being discussed from time to time but it remained unsettled. According to him although the laws and regulations were legislated, these situations did not show any signals to reach an end. This is because the nature of the system which is opened and it enabled the hackers to take the opportunities to gain an unauthorized access to others’ information.

C.2. Data protection

Personal data is defined as any information recorded in a document in which it could practically be processed wholly or partly by any automatic means, which direct to a living individual who is identifiable in the possession of the data user [1].

Data protection is one of the rights that must be taken into considerations when consumers made a transaction through the Internet. Upon submitting or fulfilling the purchasing form, the consumer expected that the personal information remained confidential (not broadcasted on the Internet). Moreover, they expected that information would not be stolen or used by internal personnel for private or commercial use, not to be traded to the third parties, and the system must be strong enough to protect the data from unauthorized access. These are the basic ingredients lead to the success of e-commerce in gaining the consumers’ confidence that their secret information are not being exploited by other people.

C.3. Rights to know the details of the products

It is common for individuals to know the details of the products. According to Ustaz Mustafa Omar, Islam has set the requirements that the person must fulfilled before they could engage with the transactions through the Internet. The requirements that should be taken into considerations are related to the price, time of delivery, how the products being delivered, the ingredients of the products, and many more. The reason is, when all requirements are fulfilled, and then the probabilities that one party is being exploited by another could be eliminated.

For example, a consumer who wanted to buy Al-Quran from an online bookshop. During the process of completing the form and binding the purchasing contract, the buyer might stated the conditions that the company should observe when they wanted to deliver the product to the consumer. After the holy Quran is delivered, the consumer noticed that the company delivered it in unacceptable manner, such as it was not wrapping properly, or the product is dusty. Therefore, as a consumer one has the rights to reject that good because the conditions that were stated in the contract have not being fulfilled by the company.

According to Ustaz Mustafa Omar, this case fundamentally focused on the issue of morality.

References


