

## THE APPLICATION OF THE PRINCIPLE OF KHIYAR IN ONLINE SALES TRANSACTIONS: A COMPARATIVE STUDY OF ISLAMIC ECONOMIC LAW AND LAW NO. 8 OF 1999 ON CONSUMER PROTECTION

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### ABSTRACT

The transformation of the global economic landscape through the e-commerce ecosystem has triggered a shift in consumer behavior from physical (brick-and-mortar) markets to the digital space. However, the remote and intangible nature of digital transactions presents legal challenges in the form of information asymmetry, which places consumers in a position of unequal bargaining power, particularly regarding the risks of hidden defects and discrepancies in product descriptions. This study aims to examine and compare consumer protection in e-commerce between national positive law and Sharia Economic Law. The research method used is a normative legal (literature review) approach, employing both a comparative approach and a conceptual approach. The results of the study indicate that both legal systems share a philosophical common ground in upholding transactional justice and reducing information asymmetry. Substantively, the regulations on the right to information and compensation in Articles 4 and 7 of Law No. 8 of 1999 on Consumer Protection (UUPK) as well as the PMSE Government Regulation align with the flexibility of the legal institutions of Khiyar Ru'yah, Khiyar 'Aib, and Khiyar Syarat. The formal differences lie in the theological-moral foundation of khiyar versus the positivistic-secular nature of the UUPK, as well as the operational focus of khiyar on the independent status of contractual choice versus the UUPK's emphasis on strict liability following a loss. This study concludes that the architecture of modern digital e-commerce (features such as returns, refunds, and escrow accounts) actually facilitates the operational implementation of classical khiyar concepts, such that the harmonization of these two systems can strengthen the moral legitimacy and legal certainty of the digital commerce ecosystem in Indonesia.

**Keywords:** Information Asymmetry, E-commerce, Islamic Economic Law, Khiyar, Consumer Protection.

### INTRODUCTION

The contemporary global economic landscape is undergoing a phase of structural transformation driven by the information and communication technology revolution. The presence of the internet as a global digital infrastructure has dematerialized the barriers of geography, time, and space, which in turn has given rise to a new economic ecosystem. One of the most significant manifestations of this technological disruption is the emergence and rapid growth of electronic commerce (e-commerce) (Ulum, 2020).

In Indonesia, the growth of the digital market is following a very rapid exponential trajectory. Supported by widespread internet penetration, massive smartphone adoption, and the availability of inclusive digital payment infrastructure, Indonesia has now become one of the largest e-commerce hubs in Southeast Asia. The presence of various giant marketplace platforms both local and international has provided a platform for millions of businesses, ranging from multinational corporations to Micro, Small, and Medium Enterprises (MSMEs), to interact directly with hundreds of millions of potential consumers without the need for multiple layers of intermediaries, as is typical in conventional business models (Apriliana, 2024).