



A. Background of study

Business development on cyberspace better known as e-commerce grows rapidly now. There are many sites that provide facilities on-line transactions. E-commerce is facility used on the internet to conduct business in the form beyond general trading. Usually, the general trading is done in the place where seller and buyer meet physically, but in e-commerce the sellers and the buyers have no need to meet physically, the distance between them does not become the problem anymore.

The development of the e-commerce brings many changes to the business activities carried out in the real world. The changes are marked by a number of

measures of business activity which was originally based in the real world. It is developed in the virtual world. A good start of the offer by a particular advertising on particular site, negotiation, and payment by transferring money to a bank account and delivery of goods through a particular delivery service.

The emergence of special advertising sites such as tokobagus.com, berniaga.com, kaskus.com, etc. add references in the quantity of e-commerce business. The advertising sites use excellent facilities to organize the transactions on the Internet

The Internet based e-commerce gives impact on rapid, easy and sophisticated business in global transactions, because there is no limitation in the business. Directly meeting between the seller and the buyer is no longer needed. So it can be said that the sale via e-commerce become one of activities of Indonesian economics.

There are no stores which are able to give services to more than hundred thousands people per day except on-line stores. Therefore, many people start to switch their trading strategies to online system ones. One of online stores succeeds in realizing the achievement of more than hundred thousand visitors per day is Tokobagus.com. This success makes many people start to join.

There is no need money at all, in joining this site. Advertisement of goods or services on this site will be very helpful in improving your business because the goods or services can be seen by many people, thus the possibility the goods and services to be sold is bigger.

E-commerce has existed for seven years and finally had positive results. The surveys on Indonesia Brand Champion Award 2012 conducted by MarkPlus Insight on 10-14 February 2012 in Jakarta, Surabaya, Bandung, Semarang, Medan and Makassar, resulted that Tokobagus.com was The Most Popular Online Shop Brand in the category of commercial segment site. Indonesia Brand Champion Award is an appreciation event involving many industries of technology, communications, information, and digital mobile devices in Indonesia.

Beside positive results, there are negative ones to be aware for instance transaction security, because legal guarantee and the transaction security is part of the rules in Act. The negatives results are deviations and manipulations that make consumers loss. More over about the advertisements are not appropriate with its real condition.

Consumer loss usually happens on the goods ordered which are not appropriate with the advertisement, and inaccuracies of delivery time as promised. For example, David Talalo's case who is one of the Tokobagus.com's consumers. He was fooled when bought a digital SLR camera in Tokobagus.com. This site offered the digital SLR camera uploaded by Charles Zhang at the price of 2,8 millions, the site informs that the advertisement was full address and the name of the store - Miracle Computer Shopping Centre YUKI Suka Ramai 2nd floor no.29 and the phone

number 061-76503903. After transferring the money, he did not get the camera delivered and after confirming it to the store, he found the store was closed.¹

The other case happened on December 31, 2012 about trafficking on Tokobagus.com that advertised baby sale. The site advertised two babies who were 18 months old. They were sold by Farkhan for 10 millions per-each.²

The background above indicates that consumers need legal protection in their transactions. In Indonesia, consumer protection was set out in the law no 8/1999 concerning consumer protection. More over Indonesia has the most Muslim people. So the sellers and the buyers are Muslim majority. Islamic economics should be application in consumer protection. It is based on Islamic personality principle. Therefore it is important to conduct research, entitled Consumer Protection In E-Commerce In The Perspective Of Law No.8/1999 On Consumer Protection And Islamic Economics (*Study On Consumer Protection Given By Tokobagus.Com*)”.

B. Statement of problem

Based on the background above, the problems proposed in these are:

1. How is the e-commerce consumer protection given by Tokobagus.com according to the law no 8/1999 on consumer protection?
2. How is the e-commerce consumer protection given by Tokobagus.com according to the Islamic economics?

¹ Sabrinafy.wordpress.com Posted by Sabrinafy on 15th of April 2012, accesed on 8th of December 2012

² Kompas.com , it is accesed on 12thof January 2013

C. Purposes of Study

3. To explain the e-commerce consumer protection given Tokobagus.com according to the law no 8/1999 on consumer protection.
4. To explain the e-commerce consumer protection given by Tokobagus.com according to the Islamic economics.

D. Kinds of Data

1. Primary Data

Primary data of this research is the consumer protection law in Indonesia Law No. 8/1999 on consumer protection and Islamic economic jurisprudence, it means fiqh that contains the jurisprudence of islamic economic according to al-Qur'an and hadis.

2. Secondary Data

The object of study is the transaction pass through of the most famous advertisement sites in Indonesia, that is Tokobagus.com. This site has a selling mechanism from advertising, negotiation, and selling. And the focus of transaction is indirect transaction, the purchasing and the payment are done by goods delivery and transferring money.

E. Significance of study

This research is intended to give the significances that will give benefit to the next generations. The significances from this study are mentioned as follows:

1. Theoretical Aspect

Theoretically, the result of this research can be used to increase the knowledge about the comparison between consumer protection perspectives Law no 8/1999 on consumer protection and consumer protection given by Tokobagus.com, and also comparing consumer protection in Islamic economic jurisprudence and consumer protection given by Tokobagus.com.

2. Practical Aspect

The result of this research can be used as reference by the candidates of Islamic Law expert (Mujtahid) or Sharia Business Law Department and the guidance to implement Islamic law in daily life. Academic intellectual communities of Maulana Malik Ibrahim Islamic State University of Malang, especially those who study at Sharia Faculty and take Sharia business law.

F. Definition of Key Terms

The researcher gives some operational definitions of the key terms at this study to avoid the different perceptions between the readers and the researcher in understanding this study. The title of thesis is “Consumer Protection In E-Commerce In Perspective Of Law No.8/1999 On Consumer Protection And Islamic Economics

(Study On Consumer Protection Given By Tokobagus.Com)”. And the definition of the key terms is as follow:

1. Consumer is the user of Tokobagus.com sites who has a purpose to buy the goods advertised by this site.
2. Businessman is the seller of the product advertised in Tokobagus.com.
3. Consumer protection is every effort to ensure legal certainty or the consumer
4. Goods are all things tangible or intangible, whether moving or not moving, that can be spent or not be spent, which can be traded, worn, used by consumers.
5. E-commerce is business done by online method.
6. Tokobagus.com is a advertisement site that connects buyers and sellers by online.
7. Promotion of product is the activity of the introducing or disseminating goods and / or services to attract consumers to buy and use the goods and / or services being traded.
8. Broker is the parties who connect between the seller and the buyer. In this research, the broker is Tokobagus.com.
9. Advertisement is something offered and displayed on the Tokobagus.com.
10. Islamic Economics is knowledge and Islamic jurisprudence about Islamic economics.

G. Research Method

1. Design of Research

In legal research, this research is categorized as normative or legal library research.³ Therefore, the basic data in this study is library materials, as in the study of research classified as secondary data (primary law materials, secondary law materials and tertiary law materials).

In the law research has some approaches. The researcher will get information from some aspects about problems that is looked for the answers.

The kinds of approaches in the Law research are4:

1. Statute approach
2. Case approach
3. Historical approach
4. Comparative approach
5. Conceptual approach

In legal research method, the design of this research can be included as comparative normative research.

2. Legal Sources

a. Primary Law Materials

Primary Law materials are bond materials that comprised of regulations and common material not codified like contrary law.⁵ The

³ Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: PT. Raja Grafindo Persada, 2003), 112.

⁴ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta : Kencana Prenada Media Group, 2009), 93.

primary law material establishes the law of particular issue, such as decision or legislative act. The search for primary material is an important part of the process of legal research. There are the primary law materials in this research, namely:

- 1) The law of consumer protection no. 8/1999
- 2) Islamic economic jurisprudence
 - a). Al-Qur'an
 - b). Hadis

b. Secondary Law Materials

The secondary materials give explanation toward primary materials, like planning of law, the result of previous study or the result of research from another intellectual product.⁶ Secondary law materials are an authority purporting to explain the meaning or applicability of the actual verbatim texts of primary authorities. Such as constitutions, statutes, case law, administrative regulations, executive orders, treaties or similar legal instruments.

⁵ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Surabaya: Bayumedia, 2005), 392.

⁶ Amiruddin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2004), 199.

c. Tertiary Law Material

Tertiary Law Material gives guidance or explanation toward primary and secondary material, like encyclopedias and dictionaries.⁷

3. The Technique of Collecting Law Materials

Forms of the legal source are collected includes study of library material and other materials. In this research, the researcher uses instrument of collecting data namely study of documents and library material. And also one of the manners to get the data is by collecting e-mail answering questions sent to Tokobagus.com.

a. Material Library

Study of Library Material is a technique for collecting data by looking for the data relating to the research like notes, transcripts, books, website (especially Tokobagus.com site), newspapers, and magazines. The researcher uses the books that related with this study.

b. Documentation

Documentation is one of the techniques for collecting the legal sources by looking for the primary law materials, secondary law materials and tertiary law materials related with the research like notes, transcripts, books, newspapers, magazines, ancient inscription, and agenda.⁸ Documentation may refer to the process of providing evidence

⁷ Burhan As-Shofa, *Metode Penelitian Hukum* (Jakarta: Rineka Cipta, 2004), 103.

⁸ Suharsimi Arikunto, *Prosedur Penelitian* (Jakarta: PT. Rineka Cipta. 2002), 205

(to document something) or to the communicable material used to provide such documentation. One of the manners to get the data is by collecting e-mail answering questions sent to Tokobagus.com.

4. Technique of Analyzing the Law Materials

Analysis is the process of breaking a complex topic or substance into smaller parts to gain a better understanding of it. Analyzing is an effort to find out the answer of the problems of study in this research. The researcher uses comparative analysis, comparing between law no.8/1999 on consumer protection and Islamic economic jurisprudence.

H. Structure of discussion

In this thesis “Consumer Protection In E-Commerce In The Perspective Of Law No.8/1999 On Consumer Protection And Islamic Economics (*Study On Consumer Protection Given By Tokobagus.Com*)”.will be presented in 4 (four) chapters, which are described as follows:

Chapter I, this chapter contains the background, which is the reason why this research topic is taken, the statement of problem, limitation of problem, purpose of the study, the benefits of research, research methods, and systematic discussion of this research.

Chapter II, this chapter contains the previous research and literature that is the basic concept of this study. The theories that describe in this chapter as the basic reference in the analysis of research conducted

Chapter III, this chapter contains the results of research that has been done which the exposure of data and analysis or discussion. And the last is chapter IV, this chapter discusses about the conclusion of the study and the suggestions that can be given to the problems discussed.

