# S ISLAM MALIK ISPAC

CONSUMER PROTECTION GIVEN BY TOKOBAGUS.COM ACCORDING TO UU NO.8/1999 ON CONSUMER PROTECTION AND ISLAMIC ECONOMICS

A. Consumer protection given by Tokobagus.com according to UU No.8/1999 on consumer protection

Tokobagus.com is a famous online shop. It has more than thousand members. Advertising on it can be done for free and anyone can create classification of advertisement as long as obey to the rules in Tokobagus.com. In this case, Tokobagus.com becomes a broker between the seller and the buyer, because when a person interested in the goods advertised on TokoBagus.com, the buyers can directly contact sellers based on contact available on the types of products.

One advantage for the seller is: the individual or the seller is allowed to make advertisement of products sold. They can write a brief description of the goods characteristics, it is sold along with photos, prices, and the seller's residence along with a contact number that can be reached (no cell phone, email, etc.).

Although Tokobagus.com has good system ceasing to a famous trading site. Tokobagus.com still has weakness. One of the cases is about David Talalo's case one of the Tokobagus.com's consumers. He fells fooled when buy 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 shop locates at Miracle Computer Shopping Centre YUKI Suka Ramai 2nd floor no.29 and the phone number 061-76503903. After transferring the money, he did not have the camera delivered and after confirmation it to the store, he found the store closed. This case happens because the seller is not the verified member while the only interested in the cheaper price.

Actually Tokobagus.com has special procedure for member as seller to become the valid member. If somebody wants to make transactions in Tokobagus.com, they have to be a member of the site. Firstly he has to log on to the site through the access www Tokobagus.com as below:



After filling the form, the users will get information lists in Tokobagus.com that will be sent to e-mail of the users containing verification code. The code will be used to proceed to be a member of the Tokobagus.com. The users have to continue by completing the login form as below:

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After filling out the form above, if the users want to increase their advertisement has been registered, it can be done by purchasing existing promopoint Tokobagus.com. The way is by clicking on the icon promopoint then fills the desired number of points. If the users want to pay by bank, then it must have been to make sure "tab bank transfer" has been selected.

After that Tokobagus.com will send the e-mail used to register that contains confirmation of purchase details about promopoint and bank account number of tokobagus.com. Promopoin purchasing can be transferred via ATM or cash deposit to account number contained in the e-mail, and confirmation of the transaction can be done to tokobagus.com support team via email: info@tokobagus.com or Tel / Fax: 012-52903337 / 021-52903338.

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The advantages of promopoint are given by Tokobagus.com will make the advertisement rise. Automatically, when the advertisement getting rise, it is possible for the buyers want to buy the goods advertised. Because of that Tokobagus.com has obligation to give consumer protection to the member. Tokobagus.com also suggests the seller account to be registered "verified member", so it will be easy for Tokobagus.com to contact the users when "logging error" or someone turns the goods have been sold but still ready stock writings. Other advantages of being "verified member" is the user of Tokobagus.com easily could report about the fraud in the buying and selling good store, how to make it is to click on "verify your account" in the Tokobagus.com menu, then fill in the data and those of Tokobagus.com will send a "verification code" via Pos Indonesia, registrants must put down their home address, then letters of verification code will be sent to the address provided.

The researcher finds Tokobagus.com as a site that provides advertising services for online stores, tries to give confidence to prospective buyers to perform validation or verification of address sellers. Verification is done by Tokobagus.com by sending 16 digits verification code and send it to seller address of the seller via post office.

Logically, if the address is a fictitious or fake address, the verification code sent will not be accepted by the seller. Although the address given is his friend or neighbor address, the seller can still be tracked. The verification code must be entered in the seller's profile page, in order the system of Tokobagus.com provide status "verified member". Tokobagus.com as the professional trading site gives expostulations to the member as buyer). These expostulations can be known in this site on "tips for buyer" such as:<sup>43</sup>

- 1. The buyer has to be a member of Tokobagus.com in order to connect with the seller.
- 2. The buyer has to ask the seller clear information, by phone or e-mail about the way to buy the goods, characters of goods, the goods price, etc.
  - The buyer can ask ID card of the seller, such us KTP or SIM in order to compare it to bank account sent to the buyer. If the seller is a company, the buyer can ask NPWP or SIUP.
- 4. Only for second hand goods from outside town, the buyer can ask his friend living in the same town with the seller to check the second hand goods.
- 5. Do not be cheated with the seller that gives too much promises, and too cheap price.
- 6. Make transaction in the safety place.

In addition to provide verified member facilities, Tokobagus.com also has a few rules for the sellers who advertise their products to their merchandise. Tokobagus.com provides buying and selling media having of quality for all users, easy accessible, fun, and ethical and regulatory standards. Therefore there are some

<sup>&</sup>lt;sup>43</sup><u>http://www.tokobagus.com/halaman/content/3/page/terms-and-conditions/teks.asp</u>, it is accessed Wednesday, 21<sup>th</sup> January 2013

rules for advertising on Tokobagus.com that must be obeyed by all users of the website.

a. The rule for product or service

The advertisement is only intended for a single product / service only. It is also intended for categories of jobs and only one ad for a job position. As the example below:

1) There are 2 houses (or more) in one area, it is not allowed to advertise two houses in one advertisement, but advertised in 2 different advertisement.

- 2) When selling in wholesale capacity / per packet (not sold units) this advertisement is allowed, for example selling a packet Hand phone (BB Bold 9800 Battery + Headset + extra) the price of 7 million.
- b. The rule of category

Choose the category that appropriates to the product to be sold. When the correct category is not available, feel free to choose the most closely category, because it is forbidden to put on the "other category".

- c. The rule of the title of advertisement
  - It is recommended to use title that reflects the product / service to be sold, but only one word title and titles that do not focus describe on the products sold must be avoided.
  - The use of the code to distinguish the same goods with different types is allowed.

- 3) It is allowed to use the preposition "Sale, on Sale, Search, Wanted, Rent, Promo, discount, Clearance", or adjectives like, include your phone number / pin Blackberry on the title, the name of the site / domain, or fancy characters, and the title has nothing to do with the product being sold.
- 4) Not allowed to put a price on the title.
  - a) The wrong example:
    - 4 floors apartment for sale, promo price (get in touch with:
      - blackberry pin 27ad84).
    - "Kia picanto Takeout with advance 15 million"
  - b) The right example:
    - Black Honda CRV AT 2.4 2011 km yr low Honda CRV 2.4 AT
    - Toyota Yaris S-limited AT Black in 2006
    - Hook Houses minimalist and strategic Bintaro Jaya IX
    - House Semi Furnished Habitable Ready in Grand Citra
      - Wedges Shoes Beautiful Red W-013 Free sis
    - Canon WP-DC44 Underwater Case for Canon Power Shot
- d. The rule of the price
  - Install the right price or the price that best describes the product to be sold.
  - It is not allowed to fill the number 0, 1, 123, 3333, 12,345,678 (or similar) in price column.

- In the category Services, Jobs and Business Opportunities approach including the price of products / services offered.
- For the car category, the price is the cost / price of the car and not the price installment.
- 5) Please select 'negotiable' if prices listed are subject to change / negotiable
- e. The rule of picture
  - 1) Use images that is appropriate to the product / service to be sold. Make sure the image / photo products to be sold with good photo quality, the focus, not sideways or upside down.
  - 2) It is forbidden to use pornographic images. For lingerie products (or underwear type) required to use mannequins as model.
    - 3) Not allowed to use images that are proprietary marks, watermarks, site name / URL or hyperlink on another website.
  - 4) For the categories of jobs and services are allowed to use the company logo image.
  - 5) For second hand products / used to use the original image (not the scanned images / brochures / flyers).
- f. The rule for description
  - Provide a description of the specification of products / services offered clearly.

- The use of e-mail, address, home / office, blackberry pin, phone number, or contact the location normally used for COD (Cash On Delivery) is allowed.
- It is not allowed to contain hyperlinks / html characters (or the like) that leads to another website.
- 4) It is forbidden to include addresses or other information that is not a right / ownership it.

Not allowed to give an overview / description of the violation of ethics and rules / laws.

a) Forbidden examples:

- Description in the car category, just copy and paste from flyers / brochures (promo explanation, not the car specification).
- If there is a kind items that you want included in your advertisement, simply add the phrase "available types / colors / type / size of the other". Not suggested to explain the details of more than one kind of products / services in the description, that is not too long with irrelevant information.
- Provide information about the presence of advertising their products on other similar sites, such as: please check out my other stalls (similar competitor's site).
- g. The rule for forbidden things

Do not advertise advertisement that contained the same product more than one, all the advertising double (double) will be deleted. Each of the products advertised is only allowed once. It is also forbidden to provide website links or references other sites that are competitors of Tokobagus.com, either in the ad title or description.

The provisions mentioned above have met the rules contained in the Law no 8/1999 concerning consumer protection, in article 7 letter b stated that the seller must provide the right information, clear and honest about the condition and security of goods and / or services as well as to explain the use, repair and maintenance. Sometimes the picture shown, the color shown in the picture item does not match the item received by the buyer or consumer. Thereby it is reducing the level of customer satisfaction. In addition to the aspects of color, it is not common in some discrepancy consumer goods have been received by selling advertisement shown in the website, which in this study is through Tokobagus.com.

From the explanation above, the researcher finds that Tokobagus.com has given consumer protection. In <u>chapter 4</u> letter b Law no 8/1999 concerning consumer protection, noted that choosing the goods and / or services as well as the acquisition of goods and / or services in accordance with the exchange rate and the conditions and guarantees promised a consumer rights. So when there is a mismatch between the quantities demanded with the goods received, then the consumer has the right to lodge a complaint or submit complaints. Besides that, when the buyers get cheated or fraud Tokobagus.com will give advocacy. The buyers can contact Tokobagus.com to report that case. The buyers can contact Tokobagus.com by "contact us" facility in Tokobagus.com site. The buyers can send their report about abuse of advertisement or deception report.

Tokobagus.com will help the buyers as witness and give all of data's sellers. Then from the data can use for finding the sellers that uploaded the advertisement. Before that the buyers have to complete the conditions that was determined by Tokobagus.com, and the conditions are:

- 1. Copy KTP/SIM of the buyers as informer
- 2. Copy KTP/SIM of advertiser
- 3. Copy proof of transfer to the advertiser
- 4. Copy sending receipt from the sellers to the buyers
  - Screen capture/ screen shot from problem advertisement and Link (URL)

and ID of problem advertisement

6. Copy report warrant from Police about the fraud case

The researcher thinks that the explanation above is the consumer protection method given by Tokobagus.com. According to law no 8/1999, consumer protection given by Tokobagus.com has been appropriated with Law no 8/1999 article 4 about consumer right, but those are not perfect yet. Only some points have been applicated:

- a. The right to get comfort, security, and safety in the consumption of goods or services;
- b. The right to choose the goods and services and the acquisition of goods and or services;

- c. The right to get correct information, clear and honest about the condition and security of goods or services;
- d. The right to be heard the opinions and complaints on goods or services used;
- e. Right to get advocacy, protection and dispute resolution efforts;
- f. The right to obtain guidance and consumer education;
- g. The right to be treated or serviced properly and honestly and discriminately;
- h. The rights to get compensation from damages, and or replacement, if the goods or services received are not in accordance with the agreement or not as it should be;
- i. The rights are arranged in the other Laws;

With the support system that has been given by Tokobagus.com, it should be able to minimize the fraud committed by the seller. Then it is seen in article 4 paragraph b of consumer protection laws Tokobagus.com not fully guarantee the mismatch items received can be complained. And if many cases still happen in Tokobagus.com, it can be done because of dereliction from the consumer itself. Because Tokobagus.com has listed a disclaimer on its website, namely:

a. Information on this website is general information. Information provided by the registered user who offers goods or services, although we're still trying to keep updating and maintaining the accuracy of the information, we did not give statement or warranties, whether it is expressed or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the website or the information, products, services, or related graphics contained on the website for any purpose. Therefore, your reliance on the information is at your own risk.

- b. In all cases we are not responsible for any loss or damage including, but not limited for loss or any indirect or consequential loss or damage or whatsoever arising from loss of data or profits arising out of or in connection with the use of website.
- c. Through this web site, the user can connect to other websites which are not under the control www.tokobagus.com. We do not control the characteristic, content and availability of those sites. Participation of a link does not mean a recommendation or endorsement of the views are defined

in the link.

According to Law No.8/1999 consumers have the obligation, such as:

- a. reading or following direction of information and consumtion or utilization procedur goods and/or services, for security and safety.
- b. good intending in doing trading transaction of goods and/or services.
- c. paying according to exchange rate previously agree.
- d. following law solution effort consumer protection legal action in line.

Besides law no 8/1999 concerning consumer protection, in law no 11/2008

concerning information and electronic transaction article 28 paragraph 1 is said "everyone by design and without right publish a fish news and lead astray made consumer lose out in electronic transaction"<sup>44.</sup> If the businessmen break this rule, so they will get punishment, and it can be reported to the police.

<sup>&</sup>lt;sup>44</sup> Undang-undang No.11 tahun 2008 tentang informasi dan transaksi elektronik

All of the rules that explain above are in accord with Constitution 1945 article 28D paragraph, it is said "everyone is entitled to confession, guarantee, protection, and legal security, and equality before the law".<sup>45</sup>

According to the researcher analysis, law no.8/1999 concerning consumer protection and Constitution 1945 has correlation. This correlation is "Lex Spesialis De Rogat Lex Generalis". Constitution just arranges about general law, and the other law arranges specific law.

Because of that Tokobagus.com has to apply more than three points from Law No.8/1999 on Consumer Protection. More over protection for advertisement has uploaded, not only just erase the problem advertisement but also more selective when the sellers upload their advertisement.

Those have to be done because on February, 17 2013 there was mosque advertisement in Tokobagus.com. It indicates that is very easy to upload whatever advertisement in Tokobagus.com. Tokobagus.com erased this advertisement one day after finding.

Based on the explanation above Tokobagus.com has to repair its consumer protection. As The Most Popular Online Shop Brand and trading online facility that gets many profits from their business, it has to give more consumer protection facility more over for verification the advertisements. Actually Tokobagus.com can give useful procedure such as asking ID number (KTP/SIM) from the advertiser.

<sup>45</sup> UUD 1945

Because Tokobagus.com has to obey the Law no.8/1999 on consumer protection as the services businessman.

# B. Consumer Protection in Tokobagus.com According to Islamic Economic

### Jurisprudence

1. Forms of consumer protection in Islamic economics

The clarity of goods is the form of consumer protection on Islam. The researcher finds Tokobagus.com determines that the goods which can be sold has to agree with the rule. The rules are about the forbidden goods that can not be sold in this site. If the sellers do not obey the rule when they upload their advertisement, Tokobagus.com will reject the advertisement and it is not seen in Tokobagus.com. The goods are forbidden to sell in Tokobagus.com are:

- a. Weapons (including firearms, air guns and items similar / like)
- b. Drugs
  - Black market items
- d. Low quality goods , super premium, grade AAA / + + +, etc.
- e. Goods pirated copy of the original
- f. Goods replicas, branded want to be, look alike
- g. Vulgar content, pornographic, erotic, & sex
- h. MLM product, money games,
- i. PPC, get rich quick, insurance product, credit cards, KTA and others

- j. Database, selling customer data
- k. Sex tools, vibrators, sex medicine, strong medicine, enlargement, stimulants, Squeezing nipples, the crotch whitening
- 1. Alcohol and other liquor
- m. Organs of the human body and the human (human trafficking)
- n. Products of crime

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- Plants and animals are protected (including body parts, like fangs,
  - claws, hard water, skin, etc.)
- hacking service
- Services document forgery, selling diplomas, certificates sale
- r. Massage Services (+ +)
- s. Escort Services
- t. Commercial sex workers
- u. Jailbreak services
  - . Pellets oil, witchcraft services, witchcraft
- w. Harmful Explosives
- x. Products or services that violate laws and regulations

Tokobagus.com has workers to verify the advertisement from the seller. But on December 31, 2012 happened trafficking on Tokobagus.com that advertised baby sale. Tokobagus.com site posted advertisement of baby trading. The site advertised two babies 18 months old. They were sold by Farkhan with price 10 millions per-each.46

This case is still in police investigation and Tokobagus.com has status as witness. In researcher opinion Tokobagus.com has been already had rule about the forbidden goods that can not be sold. And baby sale or trafficking is the forbidden goods. It was already determined in point 13 above.

The researcher thinks the trading in Tokobagus.com is ba'l salam. It can be seen from the way to do transaction. The sellers upload their goods on Tokobagus.com as advertisement, after that the buyers will order the goods what they want.

The Ulama of Hanafiyah determines the conditions for the validity of the ba'I salam contract that if one of the conditions is not met, the contract becomes corrupted. And if it is damaged, it can be categorized in a group sale invalid. This is due to the receipt of goods which is done in a way that is not good, so it should not be exploited and used and shall eliminate its invalidity because it is to the respect of the rules of Shari'a. The requirements are:

- 2. The conditions of order goods in Islamic economics $^{47}$ :
  - a. The kind of goods can be known, for example : car, rice, cloth, etc.
  - b. The type of goods can be known, for example : pajero, fortuner, paris veil, pashmina veil, Toshiba, compact, etc.
  - c. The quality of goods can be known,

<sup>&</sup>lt;sup>46</sup> Kompas.com, it is accessed on 12<sup>th</sup>of January 2013

<sup>&</sup>lt;sup>47</sup> Wahah Az-Zuhaili, Fiqih Islam Wa Adillatuhu, terj. Abdul Hayyie al-Katani, 244-248

- d. The quantity of goods can be known,
- e. There is no usury
- f. The goods can be determined about the price with money
- g. The goods can be sent in current time.
- h. The goods can be found in the market and appropriate with the kind and type since making agreement until sending time.

According to fatwa MUI No. 5/2000 about ba'I salam, trading contract

in Tokobagus.com will be allowed, if it will do based on Al-Quran and hadis.

Holy Qur'an said in al-Baqarah:

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whereas Allah permitteth trading and forbiddeth usury. <sup>48</sup>

The buyer can make negotiation with the seller in Tokobagus.com.

They can discuss about price, the way to paying, the way to deliver the goods, etc and they discuss about that by phone or e-mail. When the seller and the buyer agree with the result of discussion, automatically contract of ba'I salam

<sup>&</sup>lt;sup>48</sup>http://www.ayatalquran.net/2012/06/al-baqarah-english-version.html

begins. Because of that, the probability usury happens is small. According to hadis of the prophet Muhammad<sup>49</sup>:

مَنْ أَسْلَفَ مِنْكُمْ فَلْيُسْلِفْ فِيْ كَيْلٍ مَعْلُومٍ وَوَزْنٍ مَعْلُوْمٍ لِلَى أَجَلٍ مَعْلُومٍ

Whoever does salam agreement, so he has to do in quantities are known, scales are known, and times are known. It is narrated by Ibnu Abbas.

Trading in Tokobagus.com can be categoried of ba'I salam and legal, if the goods are clear about the quantities, scales, and times for deliver money or goods. It can be known from the rule that given by Tokobagus.com to put the seller's advertisement in this site. Then the advertisement does not obey the rules, Tokobagus.com will delete their advertisement after doing verification on it.

The consumer protection in Islamic jurisprudence is khiyar, and if the transaction is done by online is usually done by providing a joint account. With the joint account will give some grace period to ascertain whether the goods ordered as expected. If the order was appropriate the money will be transferred to the seller.

Argumentation from the hadis includes the words of the Prophet narrated by Ibn Umar that a man told by the Prophet who likes to cheat in the sale, so the Prophet said to him, "if you're selling something, then say no

<sup>&</sup>lt;sup>49</sup> HR. Bukhari, Sahih al-Bukhari (Beirut: Dar al-Fikr, 1955, vol. 2), 36.

fraud". This hadis is a proposition about permission for determination about khiyar to the buyer.

As for the argument of ijma 'ulama have agreed to do khiyar in the sale because the contract of sale is permissible contract of sale also includes something that is known with certainty of religious affairs with so khiyar also included.

The wisdom from khiyar in order to anyone has the right of khiyar to know the price, and priced goods, safe from fraud, rejecting harm befall the two men to the contract, one that account khiyar indicated because it was needed.

Agreement of selling and buying in which there is a khiyar, this is unusual agreement. Thus, the contract will be prevalent if khiyar become extinct. How to finish khiyar there are three ways:

. Sharih Cancellation

*Sharih* cancellation is the cancellation by doing *khiyar*, as stated, "I cancel my *khiyar* and pleasure." Thus, the contract becomes authentic. Instead, the contract fall with the statement, "I cancel or do I cancel this contract."

# 2. Cancellation with Dilalah

Cancellation with dilalah is the tasharruf (activities with goods) from khiyar behavior that shows that the sale be made, such as donate the

buyer the goods to another person, or otherwise, the buyer returns the property to the seller. Buyer hand back the goods to the seller indicates that he cancel the sale or contract.

3. Cancellation Khiyar because Ugliness

Cancellation khiyar because of damage contained is included the following:

## a. Time Runs Out

*Khiyar* becomes extinct after a time that has been set although there is no cancellation of the *khiyar*. Thus, the contract becomes prevalent. This is in accordance with the opinion of *ulama Syafi'iyah* and *Hanabilah*.

b. Death of People Giving Terms

If the person providing the requisite died, khiyar becomes extinct, die from it either as a buyer or seller, and then the contract becomes prevalent, because it is impossible to cancel it. According to ulama Malikiyah and Syafi'iyah found khiyar rightful heir. As such, do not fall with the death of the person providing the requirements.

c. The existence of things that have a meaning similar of the Dead Khiyar becomes extinct with things have a meaning similar of the dead, it is like crazy, drunk, etc. so the agreement becomes valid. d. Damaged Goods When Still Khiyar

On the destruction of the goods within a vulnerable time khiyar, there are some problems, if the destruction of submission to the buyer or the seller is still held, and others. If the goods are still hand sellers, violate the buying and selling khiyar even fall, if the items already exist in the hands of the buyer, sale void if khiyar comes from the seller, but the buyer must be replaced, if the goods have been is in the hands of buyers and khiyar come from the buyer, the sale and purchase become prevalent and khiyarpun fall. Scholars like Syafi'iyah found if item is damaged by itself, khiyar fall and purchase was canceled.

- The existence of Defects in Goods according to Islamic economics In this issue, there are several explanations:
  - a. If khiyar comes from the seller, and a defect occurs by itself, so khiyar will fall off. However, if the defect because of what the buyer or any other person, khiyar not fall off, but buyers are entitled khiyar and is responsible for the damage. Similarly, if other people are destroying it, he was responsible for the damage.
  - b. If khiyar comes from buyers and there are defects, so khiyar is canceled, because the goods are in the buyer's responsibility.

The researcher finds that with the rules in fiqh regarding khiyar Tokobagus.com does not implement this yet. Considering the majority of the users of this site are Muslims, because Indonesia is a country that has the largest Islamic population in the world. Tokobagus.com can provides account facilities khiyar together to implement these rights.

The workings of a joint account in the event the transaction is between the seller and buyer through tokobagus.com, then tokobagus.com will receive the money sent by the consumer. Once the consumer sends the money to Tokobagus.com, retailer will confirm that his money had been sent. Then the

seller sends the goods to the consumer.

Once consumers feel comfortable with the goods ordered, then Tokobagus.com send money that has been sent to the address of the account with the seller. However, if there is a mismatch consumer can confirm to Tokobagus.com, so the money is not sent in advance to the seller. Thus, consumers have the opportune to exchange or return the item. Once the item is returned to the seller, then Tokobagus.com can restore the money before to buy stuff.

The implementation of joint account above is inclusive of the types khiyar disgrace. Khiyar disgrace is determined by conditions in dilalah.<sup>50.</sup> While the legal basis khiyar disgrace that is the tradition of the prophet:

الْمُسْلِمُ أَخُوْ الْمُسْلِمِ لاَ يَحِلُّ لِمُسْلِمٍ بَاعَ مِنْ أَخِيْهِ بَيْعًا وَفِيْهِ عَيْبٌ إلاَّ بَيْنَهُ لَهُ

<sup>&</sup>lt;sup>50</sup>Muhammad bin Ali bin Muhammad Asy-Syaukani,. *Nailul Authar Juz V,(* Mesir: Syirkah Maktabah wa Matba'ah Muthafa al-Halaby wa Auladuhu, tt), 211

"A Muslim is a brother to other Muslims. It is not lawful for a Muslim is a brother to sell the defective goods contained therein, unless he explained to him.

Disgrace or defect is anything missing from the original nature of the goods traded, resulting in a lack of pricing in general views the merchants, both large and small defects. Defects are divided into two kinds:

- a. Defect that reduces part of the goods or change of goods from the outside, not inside, for example cracks on goods, lack of accessories goods component, one broken part of the goods, uneven color, etc.
- b. Defects that cause a reduction in meaning of goods of, not its form. Example: If there is a defect in a transaction, then it requires *khiyar*. Thus, there are ways to define disability and conditions set *khiyar*, such as the following details:
  - 1) The existence of defects at the time of sale or thereafter before the handover. If happens after that then there is no *khiyar*.
  - 2) A defect of the buyer after receiving the goods. Not enough of a defect of the seller to establish the right of return for all defects according to most *masyayikh*.
  - Ignorance purchaser against any defects when the contract and handover. If he knew when the contract or acceptance, then there is no *khiyar* for him, because it meant he was willing to defect indirectly.
  - Not required free from defects in the sale. If required then no *khiyar* for buyers. Because if he is freed, he had to abort his own right.

- 5) Safety is the nature of the defects common in defective goods.
- 6) Disability does not disappear before canceling.
- Only a slight defect that can be removed easily, such as unclean the clothes are washable.

If you have known about determine the defect and the procedures of *khiyar*, the case of defects in the goods that have been transacted there are rules and procedures to cancel.

Any defects in the goods cause the transaction object used *khiyar* on the forward contract. The buyer has to pay the price of his goods as a whole or cancel it. In addition, the buyer also must return the defective item if it has been accepted when the buyer decides to cancel transaction.

Ulama of Hanabilah and Syafi'iyah found the merchandise becomes defective or damaged in the hands of the seller, so it is caused by natural factors. The buyer has the right to receive it in a state *khiyar* between a price less intact, and those are not entitled to anything, or to cancel the contract and asked for all the money was paid.

There is no *khiyar* and purchasing return in the transaction that happened in Tokobagus.com. This is inappropriate with fatwa MUI No.5/2000. Fatwa MUI No.5/2000 said *"if all or partly of goods is not available in delivery time, or lower quality, and the buyer accepts loathly, so* 





<sup>&</sup>lt;sup>51</sup> Fatwa DSN-MUI No.5 Tahun 2000 Tentang Ba'i Salam