ONLINE SHOPPING AGENCY AGREEMENTS REGARDING PRODUCT NON-CONFORMITY FROM THE PERSPECTIVE OF POSITIVE LAW AND ISLAMIC LAW

(A Study of the Instagram Account @jastipby.civi)

THESIS

By :

Sheilila Rezayi Milanie

SIN 200202110046

SHARIA ECONOMIC LAW

FACULTY OF SHARIA

STATE ISLAMIC UNIVERSITY OF MAULANA MALIK IBRAHIM MALANG

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STATEMENT OF THE AUTHENTICITY

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In the name of Allah,

Aware of and responsible for the advancement of science, the author hereby declares that the thesis entitled:

ONLINE CONSIGNMENT SERVICE AGREEMENTS REGARDING PRODUCT NON-CONFIRMITY FROM THE PERSPECTIVE OF POSITIVE LAW AND ISLAMIC LAW

(A study of the Instagram account @jastipby.civi)

Is entirely my own authentic work and is legally defensible. If it is later discovered that this thesis involves plagiarism or duplication of another scientific piece, the degree conferred based on this work shall be deemed legally invalid.

Malang, 25th April 2026

Writer,

Sheilila Rezayi Milanie

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ii

APPROVAL SHEET

APPROVAL SHEET

This is to certify that the thesis of **Sheilila Rezayi Milanie** (Student ID: **200202110046**), Department of Sharia Economic Law, Sharia Faculty of The State Islamic University Maulana Malik Ibrahim of Malang, entitled:

ONLINE CONSIGNMENT SERVICE AGREEMENTS REGARDING PRODUCT NON-CONFIRMITY FROM THE PERSPECTIVE OF POSITIVE LAW AND ISLAMIC LAW (A study of the Instagram account @jastipby.civi)

has been thoroughly reviewed and corrected by the supervisor. It is hereby declared to have fulfilled all scholarly standards and is ready to be presented and examined before the Assembly Board of Examiners.

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iii

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v

MOTTO

خُ ذ الْعَفْوَ وَأْمُرْ ب لعُرْ ف وَأَعْ رضْ عَ ن الْهَ
لِيَ

"Embrace grace and elegant forgiveness, advocate for what is right and noble, and turn away from those who choose ignorance."

— *(QS. Al-A'raf: 199)*

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This thesis was prepared as thoroughly and diligently as possible in order to achieve the most optimal and satisfactory results. Even so, the author adheres to the proverb stating that 'there is no ivory that doesn't crack,' which serves as a reminder that no work is completely immune to flaws. The author deeply realizes that this current paper is still far from perfect and necessitates further academic deepening. To that end, any constructive criticism and valuable suggestions will be gratefully accepted by the author for the sake of improving and perfecting this paper.

Malang, 20th of May 2026

Sheilila Rezayi Milanie
SIN 200202110046

TRANSLITERATION GUIDANCE

In writing scientific papers, the use of foreign terms is often inevitable. In general, according to the General Guidelines for Indonesian Spelling, foreign words are written (printed) in italics. In the context of Arabic, there are special transliteration guidelines that apply internationally. The following table presents the transliteration guidelines as a reference for writing scientific papers.

Arabic – Indonesian transliterarion of the Faculty of Sharia UIN Maulana Malik Ibrahim Malang is guided by the Library of Congress (LC) model of the United States as follows:

Arabic	**Indonesia**	**Arabic**	**Indonesia**
أ	'	ط	ṭ
ب	b	ظ	ẓ
ت	t	ع	'
ث	Th	غ	gh
ج	J	ف	f
ح	ḥ	ق	q
خ	Kh	ك	k
د	D	ل	l
ذ	Dh	م	m

ر	R	ن	n
ز	Z	و	w
س	S	ه	h
ش	Sh	ء	'
ص	ṣ	ي	y
ض	ḍ		

To indicate long vowel sounds (madd), the method is to write horizontal stripes above the letters, such as ā, ī and ū. (أ, ي, و). Arabic double vowels are transliterated by combining the two letters "ay" and "aw" such as layyinah, lawwāmah. Words ending in tā' marbūṭah and functioning as an adjective or muḍaf ilayh are transliterated with "ah", while those functioning as muḍaf are transliterated with "at”.

TABLE OF CONTENT

LIST OF PICTURES

ABSTRAK

Sheilila Rezayi Milanie, 200202110046, Perjanjian Jasa Titip Online Terhadap Ketidaksesuaian Barang Ditinjau Dari Perspektif Hukum Positif Dan Hukum Islam (Studi Pada Akun Instagram @jastipby.civi), Skripsi, Program Studi Hukum Ekonomi Syariah, Fakultas Syariah, Universitas Negeri Maulana Malik Ibrahim Malang. Pembimbing: Prof. Dr. Fakhruddin, M.HI.

Kata Kunci: Perjanjian; Jastip; Ketidaksesuaian

Perkembangan teknologi dan media sosial mendorong munculnya praktik jasa titip online (jastip) sebagai bentuk transaksi elektronik yang memudahkan masyarakat memperoleh barang tanpa datang langsung ke lokasi pembelian. Namun, dalam praktiknya sering terjadi ketidaksesuaian barang yang diterima konsumen, seperti kesalahan pengiriman maupun perbedaan spesifikasi barang. Permasalahan tersebut menimbulkan persoalan mengenai tanggung jawab penyedia jasa titip menurut hukum positif dan hukum Islam.

Penelitian ini bertujuan untuk menganalisis perjanjian jasa titip online terhadap ketidaksesuaian barang yang diterima konsumen berdasarkan perspektif hukum positif dan hukum Islam. Selain itu, penelitian ini juga bertujuan untuk mengetahui bentuk tanggung jawab penyedia jasa titip terhadap kerugian yang dialami konsumen. Penelitian difokuskan pada praktik transaksi jasa titip online pada akun Instagram @jastipby.civi.

Metode penelitian yang digunakan adalah penelitian yuridis empiris dengan pendekatan yuridis sosiologis. Data primer diperoleh melalui wawancara dengan konsumen jasa titip online yang mengalami ketidaksesuaian barang, sedangkan data sekunder diperoleh dari peraturan perundang-undangan, buku, jurnal, dan literatur hukum lainnya. Data dianalisis secara kualitatif dan disajikan secara deskriptif.

Hasil penelitian menunjukkan bahwa praktik jasa titip online melahirkan hubungan hukum berupa perjanjian elektronik yang mengikat para pihak. Dalam perspektif hukum positif, ketidaksesuaian barang termasuk bentuk wanprestasi dan pelanggaran hak konsumen sebagaimana diatur dalam KUHPerdata, UUPK, dan UU ITE. Sementara dalam perspektif hukum Islam, praktik jasa titip online termasuk akad wakalah bil ujrah yang menuntut adanya amanah dan tanggung jawab dari pihak wakil. Penyedia jasa yang lalai wajib memberikan pertanggungjawaban berupa penggantian barang, pengembalian dana, atau penyelesaian lain yang disepakati para pihak.

ABSTRACT

Sheilila Rezayi Milanie, 200202110046, Online Shopping Agency Agreements Regarding Product Non-Conformity From The Perspective Of Positive Law And Islamic Law (A Study Of The Instagram Account @Jastipby.Civi), Thesis, Sharia Economic Law Program, Faculty of Sharia, Maulana Malik Ibrahim State University, Malang. Advisor: Prof. Dr. Fakhruddin, M.HI.

Keywords: Contract; Online Shopping Agency Service; Non-Conformity

Advances in technology and social media have spurred the emergence of online shopping agency services as a form of electronic transaction that makes it easier for people to obtain goods without having to visit the point of sale in person. However, in practice, there are often discrepancies between the goods received by consumers and what was ordered, such as shipping errors or differences in product specifications. These issues raise questions regarding the liability of shopping service providers under positive law and Islamic law.

This study aims to analyze online shopping service agreements regarding discrepancies in the goods received by consumers from the perspectives of positive law and Islamic law. Additionally, this study seeks to determine the form of liability that shopping service providers bear for losses incurred by consumers. The study focuses on online consignment service transaction practices on the Instagram account @jastipby.civi.

The research method employed is empirical legal research with a sociological-legal approach. Primary data was obtained through interviews with online consignment service consumers who experienced product discrepancies, while secondary data was obtained from legislation, books, journals, and other legal literature. The data was analyzed qualitatively and presented descriptively.

The research results indicate that online shopping agency practices give rise to a legal relationship in the form of a binding electronic contract between the parties. From a positive law perspective, product discrepancies constitute a form of breach of contract and a violation of consumer rights as regulated in the Civil Code, the Consumer Protection Law, and the Information and Electronic Transactions Law. Meanwhile, from an Islamic law perspective, the practice of online consignment services falls under the category of wakalah bil ujrah contracts, which require trust and responsibility from the agent. Service providers who are negligent are obligated to provide accountability in the form of replacement of goods, refund of funds, or other resolutions agreed upon by the parties.

ملخص البحس

شيليلا ريزاي ميلاني، ٢٠٠٢٠٢١١٠٠٤٦٠٢، »اتفاقية خدمات الشراء عبر الإنترنت في حالة عدم مطابقة البضائع
من منظور القانون الوضعي والشريعة الإسلامية)دراسة على حساب إنستغرام ،أطروحة تخرج، برنامج دراسات
القانون الاقْتصادي الإسلامي، كلية الشريعة ،«(@jastipby.civi جامعة مولنْا مالك إبراهيم الحكومية في مالنْج .المشرف
:الأستاذ الدكتور فخر الدين، ماجستير في .القانون الإسلامي

أدى تطور التكنولوجيا ووسائل التواصل الجْتماعي إلى ظهور ممارسة خدمات الشراء بلنيابة عبر الإنترنت كشكل من أشكال المعاملات الإلكترونية التي تسهل على الناس الحصول على السلع دون الحاجة إلى التوجه مباشرة إلى مكان الشراء .ومع ذلك، غالبًا ما يحدث في الواقع عدم تطابق بي السلع التي يستلمها المستهلك، مثل أخطاء الشحن أو اختلاف مواصفات السلع .وتثير هذه المشكلة تساؤلتْ حول مسؤولية

مقدمي خدمات الشراء بلنيابة وفقًا للقانون الوضعي والشريعة الإسلامية

تهدف هذه الدراسة إلى تحليل اتفاقية خدمات الشراء ب لنيابة عبر الإنترنت فيما يتعلق بعدم مطابقة السلع التي يستلمها المستهلك من منظور القانون الوضعي والشريعة الإسلامية .ب لضِافة إلى ذلك، تهدف هذه .الدراسة أيضًا إلى تحديد شكل مسؤولية مقدم خدمة الشراء بلنيابة تجاه الخسائر التي يتكبدها المستهلك .@jastipby.civi تركز الدراسة على ممارسة معاملات خدمات الشراء بلنيابة عبر الإنترنت على حساب

طريقة البحث المستخدمة هي البحث القانوني التجريبي بنهج قانوني اجتماعي .ت الحصول على البيانات الأولية من خلال مقابلات مع مستهلكي خدمات الشراء ب لنيابة عبر الإنترنت الذين واجهوا عدم مطابقة

البضائع، بينما ت الحصول على البيانات الثانوية من التشريعات والكتب والمجلات والمؤلفات القانونية .الأخرى .ت تحليل البيانات

بشكل نوعي وعرضها بشكل وصفي

أظهرت نتائج البحث أن ممارسة خدمات الشراء بالوكالة عبر الإنترنت تولد علاقة قانونية تتمثل في عقد إلكتروني ملزم للأطراف .من منظور القانون الوضعي، يُعد عدم مطابقة البضائع شكلًا من أشكال الإخلال

بالالتزامات وانتهاك لحقوق المستهلكي على النحو المنصوص عليه في القانون المدني، وقانون حماية

المستهلك، وقانون تكنولوجيا المعلومات والإلكترونيات .أما من منظور الشريعة الإسلامية، فإن ممارسة

خدمات التوكيل عبر الإنترنت تندرج ضمن عقد الوكالة بأجر الذي يتطلب الأمانة والمسؤولية من جانب

،الوكيل .ويجب على مقدم الخدمة المهمل أن يتحمل المسؤولية في شكل استبدال البضاعة، أو رد الأموال .أو أي تسوية أخرى

يتفق عليها الطرفان

CHAPTER I

INTRODUCTION

A. Background

Buying and selling involves exchanging goods for goods or goods for money, by transferring ownership from one party to another on a mutually agreed basis.[1] The items being bought and sold may be movable or immovable property, provided that their specifications are clearly defined. In today's digital age, online transactions have become an integral part of people's lives, reflecting the progress of the times in the fields of commerce, economics, and electronics all three of which are inherently interconnected in practice. The use of electronic media, which is closely connected to social media, makes it easier for people to access whatever is available online, including online buying and selling or commerce, which is conducted by businesses and consumers to buy and sell, promote, and market goods or services online.

Online buying and selling refers to transactions conducted online without a *face-to-face* meeting between the seller or service provider and the buyer; transactions are conducted solely through data exchange via social media between both parties. The most important aspect when the two parties cannot meet face-to-face is maintaining uninterrupted communication between the seller and the buyer. Therefore, online transactions have become a highly sought-after technology due to their advanced nature, allowing consumers to simply communicate remotely and wait at home to receive the goods or services they desire.

Shopping agency services, commonly known as "jastip," are a business opportunity that is currently quite popular among both business owners and consumers, thanks to their simple and promising business model, which has even

[1] Ahmad Sarwat. "Fiqih Jual Beli". Jakarta: Rumah Fiqih Publishing, 2018. Hlm. 6

expanded to the international stage. Providers of these services typically offer to purchase items for consumers that are only available in countries or locations they are currently visiting or plan to visit. The role of a shopping service provider is that of a third party between the seller and the buyer, but their primary task is to act as a shopping intermediary for their customers. The shopping service provider takes detailed photos of items or products from specific stores, department stores, or shopping centers, which they then upload to social media along with complete specifications. Interested followers of their social media accounts can then request to have the desired items purchased on their behalf, and once an agreement is reached, the payment transaction is processed between both parties.[2]

In the practice of online consignment services, the legal relationship between the consignment service provider and the consumer essentially arises from an agreement. According to Article 1313 of the Civil Code, a contract is an act by which one or more persons bind themselves to one or more other persons. Through this contract, rights and obligations arise for the parties, which must be fulfilled as agreed. In online shopping agency services, a contract is formed when the consumer places an order and the service provider expresses their willingness to purchase and ship the requested goods in exchange for a specific fee.

Selling services or services to others is permitted in Islam. Just as the buying and selling of goods and commodities in this era of globalization where human needs are becoming increasingly complex the need for the services of others is also growing.[3] Transactions in the online consignment service business share the same characteristics as the principle of Akad Wakalah Bil-Ujrah (acting as an agent for another person for a predetermined fee). In this transaction, the consignment

[2] Aslikhatun Nisak, "Pelaksanaan Akad Wakalah Bil Ujrah Terhadap Bisnis Jasa Titip Online Di Instagram" 1, no. 1 (2022): 86–87.
[3] Siti Hasnaa Madinah et al., "Analisis Akad Wakalah Bil Ujrah pada Jasa Titip Beli Online dalam Prespektif Kaidah Fikih Ekonomi (Studi Kasus pada Akun Instagram @jastiperopa777)," *el-Qist : Journal of Islamic Economics and Business (JIEB)* 9, no. 2 (2019): 198, https://doi.org/10.15642/elqist.2019.9.2.196-214.

service provider, acting as an agent, will purchase the goods desired by the consumer (the principal), and the consumer will pay the consignment fee previously determined by the service provider. Subsequently, the service provider will ship the goods to the designated address or the consumer's address where they will receive the items.

From the perspective of Islamic law, commercial activities are, in principle, permitted as long as they do not involve elements of gharar (uncertainty), fraud, riba, or aspects that are detrimental to one of the parties. The principles of justice, honesty, transparency, and an understanding of rights and obligations within a contract are central to Islamic law. Therefore, online consignment transactions using the wakalah bil ujrah contract must be conducted with due regard for the principles of trust and responsibility.

A consignment service provider acts as an agent and has a duty to fulfill the consignment in accordance with the instructions of the consumer, who serves as the principal. If the goods received do not conform to the initial agreement due to negligence or a lack of due diligence on the part of the service provider, this may give rise to legal issues regarding the agreed-upon contract.

In the practice of Jastip, service providers often charge commissions or additional fees for the services they offer. This raises the question of whether such commissions can be interpreted as a form of riba or interest in an economic context. Under the principles of Islamic economics, riba is strictly prohibited, and taking additional profit without a commensurate exchange in financial transactions contradicts these principles. Therefore, it is important to have clear guidelines regarding the limits of commissions that can be applied in Jastip practices to ensure compliance with Sharia principles. Additionally, Jastip practices often involve elements of uncertainty in the transaction process. Sometimes, the condition of the purchased or consigned goods does not meet consumer expectations, which can create uncertainty in the transaction.

From an Islamic economics perspective, transactions involving gharar or excessive uncertainty must be avoided. Therefore, efforts are needed to ensure clarity in Jastip practices, so that consumers can fully understand the condition of the goods they intend to acquire or entrust. Some digital implementations of Jastip may also involve elements of gambling or speculation. For example, if someone uses a consignment service to obtain goods in the hope that their price will increase in the future, this can be considered speculation that contradicts the values of Islamic economics. Maisir, which refers to gambling or speculation, goes against the principles of justice in the context of Islamic economics.

Although there are many challenges related to Sharia compliance in the implementation of Jastip in the digital world, there is also the potential for positive impacts. Jastip activities can serve as a method to support fairer and more inclusive trade. For example, Jastip enables consumers in hard-to-reach or remote areas to access goods or services that may be difficult to find in their local environment. This can help reduce disparities in access to products and services between urban and rural areas, in line with the principle of fairness in the Sharia economy.

It is important to remember that the creation of appropriate regulations and adequate education are key factors in managing Jastip practices to ensure they align with the principles of Islamic economics. The government, Islamic economic institutions, and other stakeholders must collaborate to design a clear framework for Jastip practices, including limits on commissions that may be charged and transparency standards. Additionally, education and understanding of Islamic economics need to be improved among the public so that they can make choices that are more grounded in these principles.[4]

Most people are already quite aware of both the potential risks and benefits of using shopping service apps. However, the offers provided by these shopping

[4] Savitri, Praktik Jasa Titip (Jastip) Dalam Ekonomi Digital Terhadap Kepatuhan Syariah" 2023, pp. 225–226)

service providers seem to obscure the various potential risks consumers may face if they choose the wrong service. This is influenced by the ease of access they offer for example, consumers don't have to visit stores in person and can avoid long lines during sales seasons. Consumers simply need to relax and place orders for the items they want via their smartphones.. Jastip services can be found on various social media platforms, such as Instagram, Facebook, TikTok, and Twitter. Generally, jastip service providers will display the items for sale on social media platforms, and consumers simply pay the product price plus shipping costs and the jastip service fee.[5]

Upon receipt of the goods, consumers often complain to the consignment service provider about discrepancies, such as differences in the quality or quantity of the goods compared to what was promoted by the provider on social media, short shipments, or damage to the goods received by the consumer. The wakalah bil ujrah contract stipulates that both the agent and the principal must have full control over the matters or items being handled; if there is any ambiguity regarding ownership or discrepancies in the goods, the wakalah contract transaction will be nullified.

In the use of online consignment services, the legal dynamics become more complex because they involve a third party acting as an intermediary in the purchase of goods. However, consignment service providers remain responsible for the execution of the agreed-upon transaction, particularly regarding the conformity of the goods received and delivered to the customer. If there is a discrepancy in the goods, the question arises as to the extent of the consignment service provider's liability for the losses incurred by the customer—whether the liability falls entirely on the service provider, the original store, or is instead a risk borne by the customer themselves.

[5] Aufal Haq, Alfin Izza, Muhaimin Iskandar, dan Yolanda. "Penerapan Akad Wakalah Bil Ujrah Pada Jasa Titip Online Freelance : Kajian Inovasi Ekonomi Syariah dalam Konteks Gig Economy". Hlm 32

Based on these issues, the author is interested in conducting a more in-depth study on the application of the wakalah bil ujrah contract in the practice of the online consignment service @jastipby.civi, particularly regarding cases of non-conformity of goods received by consumers. Additionally, this research aims to analyze the form of liability of the service provider as well as the dispute resolution mechanisms available to the parti es from the perspective of Islamic economic law. Therefore, this research is presented in the form of a thesis titled "Online Consignment Service Agreements Regarding Product Non-Conformity from the Perspectives of Positive Law and Islamic Law (A Study of the Instagram Account @jastipby.civi)."

B. Statement of the Problem

1. How do online consignment service agreements address discrepancies in goods received by consumers from a positive law perspective?
2. How do online consignment service agreements address discrepancies in goods received by consumers from an Islamic law perspective?

C. Research Objectives

1. To analyze online consignment service agreements regarding the non-conformity of goods received by consumers from a positive law perspective
2. To analyze online consignment service agreements regarding the non-conformity of goods received by consumers from the perspective of Islamic law.

D. Research Benefits

1. Theoretical Benefits

   This study is expected to contribute to the advancement of knowledge, particularly in the field of law, including both positive law and Islamic law. Additionally, this study can serve as an academic reference regarding online shopping agency agreements (jastip), especially concerning issues related to discrepancies between the goods received by consumers and those ordered. The results of this study are also expected to enrich the discussion on consumer protection in electronic transactions from two distinct legal perspectives, thereby serving as a foundation for future research.

2. Practical benefits

   This study is expected to provide practical benefits for various parties involved in online shopping agency transactions. For consumers, this study can enhance their understanding of their rights, particularly when there is a discrepancy between the goods received and what was ordered, both under positive law and Islamic law, so that consumers can make wiser and more informed decisions when conducting transactions. For consignment service providers (jastip), this research can serve as a guideline in conducting their business activities to ensure compliance with applicable legal provisions and Sharia principles, thereby minimizing disputes with consumers. Furthermore, for academics, this research is expected to serve as a reference and additional study material for the advancement of knowledge, particularly in the fields of contract law, consumer protection, and the comparison between positive law and Islamic law.

E. Operational Definitions

To help readers understand this study, the author will outline the operational definitions of the variables included in the study title, namely:

1. Online Consignment Services

   Online shopping services provide consumers with a convenient way to obtain goods from locations that are difficult to reach in person. In practice, shopping service providers or *personal shoppers* act on behalf of consumers to purchase goods according to their specifications, including type, brand, and purchase location. After the purchase is made, the consumer is obligated to pay the price of the goods along with the agreed-upon service fee, making this service model a practical solution for consumers who wish to obtain goods without having to shop in person. Online Shopping Agency Services are categorized as “Electronic Transactions” due to the use of information technology-based applications and are required to comply with regulations in the field of information and electronic transactions in accordance with legal guidelines as stipulated in Article 1, Point 2 of Law No. 11 of 2008 on Information and Electronic Transactions. In the Compilation of Sharia Economic Law, shopping agency services is generally categorized as a form of the Wakalah bil Ujrah contract, which is a contract of representation or delegation of authority by the first party (the principal) to the second party (the agent) in matters that may be delegated. The principal is the party granting authority, while the agent is the party receiving authority.[6]

F. Structure of the Paper

To ensure that the discussion in this study is more focused, the author will outline the structure of the writing as follows:

CHAPTER I INTRODUCTION: This chapter begins with a background of the problem, which explains the phenomenon, the urgency, and the reasons why this research is important. Next is the research problem, which contains the research questions to be answered in the discussion. Then, the objectives and benefits of the research are outlined, both theoretically and practically. Additionally, operational definitions are provided to clarify the terms and prevent misunderstandings regarding the research variables. Finally, this chapter concludes with the research outline, which explains the structure and flow of the discussion throughout the thesis.

[6] Ascarya, Akad & Produk Bank Syariah (Jakarta: PT. Raja Grafindo Persada, 2017), 104.

CHAPTER II LITERATURE REVIEW, which serves as an analytical tool for examining the research question and includes previous studies and the theoretical framework. Previous research consists of a collection of studies conducted by prior researchers that share similarities and differences with the research conducted by the current researcher. Meanwhile, the theoretical framework provides an explanation of the relevant theories that serve as a foundation for solving the problems addressed in the research being conducted by the researcher.

CHAPTER III RESEARCH METHODOLOGY: This chapter describes the steps and procedures used in conducting the research. It begins with a discussion of the research design, outlining the approach and characteristics of the study. Next, it details the data sources—both primary and secondary data—that form the basis of the research. It then explains the data processing techniques used to prepare the data for analysis. Finally, the data analysis is presented, explaining the methods used to interpret the data so that the research questions can be answered systematically and in accordance with the research objectives.

CHAPTER IV RESEARCH FINDINGS AND DISCUSSION, which will present the results of the analysis based on data obtained by the researcher from interviews, literature reviews, and documentation. This data will be analyzed using both primary and secondary sources to address the research questions previously outlined by the researcher.

CHAPTER V CONCLUSION, this chapter will contain the Conclusions and Recommendations. The Conclusions will outline the results of the research conducted with a more concise explanation in accordance with the points in the research questions. Meanwhile, the Recommendations will contain suggestions from the author for parties related to the research and those with authority over the research context.

CHAPTER II

LITERATURE REVIEW

A. Previous Research

First, the thesis by Vaisal Abdullah Sola titled "Legal Protection for Users of Online Shopping Agency Services (Jastip): A Perspective from Law No. 8 of 1999 on Consumer Protection. (Case Study of Online Shopping Services in Malang and Surabaya), UIN Malang, (2024). This study focuses on analyzing the legal protection of online shopping service users from the perspective of Law No. 8 of 1999 on Consumer Protection. Case studies in the cities of Surabaya and Malang examined the forms and patterns of defects in online shopping agency transactions in these cities. The research findings indicate that (1) the forms and patterns of defects occurring in online shopping agency transactions in the cities of Surabaya and Malang include delivery delays, damaged or defective goods, lost goods, non-conforming goods, and unilateral cancellations; (2) user protection for consignment services under Law No. 8 of 1999 on Consumer Protection still has gaps, namely the definition of consignment services themselves, legal uncertainty, a lack of accountability, and minimal law enforcement regarding misconduct in the consignment service industry

Second, a journal article by Nur Windy Bripa Landrawati Ina Rosmaya titled "Consumer Protection in Online Sales Transactions Regarding Non-Conforming Goods," Bhayangkara University, Surabaya, (2022). This study focuses on the protection of consumer rights as well as the provision of compensation or replacement of goods or services if the goods or services received by consumers do not conform to the agreement, as reviewed under the Consumer Protection Law No. 8 of 1999. This study found that when consumers are harmed by business operators, they have the right to file a claim in accordance with the provisions of the Consumer Protection Law (Articles 4 and 7) and the Civil Code

(Articles 1338 and 1474). The form of compensation for the losses suffered by consumers may take the form of a refund or replacement of the goods.

Third, the thesis by Rizka Ragilia Fitriana titled "A *Fiqh Muamalah* Review of Sales Contracts Using the *Online* Consignment System on Social Media (A Case Study in Way Jepara Subdistrict, East Lampung Regency)" IAIN Metro (2023). This study focuses on the mechanisms of implementation and the application of fees in the practice of buying and selling using the *online* consignment service system via social media, as well as the *fiqh muamalah* review of the contracts used in *such* transactions. The findings of this study indicate that the practice of *online* consignment purchasing is carried out in several stages: first, placing an order for the item ; then, the consignment service provider explains the product price and commission fee; after an agreement is reached, the next stage is payment, which can be made via bank transfer to the consignment service provider or via COD. After that, the purchasing process is handled by the proxy service provider. If the requested product is unavailable or out of stock, no service fee is charged; if payment has already been transferred, the full amount is refunded. The pickup and delivery of goods are arranged between the proxy service provider and the user.

Fourth, a journal article by Nazwa Hawwa Audica titled "Legal Analysis of Service Fees in Online Shopping Agency Services (Jastip) Based on Islamic Economics," State University of Semarang, (2025). This study focuses on analyzing online Jastip practices from an Islamic legal perspective, specifically within the framework of Islamic economics. The conclusion of this study states that the practice of online Jastip is permissible under Islamic economics, provided that it is carried out in an orderly and fair manner and does not violate the basic principles of muamalah.

Fifth, a thesis by Wulan Amanda Putri titled "Liability for Risks Associated with Goods Purchased Online Through a Consignment Service: A Perspective from Islamic Law and Positive Law (A Study of the Instagram Account @Ammashop85)," UIN Raden Intan, (2023). This study focuses on the forms of liability and risks associated with products purchased online through consignment services where the products are defective, examined from the perspectives of Islamic law and positive law. The research concludes that the consignment buying and selling practices on the Instagram account @Ammashop85 have been carried out properly regarding liability; specifically, if there is damage or a defect in a product entrusted by a consumer when using the @Ammashop85 *online* consignment service, the loss will be compensated in the form of money or a new item without requiring the consumer to pay again.

Sixth, a thesis by Nur Aisah Umar titled “A Legal Review of the *Wakalah Bil Ujrah* Contract Regarding Transaction Mechanisms in Consignment Service Businesses,” IAIN Palopo, (2025). This study focuses on a legal review of the *Wakalah Bil Ujrah* contract regarding transaction mechanisms in consignment service businesses. The results of this study indicate that the pattern of the *wakalah bil ujrah* contract regarding the transaction mechanisms in the consignment service business at the Brand No Brand store’s Palopo branch generally meets most of the essential elements and conditions of the *wakalah bil ujrah* contract, such as the presence of the contracting parties (*muwakkil* and *wakil*), a clear subject matter of the contract, and the process *of ijab qabul* conducted via electronic media. However, regarding the aspect *of ujrah* (service fee), there is a lack of clarity and transparency in accordance with the provisions of DSN-MUI Fatwa No. 113/DSN-MUI/IX/2017, as the service provider does not detail the amount of the fee charged. Therefore, improvements are needed in the practice of consignment services to align with the principles of valid Sharia contracts.

Seventh, a journal article by Yusca Satria Alamasyah, Saif Askari, and Khafid Abadi titled “Shopping Agency Services (Jastip) from the Perspectives of Islamic Law and Positive Law,” IAIN Pekalongan, (2022). This study focuses on examining the influence of online shopping agency services on consumer purchasing preferences, with a focus on service dimensions that influence purchasing decisions, particularly among Generation Z. The study concluded that online shopping agency services provide added value in the form of accessibility and convenience, which are key factors in purchasing preferences, especially for younger consumers who are more tech-savvy.

No	Researcher's Name	Research Title	Equation	Differences
1	Vaisal Abdullah Sola, (UIN Malang, 2024)	Legal Protection for Users of Online Shopping Agency Services (Jastip): A Perspective Under Law No. 8 of 1999 on Consumer Protection ( ). (Case Studies of Shopping Agency Services in Malang and Surabaya)	Discusses the legal protection of consumers of online shopping proxy services	Research Locations
2	Nur Windy Bripa Landrawati Ina Rosmaya, (Bhayangkara University Surabaya, 2022)	Consumer Protection in Online Sales Transactions Regarding Non-Conforming Goods Received	Discusses consumer protection in online consignment services regarding non-conforming goods received	Research Object: This study focuses on sales transactions in the form of online shopping proxy services (jastip)

3	Rizka Ragilia Fitriana, (IAIN Metro, 2023)	A *Fiqh Muamalah* Review of Sales Contracts Using *Online* Shopping Agency Systems on Social Media (Case Study in Way Jepara Subdistrict, East Lampung Regency)	Reviewing Online Transactions Using a Consignment Service System in Light of Fiqh al-Muamalah	This study focuses on two perspectives
4	Nazwa Hawwa Audica, (State University, Semarang, 2025)	Legal Analysis of Service Fees in Online Consignment Services (Jastip) Based on Islamic Economics	Discusses online shopping agency services based on principles of Islamic economics	Nazwa's research focuses on examining service fees in as compensation for jastip providers
5	Wulan Amanda Putri, (UIN Raden Intan, 2023)	Liability for Risks Associated with Goods Purchased Online via the Shopping Service System: A Perspective from Islamic Law and Positive Law (A Study of the Instagram Account @Ammashop85)	Investigating liability related to risks arising from the use of online proxy shopping services	The research subjects, with this study focusing primarily on consumers, particularly regarding their experiences with discrepancies in the goods they received

6	Nur Aisah Umar, (IAIN Palopo, 2025)	A Legal Review of the *Wakalah Bil Ujrah* Contract Regarding Transaction Mechanisms in Consignment Services	Examining online transactions in the form of online consignment services using the Wakalah Bil Ujrah contract	Nur Aisah's research focuses on reviewing the mechanisms and patterns in implementing the " " contract in online consignment service transactions
7	Yusca Satria Alamasyah, Saif Askari, Khafid Abadi, (IAIN Pekalongan, 2022)	Consignment Services (Jastip) from the Perspectives of Islamic Law and Positive Law	Discusses the rights and obligations between consumers and service providers, including responsibilities in the execution of consignment service transactions	The study by Yusca et al. focuses on analyzing the practices of the parcel forwarding service on the Instagram account @azkaestu

B. Theoretical Framework

1. Wakalah Bil Ujrah

a. Definition of Wakalah Bil Ujrah

The term wakalah is defined as the ‘delegation’ or ‘transfer’ of authority by one person to another, which occurs due to the inherent limitations of human nature.[7] In a Fatwa, the DSN-MUI states that a *wakālah* contract is a contract granting authority from *the principal* (الموكل) to *the agent* (الوكيل) to perform specific legal acts. Meanwhile, *wakālah bil ujrah* is the granting of authority or a *wakālah* contract in exchange for the payment *of ujrah* (fee). [8]

Wakālah bil ujrah is an agency contract in Islamic law in which a principal (*muwakkil*) grants a mandate to another party (*wakil*) to perform a specific task in exchange for a previously agreed-upon *fee* (*ujrah*). This contract combines the elements of *wakālah* (agency) with *ujrah* (remuneration) under the principle of thereby entitling *the agent* to receive compensation for the work performed on behalf of the principal. This is stipulated in Law No. 21 of 2008 on Islamic Banking, which encompasses Sharia principles in financial transactions, including the *Wakalah bil Ujrah* contract.[9]

b. Legal Basis of Wakalah Bil Ujrah

In consignment services, the use of this contract is permissible as long as it complies with Sharia principles. The legal basis permitting the *wakālah bil ujrah* contract is found in the Qur’an, Ijma’, and the principles of Islamic jurisprudence, including:

1) The Qur’an

As Allah SWT states in Surah Al-Nisa’/4:58:

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[7] zendy Sellyfio Ardiana, *Akad Wakalah Bil Ujrah Dan Akad Qard Dalam Penerapan Akad Pembelian BaranG*, 2 (2022). Hlm 737

[8] Fatwa DSN MUI No. 113/DSN-MUI/IX/2017 tentang Akad *Wakālah Bil Ujrah.*

[9] Imam Mustofa, *Fiqih Mu'amalah Kontemporer*, (Malang: PT. Raja Grafindo Persada, 2013), 230.

إ ن ۞ هيَمْرُكُ اه تُؤدُّوا الْمَنٰت ل اهْلِها واذا حكمْتُمْ بين النا س

هتكموا ب لعْدْل ا ن الله نعما يعظكم به ا ن الله كان سميعا بصيرا ۝

Translation: “Indeed, Allah commands you to return trusts to their rightful owners. When you judge between people, judge with justice. Indeed, Allah instructs you in the best way. Indeed, Allah is All-Hearing and All-Seeing.” (Quran 4:58).

This verse explains that not everyone has the ability and opportunity to handle all their own affairs. At some point, a person will inevitably need to delegate to another to represent them in carrying out a task.

2) Ijma’

Scholars agree that wakalah bil ujrah is permissible because this contract constitutes a form of ta’awun mutual assistance, grounded in the values of goodness and piety. However, wakalah bil ujrah may become haram if the delegation of authority leads to actions prohibited by Allah SWT.[10]

3) Fiqh Principle

The wakalah bil ujrah contract in representation is permissible whether with or without compensation. This principle pertains to wakalah bil ujrah that includes an agreement or stipulation regarding the payment of wages agreed upon by both parties.[11]

c. Elements and Conditions of Wakalah Bil Ujrah

According to the Hanafi school of thought, there are only two essential elements of a wakalah contract: *ijab* and *qabul*; whereas, according to the

[10] Muhammad Syafi'I Antonio, *Bank Syariah dari Teori ke Praktik*, (Jakarta: Gema Insani Press 20011), 122.
[11] Enang Hidayat, *Kaidah Fikih Muamalah*, (Bandung: PT Remaja Rosdakarya, 2019), 193.26

majority of scholars, there are five essential elements in a wakalah contract, namely:[12]

1) *The principal* (muwakkil), or the person granting the agency, must be the owner of the goods. *The principal* must be able to pay *the fee (ujrah)* and have the authority to grant power of attorney to another party.
2) The *wakil*, or the person acting as the agent, must be of legal age, of sound mind, and capable of discernment. *The wakil* must be capable of carrying out the duties entrusted to them. Furthermore, *the wakil* must be transparent regarding pricing, including transportation costs and other expenses if required.
3) *Muwakkil fihh* refers to matters that can be delegated to another person, such as shopping at the market. *Wakālah bil ujrah* may only be applied to matters that are permissible to delegate, whether they involve specific actions or tasks clearly understood by both the agent and the principal, and which must be carried out by the agent.
4) The contractual wording, handover, or formula that includes the offer and acceptance. A wakālah bil ujrah contract must be clearly and unambiguously understood by both contracting parties, whether in writing, orally, through gestures, or through actions; it may also be conducted via internet-based technology in accordance with Sharia guidelines and applicable laws and regulations.
5) *Ujrah* may take the form of money or goods whose utility value can be utilized; the quantity or quality of the ujrah must be clear and transparent in terms of percentage, nominal value, or agreed-upon and known calculations.

2. Consignment Services

[12] Said Atabik et al., "Analisis Penerapan Akad Wakalah Bil-Ujrah pada layanan Go-Mart (Studi Analisis)," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 3320, https://doi.org/10.29040/jiei.v8i3.6800.

a. Definition of Consignment Services

A shopping service is a service provided by individuals or groups to purchase and/or ship goods from a specific location to consumers who cannot obtain them directly. This service typically arises during trips to other cities or abroad, where the service provider purchases goods according to the customer's order and receives a service fee in return. This business model is growing as the demand increases for goods that are difficult for some consumers to access, and is supported by the ease of communication via social media, which allows for direct promotion and transactions between service providers and buyers.[13]

A proxy shopping service is a new type of business that provides services to individuals who wish to purchase an item but are unable to visit the store in person for various reasons. Essentially, proxy shopping services are similar to conventional buying and selling in terms of the parties involved, but differ in the medium used—namely, the internet. Therefore, proxy shopping services that utilize the internet are known as online proxy shopping services.[14]

Jastip, which stands for "jasa titip" (shopping service), currently operates through a system where service providers post items along with product descriptions that include photos and prices. Examples include bags, makeup, clothing, and various other products. Thus, online shopping services treat items from specific brands as objects entrusted to be purchased by the service provider, subject to a fee or payment for the

[13] Sri Rahayu, *Manajemen Usaha Jasa Titip: Strategi Bisnis di Era Digital*, (Bandung: Alfabeta, 2020), 15.
[14] Muhamad Rifa'i, Wisari Yati, Riski Aprilia Dwi Susanti. "Pengaruh Komitmen Dan Kepuasan Terhadap Loyalitas Konsumen Melalui Kepercayaan Dalam Menggunakan Produk Jasa Titip Toko Online." *Jurnal Ilmu Manajemen dan Akuntansi*, Vol 8, No.1 (2020), 61-72.

service. The payment process depends on the policies set by each consignment service provider.[15] The role of online consignment service providers in carrying out their activities is to purchase products desired by consumers or the parties entrusting the items. Currently, the platforms used by consignment service providers and consumers are generally social media platforms, such as Instagram, Facebook, WhatsApp, and other communication channels.

b. How the Shopping Service Works

Consignment services, or jastip, are a form of service in which a service provider accepts a mandate from a consumer to purchase specific goods in a location that the consumer cannot reach directly. In the study of fiqh muamalah, this practice falls under the category of akad wakalah bil ujrah, which is the delegation of authority accompanied by the provision of compensation or wages. The general mechanism of the proxy shopping service consists of the following stages:[16]

1) Request and Delegation of Authority
   Consumers submit requests to service providers to purchase specific goods with desired specifications. This constitutes a delegation of authority from *the principal* (the party entrusting the task) to *the agent* (the service provider).
2) Setting Service Fees and Price Estimates
   The service provider sets *the ujrah* (service fee) to be charged to the consumer. This ujrah can be a fixed amount or a percentage of the item's price.

[15] Try Krisna Monarchi, "Perlindungan Hukum Terhadap Pengguna Jasa Titip (Jastip) Melalui Media Online", *JOM Fakultas Hukum*, Volume VII, Nomor 2, (Juli-Desember 2020), 9.
[16] Nur Aisah Umar. "Tinjauan Yuridis Akad *Wakalah Bil Ujrah* Terhadap Mekanisme Transaksi Pada Usaha Jasa Titip" IAIN Palopo, 2025) http://repository.uinpalopo.ac.id/id/eprint/11720

3) Down Payment or *Full Payment*

The consumer provides a down payment (DP) or full payment as the basis for the contract.

4) Purchase of Goods by the Service Provider

Once payment is received, the service provider purchases the goods as requested and provides proof of transaction.

Shipping or Delivery of Goods Once the purchase process is complete and payment is settled, the goods are shipped or delivered directly to the consumer. All of the above steps are valid provided they meet the requirements of a clear contract, clear consideration, and do not contain elements *of gharar* (uncertainty), which is prohibited under Islamic law.

3. The Electronic Information and Transactions (EIT) Law

According to Article 1, Paragraph 2 of the EIT Law, an electronic transaction is a legal act carried out using a computer, computer network, and/or other electronic media. Thus, the Electronic Information and Transactions (EIT) Law is a law or a set of regulations governing electronic information and transactions, along with procedures for disseminating or presenting information and proper methods of conducting transactions using electronic media. It has jurisdiction or legal authority, as stated in Article 2 of Law No. 11 of 2008 on ITE, which states that this law applies to any person who performs a legal act as regulated in this law, whether within or outside the legal jurisdiction of the Republic of Indonesia, which has legal consequences within or outside the legal jurisdiction of Indonesia and/or harms the interests of Indonesia.

The explanatory notes to Article 2 of the Electronic Information and Transactions (EIT) Law state that this law has jurisdictional scope not only for legal acts that take place in Indonesia and/or are committed by Indonesian citizens, but also applies to legal acts committed outside the legal jurisdiction of Indonesia whether by Indonesian citizens, foreign nationals, Indonesian legal entities, or foreign legal entities that have legal consequences in Indonesia, given that the use of information technology for electronic information and electronic transactions can be cross-border or universal in nature.[17]

The term "harming the interests of Indonesia" includes, but is not limited to, harming national interests, the protection of strategic data, the dignity and honor of the nation, national defense and security, national sovereignty, citizens, and Indonesian legal entities.

a. Legal Principles of the Electronic Information and Transactions (EIT) Law

According to Satjipto Rahardjo, legal principles are an important and fundamental element of legal regulations. Legal principles are the heart of legal regulations because they serve as the broadest foundation for the creation of legal regulations, or they function as the logical rationale behind them. The final opinion is from Dudu Duswara Machmudi, who states that legal principles are the general foundations contained within legal regulations, and these general foundations embody ethical values.[18]

The explanation of the principles of the Electronic Information and Transactions (EIT) Law is as follows:

1) The principle of legal certainty serves as the legal foundation for the use of information technology and electronic transactions, as well as all matters that support their implementation, which are legally recognized both in and out of court
2) The principle of utility, namely the principle that the use of information technology and electronic transactions is intended to support the information process so as to improve public welfare.
3) The principle of prudence means that the parties concerned must take into account all aspects that have the potential to cause harm, both to

[17] Tim Redaksi BIP, Undang-Undang Informasi dan Transasksi Elektronik. 33
[18] Dudu Duswara Machmudin, Pengantar Ilmu Hukum (Sebuah Sketsa) (Cet. V; Bandung: PT Refika Aditama, 2013), h. 67.

themselves and to others, in the use of information technology and electronic transactions.

4) The principle of good faith is a principle applied by parties in conducting electronic transactions, ensuring that they do not intentionally, without authorization, or unlawfully cause harm to another party without that party's knowledge.
5) The principle of freedom to choose technology or technology neutrality is a principle of information technology and electronic transaction utilization that does not focus on the use of specific technologies so that it can keep pace with future developments.[19]

b. Purpose of Law No. 11 of 2008 on Electronic Information and Transactions (EIT) Law

The utilization of information technology and electronic transactions is carried out for the purposes set forth in Article 4 of the Electronic Information and Transactions (EIT) Law as follows:

1) To enrich the nation's life as part of the global information society.
2) Developing trade and the national economy to improve the welfare of the people.
3) Improving the effectiveness and efficiency of public services.
4) Providing the widest possible opportunities for everyone to advance their thinking and capabilities in the field of information technology usage and utilization in the most optimal and responsible manner.
5) Providing a sense of security, justice, and legal certainty for users and providers of information technology.[20]

[19] Tim Redaksi BIP, Undang-Undang Informasi dan Transasksi Elektronik. 64
[20] Soemarno Partodihardjo, Tanya Jawab Sekitar Undang-Undang No. 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik. 10

Based on these objectives, it is clear that the Electronic Information and Transactions (EIT) Law aims to build an information society within the national and state life of Indonesia so that it remains strong as a unified whole through the development of electronic information systems and the creation of favorable conditions for electronic transactions, thereby ultimately enabling the Indonesian people to become an intelligent society capable of being part of the global information society. It cannot be denied that the development of electronic information and transactions has become one of the primary means for advancing trade and the economy to enhance the welfare of the Indonesian people. However, in practice, this development has also given rise to various challenges due to potential misuse that could lead to criminal offenses.[21]

4. Theory of Consumer Protection

a. Definition of Consumer Protection

Consumer protection is a term used to describe legal safeguards for consumers against matters that may harm them. Article 1(1) of Law No. 8 of 1999 on Consumer Protection states: "Consumer protection refers to all efforts that ensure legal certainty for the protection of consumers." In short, consumer protection refers to all efforts to ensure legal certainty in providing protection to consumers. Consumer protection has a fairly broad scope, as described at, covering protection for consumers in obtaining goods or services from the initial acquisition stage through to the consequences resulting from the use of such goods or services, as detailed at.[22]

b. Rights and Obligations of Consumers and Business Entities

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[21] Siswanto Sunarso, Hukum Informasi dan Transaksi Elektronik, Studi Kasus: Prita Mulyasari, 48.
[22] Jannus Sibadolok, Hukum Perlindungan Konsumen di Indonesia, (Bandung: PT Citra Aditya Bhakti,2010), 7

Article 4 of Law No. 8 of 1999 stipulates the rights of consumers, which include the following:

1) The right to safety and comfort in using goods and services
2) The right to choose and obtain goods or services that are commensurate with the exchange value or conditions and guarantees that have been promised.
3) The right to accurate, clear, and honest information regarding the conditions and guarantees of goods and services.
4) The right to have their opinions and complaints regarding the goods and services they use heard.
5) The right to receive advocacy and protection, as well as efforts to resolve consumer protection disputes in a fair and appropriate manner.
6) The right to receive consumer education and guidance.
7) The right to be served and treated honestly and without discrimination
8) The right to receive compensation if the goods or services received do not conform to the agreement or as they should.
9) And other rights as stipulated in other laws and regulations.

Meanwhile, the obligations of business operators are stipulated in Article 7 as follows:[23]

1) To act in good faith in conducting business activities
2) Provide accurate information about the condition of goods or services and explain how to use, repair, and maintain them.
3) Treating consumers fairly, honestly, and without discrimination.
4) Providing a guarantee of the quality of goods or services sold that meets applicable quality standards.

[23] Celina Tri Siwi Kristiyanti, Hukum Perlindungan Konsumen, (Jakarta: Sinar Grafika, 2008), 3144.

5) Providing a warranty or guarantee for a product and giving consumers the opportunity to test specific goods or services being sold
6) Providing compensation or reimbursement for losses resulting from the use or consumption of the goods being sold.
7) If the goods or services received by the consumer do not conform to the agreement, the business operator is obligated to provide compensation for the resulting losses.

c. Principles of Consumer Protection

1) Principle of Liability Based on Negligence

Liability for negligence is a subjective principle of liability, meaning that liability is determined by the business operator. Based on the theory of negligence, the negligence of a business operator that causes a consumer to suffer a loss is one of the determining factors for a consumer to file a lawsuit against the business operator for compensation for the loss suffered by the consumer. Negligence can also be used as the basis for a lawsuit if it meets certain requirements, including:

a) An act that results in a loss and is not accompanied by the normal standard of care.
b) The defendant's negligence can be proven by the plaintiff demonstrating that the defendant failed to exercise due care in fulfilling their obligations.
c) That act is the cause of the resulting loss.[24]

2) Principle of Liability Based on Breach of Warranty

A business operator's liability for breach of warranty is also part of contractual liability. Therefore, if a product is defective and causes

[24] Zulham, Hukum Perlindungan Konsumen, (Jakarta: Kencana Prenada Media Grup, 2013), 83

the consumer to suffer a loss, the consumer may refer to the terms of the contract, whether written or not.

Under this theory, the benefit to consumers lies in the application of a strict obligation that is, an obligation based on the efforts a business has made to fulfill its promise. This means that if a business has made an effort to fulfill its obligations and promises, but the consumer still suffers a loss, the business remains liable to compensate the consumer for the loss incurred. The weakness of this theory in providing legal protection for consumer interests lies in the existence of a statute of limitations, notification requirements, the possibility of a defense, and contractual relationship requirements.

The obligation to pay compensation for losses arising from liability for breach of contract stems from the application of a clause in the agreement, which constitutes a legal provision for the parties who have voluntarily entered into the agreement.[25]

3) The Principle of Strict Liability (strict product liability)

The principle of strict liability in consumer protection law generally holds businesses particularly manufacturers liable for goods they sell that may cause harm to consumers. This liability is known as the principle of product liability. Under the principle of strict liability, businesses are required to be liable for all losses suffered by consumers as a result of using the goods they produce:

a) Breach of warranty, for example, if the product's functionality does not match the information on the product label.
b) The presence of negligence
c) application of strict liability[26]

[25] Zulham, Hukum Perlindungan Konsumen. 88
[26] Celina Tri Siwi Kristiyanti, Hukum Perlindungan Konsumen, (Jakarta: Sinar Grafika, 2008), 98.

These theories are relevant to this study because they can serve as a basis for analyzing the practices of online consignment services between businesses and consumers. The theory of wakalah bil ujrah is used to explain the relationship between agency and the payment of wages from an Islamic legal perspective in the context of online consignment services. The theory of consignment services is relevant for understanding the mechanisms and transaction processes conducted via social media, particularly Instagram. Additionally, the theory of the ITE Law is used to analyze the legal aspects of electronic transactions occurring in online consignment services. Meanwhile, consumer protection theory is used to examine business operators' liability for non-conformity of goods received by consumers based on positive law in Indonesia.

CHAPTER III

RESEARCH METHODOLOGY

A. Type of Research

Based on the background discussion, this study will employ an empirical legal research design. According to Soerjono Soekanto, empirical legal research is a study conducted based on actual conditions occurring in society, aimed at identifying facts and collecting data relevant to the research objectives. Once the data is obtained, the study identifies the problem with the goal of finding solutions to resolve it.[27]

B. Research Approach

Based on the type of research, this study employs the Social Legal Approach, which emphasizes research aimed at obtaining legal knowledge empirically through direct engagement with the subject matter. Social legal research is legal research that uses secondary data as its initial data, which is then followed by primary data collected in the field or from the community; it examines the effectiveness of a regulation and seeks to identify relationships (correlations) between various phenomena or variables. Data collection methods include document or literature reviews and interviews.[28]

C. Research Location

This study was conducted in the city of Jombang, specifically among several consumers of the Jastip service who had experienced discrepancies with the items they received through online transactions via the @jastipby.civi account.

[27] Soerjono Soekanto, pengantar penelitian hukum (Jakarta: UI Press, 2015) 7
[28] Amiruddin,Pengantar Metode Penelitian Hukum,(Jakarta: PT.Raja Grafindo Persada, 2012), 34

D. Data Sources

Data sources are the means by which data is obtained, whether through interviews, observations, or documentation. Data sources in this study can be categorized into two types:

1. Primary data is data obtained directly from informants in the field. This data was collected through interviews with users of online shopping proxy services in accordance with the research objectives.
2. Secondary data, with information sources drawn from books, magazines, articles, social media, as well as MUI DSN Fatwa No. 113/DSN-MUI/IX/2017 on the *Wakālah Bil Ujrah* Contract, Law No. 11 of 2008 on Electronic Information and Transactions Law, Law No. 8 of 1999 on Consumer Protection, and other sources that can be accounted for by the researcher and are relevant to the context of the research conducted

E. Data Collection Methods

To obtain accurate data, the researcher used the following data collection methods:

1. Interviews

The interview method is a method used to collect information or data obtained directly from the source. This is because, in research, the researcher aims to capture the actual reality; therefore, the researcher must obtain data directly from the research subjects to ensure the data is accurate and scientifically valid.[29] In this study, interviews were conducted with 3 consumers of online consignment services who experienced discrepancies with the items they received. The customers who were the subjects of the interviews included:

[29] Tjipto Subadi, "Metode Penelitian Kualitatif", (Surakarta : Muhammadiya University Press, 2006), 63-65

a) Fifi : +62 813 2738 7194

b) Laila : +62 857 0726 9005

c) Fia : +62 858 4781 0382

2. Documentation

Documentation is a data collection technique that complements observation and interviews. In this process, researchers obtain data from the research events themselves, in the form of images, photographs, and so on.[30] In this study, the documentation to be used consists of *screenshots* of conversations between customers and the consignment service providers, starting from the request and offer of consigned goods up to complaints regarding discrepancies in the goods received by consumers.

F. Data Processing Method

The data collected in this study will subsequently be processed and analyzed using qualitative analysis methods. The analysis process involves discussing and interpreting the data obtained based on relevant theories, thereby demonstrating the relationship between theoretical concepts and empirical facts. The results of this analysis are then presented descriptively to provide a clear, systematic, and structured overview of the legal issues under examination.

[30] Anis Fuad dan Kandung Sapto Nugroho, "Panduan Praktis Penelitian Kualitatif", (Yogyakarta: Graha Ilmu, 2014), 62

CHAPTER IV

ANALYSIS RESULTS AND DISCUSSION

A. General Overview of the Research Location

1. Profile of the Online Store @jastipby.civi

Jastipby.civi launched its online shopping agency business in 2024, capitalizing on technological advancements and the growing public interest in online shopping. Since its inception, the business has focused on purchasing items on behalf of consumers who want specific products from outside their region or from abroad without having to buy them directly. The availability of this shopping service makes it easier for consumers to obtain items that are hard to find, limited in availability, or currently popular on the market.

2. Online Shopping Agency Transaction Practices on the @jastipby.civi Account

In running its business, @jastipby.civi uses Instagram and WhatsApp groups as its primary channels for promotion, communication, and transactions with customers. Through these social media accounts, the business actively posts information regarding products, prices, product catalogs, purchase schedules, and terms for the shopping service. The products offered generally include fashion items, beauty products, accessories, and other necessities sourced according to customer requests. Additionally, e-commerce platforms like Shopee are utilized as purchasing channels, enabling the ordering process to be completed more quickly and conveniently.

The execution of transactions in online shopping agency services essentially creates a legal relationship between the business operator and the consumer in the form of an electronic agreement. This agreement is established when both parties have reached an understanding regarding the goods, price, agency fees, and the mechanism for delivering the goods to the consumer. In practice, the entire transaction process is conducted online without any face-to-face meetings between the parties. Therefore, trust, transparency, and communication are crucial elements in ensuring the smooth operation of online consignment services. Additionally, the consignment service provider is responsible for delivering the goods in accordance with the consumer's order as previously agreed upon.

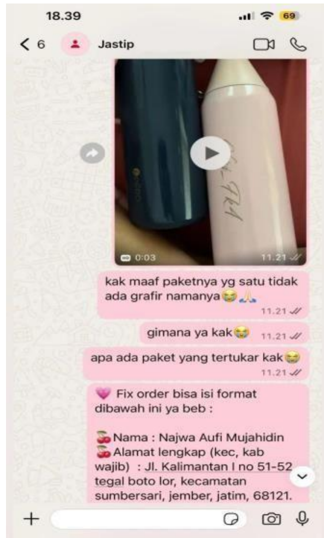
However, in the course of online shopping agency transactions on the @jastipby.civi account, several instances of discrepancies were found regarding the goods received by consumers. These discrepancies indicate issues in fulfilling consumers' rights to receive goods that match their orders. The types of discrepancies identified based on interviews with consumers are as follows:

1. **Discrepancies in Engravings on Ordered Goods**

The first discrepancy was experienced by Customer A, who ordered two tumblers with custom name engravings as requested. However, upon receiving the items, only one tumbler had the name engraved, while the other was not engraved as originally agreed. Customer A then attempted to contact the seller to hold them accountable, but received neither a response nor a resolution from the seller. Based on the interview results, Customer A stated that:

> "I ordered two tumblers with a request to have each one engraved with a name, but when the items arrived, only one had been engraved. I contacted the shopping service provider to ask for an explanation, but I haven't received a response yet."[31]

[31] Vivi, wawancara, (Jombang, 2 April 2026)



Picture 1. Screenshots of customer A interactions with Jastiper

This incident highlights a discrepancy between the items received and the order previously agreed upon in the online shopping service transaction.

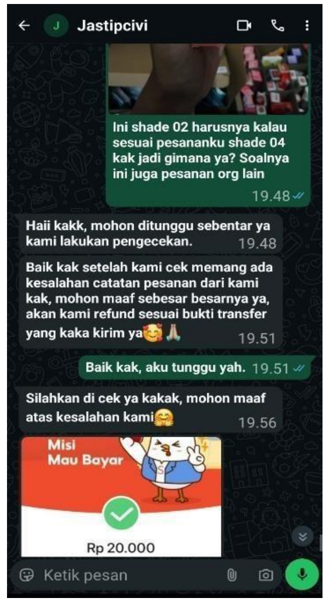
2. **Items Received Do Not Match the Order**

The second discrepancy was experienced by Customer B, who received an item different from the original order. After filing a complaint with the shopping service provider, the seller agreed to issue a refund on the condition that the item received be returned to the shopping service provider first. This resolution was offered as a form of accountability for the incorrect shipment. Based on the interview, Customer B stated that:

> "The item I received was different from the order I placed earlier. After I complained, the jastip service agreed to refund my money, but the incorrectly shipped item had to be returned first."[32]

[32] Laila, wawancara, (Jombang, 5 April 2026)

From this case, it is evident that the service provider resolved the issue by issuing a refund to the consumer.



Picture 2. Screenshots of customer B interactions with Jastiper

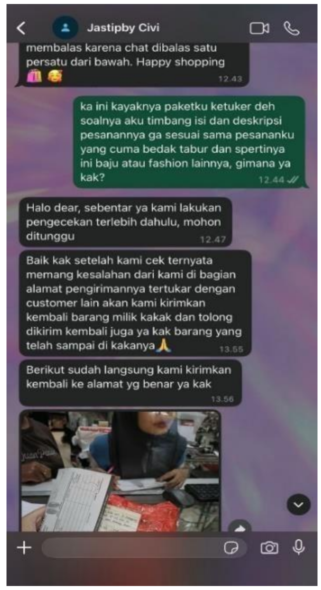
3. **Occurrence of Product Swaps Between Consumers**

The third discrepancy was experienced by Customer C, who received another consumer's item due to a mix-up in orders during the shipping process. Upon discovering the error, the delivery service resolved the issue by exchanging the items between the consumers until each party received the item they had originally ordered. Based on the interview results, Customer C stated that:

> "The item I received turned out not to be mine, but another customer's order. After I contacted the shopping service, they asked me to exchange the item with the customer whose order had been mixed up."[33]

[33] Fia, wawancara, (Jombang, 2 April 2026)

This incident indicates negligence in the packaging and shipping process by the delivery service, resulting in items being mixed up between customers.



Picture 3. Screenshots of customer C interactions with Jastiper

Based on these three cases, the practice of online shopping agency services on the Instagram account @jastipby.civi does not always proceed in accordance with the agreement made between the shopping agency and the consumer. Discrepancies in goods, shipping errors, and variations in the resolutions provided by the service provider indicate that each issue is handled through different mechanisms. This situation illustrates how online shopping agency agreements are implemented in practice and the form of accountability that businesses have toward consumers when discrepancies in goods occur in electronic transactions.

B. Analysis of Online Consignment Service Agreements Regarding Discrepancies in Goods Received by Consumers: A Positive Law Perspective

The previous discussion provided an overview of the research location and the practices of the online shopping service on the @jastipby.civi account, including several instances of discrepancies between the items received by consumers who used the shopping service at that online store. Based on the results of field research, discrepancies were found between the items ordered and the items received by consumers. This issue indicates that in the practice of online shopping agency services, there are still challenges in the fulfillment of agreements between shopping agency providers and consumers.

Based on these findings, the subsequent discussion will focus on an analysis of online consignment service agreements regarding discrepancies in the goods received by consumers from the perspective of positive law. This analysis is conducted to determine the legal status of agreements between online consignment service providers and consumers, as well as to identify the forms of liability arising from discrepancies in goods during the execution of online consignment service transactions.

Legal relationships regarding online transactions arise as an application of the principle of freedom of contract (laissez-faire), which binds the parties (pacta sunt servanda). This is stipulated in Article 1338 of the Civil Code: "All agreements validly entered into are binding as law upon the parties who made them."

However, freedom of contract in online transactions remains subject to limitations under the Civil Code, as stipulated in Article 1320 of the Civil Code, which states that the validity of an agreement must be based on:[34]

1. Agreement between the contracting parties

   Pursuant to Article 1321 of the Civil Code, a contract must be entered into based on freedom of contract. The contracting parties may not enter into a

[34] Nur Windy, Ina Rosmaya. "Perlindungan Konsumen Terhadap Transaksi Jual Beli Secara Online Atas Ketidaksesuaian Barang Yang Diterima" Vol. 11 No. 2 (2022): 83

contract involving coercion or extortion (dwang), fraud (bedrog), or mistake or misunderstanding (dwaling). If such circumstances occur, the contract is defective and may be rescinded.

2. Capacity of the parties (capacity)

Article 1329 of the Civil Code states that every person is capable of entering into a contract, unless declared legally incompetent by law. Therefore, the general subjects capable of entering into a contract are adults who are at least 21 years of age or married, possess sound judgment, and are capable of performing legal acts.

3. Certainty of terms

This pertains to the subject matter of the agreement. When entering into an agreement, the subject matter must be clear, and what is promised must be clearly defined so that the rights and obligations of the parties can be established.

4. Lawful consideration

In drafting a contract, it must be based on a valid authority or consideration that is permitted and does not conflict with public order or morality, as regulated by laws and regulations.

Therefore, the requirements of a contract are divided into two categories: (1) subjective requirements, which relate to the parties or the subjects entering into the contract, and (2) objective requirements, which relate to the content of the contract or the subject matter of the legal act being performed. If the requirements in points (1) and (2) are not met, the contract may be voided. However, if the parties do not raise an objection, the agreement is still considered valid. Furthermore, if the conditions in points (3) and (4) are not met, the agreement is void ab initio. Thus, the agreement is deemed to have never existed or been executed from the outset. An invalid agreement is one that is void from the start and does not necessarily produce legal consequences for either party.

An agreement that is contrary to the law, public morality, and public order is declared null and void. Regarding an agreement that can be rescinded, one party has the right to file for rescission of the agreement. Under positive law, the legal relationship between an online consignment service provider and a consumer arises from an agreement made by both parties. This agreement gives rise to rights and obligations that must be fulfilled in accordance with the terms of the mutually agreed-upon contract. Therefore, if there is a discrepancy in the goods received by the consumer during the performance of the contract, a further analysis is required regarding the exercise of the parties' rights and obligations based on applicable legal provisions.

Under positive law, the legal relationship between online consignment service providers and consumers arises from an agreement entered into by both parties. This agreement gives rise to rights and obligations that must be fulfilled in accordance with the terms of the mutually agreed-upon contract. Therefore, if there is a discrepancy in the goods received by the consumer during the fulfillment process, a further analysis must be conducted regarding the exercise of the parties' rights and obligations based on applicable legal provisions.

Article 1457 of the Civil Code explains that a sale and purchase is an agreement entered into by the parties, whereby one party is obligated to deliver goods and the other party is obligated to pay the agreed-upon price. Thus, the definition of a sale and purchase under the Civil Code can be understood as a reciprocal agreement that benefits both parties, namely, the seller is obligated to transfer the rights to an item, while the buyer is obligated to pay a sum of money as compensation for obtaining ownership of the item.[35]

A sales contract, as stipulated in the Civil Code, requires that the subject matter of the contract be clearly defined, or at least that its form and quantity be determinable at the time of transfer of ownership to the buyer. Essentially, once a sales agreement is reached, rights and obligations arise that must be fulfilled by each party bound by the agreement. Both the seller and the buyer have their respective rights and obligations that must be fulfilled.

Under the Civil Code, sellers and buyers each have their own rights and obligations, generally in the context of sales transactions. The seller is in a stronger position than the buyer, who is in a weaker position. According to Article 1474 of the Civil Code, the seller's obligations under that provision essentially consist of the following:[36]

1. The seller's obligation to deliver the goods sold to the buyer; and
2. The seller's obligation to indemnify or guarantee *(vrijwaring)* the goods sold.

The buyer's rights and obligations in the execution of a sales contract are set forth in Article 1481 of the Civil Code, namely:

1. The right to receive the goods

   The buyer is entitled to receive the goods at the time of the sale, as provided for in Article 1481 of the Civil Code, which states as follows: "The goods in question must be delivered in the same condition as at the time

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[35] Nur Windi Bripa, Ina Rosmaya. "Perlindungan Konsumen Terhadap Transaksi Jual Beli Secara Online Atas Ketidaksesuaian Barang Yang Diterima". Vol. 11 No. 2(2022): 83

[36] Yusca Satria Alamsyah et al., "Jasa Titip (Jastip) Barang Ditinjau Dari Perspektif Hukum Islam dan Hukum Positif (Studi Kasus Pemilik Akun Instagram @azkaestu)," *el hisbah: Journal of Islamic Economic Law* 2, no. 1 (2022): 132, https://doi.org/10.28918/el_hisbah.v2i1.4866.

of sale. From the moment of delivery, all proceeds become the property of the buyer." The delivery of goods in a sales agreement is an act of transferring the goods being sold into the buyer's possession and ownership. If, during the delivery process, a legal transfer is required in addition to the physical delivery to perfect the buyer's title, the buyer must complete such transfer process in accordance with the provisions of Article 1475 of the Civil Code.

2. Right to defer payment

The right to suspend or defer payment arises due to an encumbrance affecting the goods purchased by the buyer. Such an encumbrance may take the form of a legal claim or action, such as a third-party mortgage still attached to the goods. The right to defer payment generally applies to immovable property, such as in the sale and purchase of land. Article 1516 of the Civil Code states as follows: "If, in taking possession of the goods, the buyer is hindered by a legal claim based on a mortgage or a claim to reclaim the goods, or if the buyer has a reasonable cause to fear such hindrance in taking possession, then the buyer may suspend payment of the purchase price until the seller removes such hindrance, unless the seller chooses to provide security or it has been agreed that the buyer is obligated to pay without receiving security against any such disturbance."

Legal relationships in online consignment services arise upon the conclusion of an agreement between the parties. Pursuant to Article 1313 of the Civil Code, a contract is an act by which one or more persons bind themselves to one or more other persons.[37] From this provision, it can be understood that the

[37] Kitab Undang-Undang Hukum Perdata, Pasal 1313.

primary element of a contract is the existence of an agreement that gives rise to a legal relationship between the parties.

Although online consignment service agreements are concluded electronically, they remain legally binding as long as they meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code, namely: an agreement between the parties, the legal capacity of the parties, a specific subject matter, and a lawful cause.[38] The agreement in online consignment transactions is generally made through electronic communications that include consent regarding the ordered goods, the price of the goods, service fees, and the delivery system. Thus, online consignment transactions can still be categorized as legally valid agreements.

The use of information technology-based applications must comply with regulations governing information and electronic transactions in accordance with legal guidelines. As stipulated in Article 1, point 2 of Law No. 11 of 2008 on Information and Electronic Transactions, an electronic transaction is “a legal act performed using a computer, its network, and other electronic media.” (Law No. 11 of 2008 on Information and Electronic Transactions, Article 1). Transactions using electronic means may be conducted with the general public or private individuals, in accordance with Article 17(1) of the Electronic Information and Transactions (EIT) Law No. 11 of 2008.[39]

In electronic transactions, the parties are fundamentally highly dependent on trust, given that electronic transactions conducted via the internet do not bring the parties involved in the transaction into direct contact, as stipulated in Article 17(2) of the Electronic Information and Transactions (EIT) Law, which states that

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[38] Kitab Undang-Undang Hukum Perdata, Pasal 1320.

[39] Sudirman, E. *Perlindungan Hukum Bagi Pengguna Jasa Transportasi Online di Kota Makassar.* Makassar: UNM 2013. 156

electronic transactions must be conducted in good faith and with full honesty both in the process of communication and in the exchange of electronic information and documents throughout the course of the transaction. In the realm of private law, electronic transactions can also be understood as an agreement made by utilizing information and communication media.

Online consignment services are generally promoted through social media, particularly platforms like Instagram and WhatsApp, which are used as marketing and promotional tools. This is because the use of social media especially Instagram—is considered highly effective for marketing and selling products, as evidenced by the app's massive user base. This allows businesses to expand their marketing reach and conduct operations anytime and anywhere as long as an internet connection is available. Additionally, another advantage is the reduction in operational costs, as service providers only need to cover expenses for data plans or internet access.

Instagram accounts have become one of the social media platforms utilized as a tool for developing the shopping service business. The desire to turn a shopping hobby into a business that generates personal profit, along with the use of social media to create productive activities, forms the basis for creating these Instagram accounts.

In the practice of online shopping services, service providers are obligated to fulfill customer orders in accordance with the initial agreement. These obligations include purchasing the items as ordered, ensuring that the items meet the customer's specifications, and delivering the items to the customer in good condition. Conversely, customers are obligated to make payment in the amount mutually agreed upon.

However, in practice, the implementation of the Electronic Information and Transactions (EIT) Law in Indonesia still faces various challenges. One such challenge is the limited understanding and awareness among the public and business operators regarding the legal provisions set forth in the EIT Law. Many consumers do not yet understand their rights in electronic transactions, while many businesses still do not fully comply with the provisions of the EIT Law. This situation often leads to consumers suffering losses without receiving adequate legal protection. Consumers frequently receive products from online transactions that do not match what was promised, and in some cases, the products are damaged or defective.

R. Subekti (1992) states that the seller is liable for latent defects (Verborgen gebreken) in the goods sold, that is, defects that impair the function or utility of the goods in accordance with their intended use. Consequently, if the buyer had known about the defect in the goods from the outset, the buyer would most likely not have purchased them.[40]

In providing consumer protection, business operators are subject to certain prohibitions on conduct that they must not engage in while fulfilling their obligations as sellers. These provisions are set forth in Article 8 of the Consumer Protection Law, which requires business operators to market products in accordance with their descriptions, refrain from selling defective or contaminated goods, and explain the condition of the products in detail and in accordance with the facts to prospective buyers. These provisions are also reaffirmed in Article 1491(2) of the Civil Code, which governs the seller's obligation to guarantee "the absence of hidden defects in the goods, or defects of such a nature as to constitute grounds for cancellation of the purchase." Legal regulations in the form of

[40] Shona Azi dkk. "Peran UU ITE dalam Regulasi E-Commerce di Era Digital" Junal Ilmu Hukum dan Politik, Vol. 5, No. 1, November 2024. 262

legislation regarding cyber and e-commerce should encompass all relevant legal instruments so that they can form a subsystem within the national legal system. Therefore, the use of a systemic approach is considered appropriate by examining various relevant legal instruments, including the Civil Code and other organic legislation such as related laws.[41]

Product non-conformity is a form of breach of contract in online shopping agency agreements. A breach of contract occurs when one party fails to fulfill its obligations as agreed.[42] In the context of online shopping agencies, a breach of contract can take the form of failure to ship the product, delayed delivery, or receipt of a product that does not match the order.

In this study, discrepancies in goods received by consumers of the online consignment service @jastipby.civi are classified into several forms: first, discrepancies between the customer's order details and the goods ordered. Second, discrepancies between the type of goods requested and the goods received. Third, goods received that were mixed up with those of another customer.

If there is a discrepancy in the goods, the consignment service provider may be deemed to have breached the contract by failing to fulfill their obligations as stipulated in the agreement. According to Article 1234 of the Civil Code, performance may consist of delivering something, doing something, or refraining from doing something.[43] In online consignment services, the service provider's performance consists of delivering goods in accordance with the consumer's order. Breach of contract in online consignment services can result in both material and immaterial losses for consumers. Material losses may include the loss of money

[41] Shona Azi dkk. "Peran UU ITE dalam Regulasi E-Commerce di Era Digital" 263
[42] Yahya Harahap, *Segi-Segi Hukum Perjanjian*, Bandung: 1986, hlm. 60.
[43] Kitab Undang-Undang Hukum Perdata, Pasal 1234.

already paid, while immaterial losses may include feelings of disappointment and a loss of consumer trust.

Breach of contract refers to negligence or failure to act (Prof. R. Subekti, S.H.), and can take four forms, namely:[44]

1. Failure to perform what was promised;
2. The promise is fulfilled, but not as promised;
3. Fulfilling the promise but late;
4. Performing an act not permitted by the agreement.

If any of the four (4) situations above occur, and the goods received by the consumer do not match the specifications listed in the promotional materials for the product sold via e-commerce, then the consumer may file a civil lawsuit against the online seller on the grounds of breach of contract.

Breach of contract is a legal basis for suing a business entity by seeking damages for a breach of contract, which results from the failure to perform primary or ancillary obligations such as performance obligations or warranty obligations under a contract. This form of breach of contract includes:

1. The seller fails to perform at all;
2. The seller is late in fulfilling the performance;
3. The seller performs but not as required;
4. The seller performs but engages in conduct prohibited by the contract.

A breach of contract occurs when a business entity (debtor) fails to fulfill its obligations under an agreement, resulting in the business entity being liable to

[44] Fitriah, "Perlindungan Hukum Bagi Konsumen Dalam Transaksi Jual Beli Melalui Media Sosial," *Journal UNPAL* 18, no. 3 (2020): 371–382 https://jurnal.unpal.ac.id/index.php/solusi/article/view/305/264.

legal action by the consumer (creditor). In such cases, the consumer may seek redress for the damages suffered through one of the following avenues:

1. Performance of the contract;
2. Cancellation of the contract;
3. Compensation only;
4. Cancellation of the contract along with compensation; and
5. Performance of the contract along with compensation for damages.

Businesses may apply this provision to establish a relationship with consumers through the making of promises or guarantees. This constitutes a unilateral promise made by the business, in which it describes the utility, benefits, and enjoyment of a product or service; thus, it is understood that the business has made a unilateral promise to the consumer and has bound itself by making that promise. However, in such an agreement, the business operator must fulfill their promise because it is that promise that entices the consumer to purchase a product. Consequently, if the promise made by the business operator is not fulfilled, the business operator must be held liable for the losses suffered by the consumer.

The forms of liability for businesses, if a business is found to have been negligent regarding goods received by consumers that do not meet specifications, may include the following:

1. Product Return

    If a consumer receives goods that do not meet specifications, they may request a return. The goods will then be replaced with new goods of the same type, provided the consumer submits photographic evidence of the goods to facilitate the return process. The business operator is responsible for covering the costs associated with the return.

2. Money Refund

The consumer returns the item to the business, which then issues a refund in an amount equivalent to the price of the item, plus reimbursement for the shipping costs previously incurred by the consumer.

In addition to breach of contract, non-conformity of goods may also be classified as a tort if the consignment service provider intentionally provides false or misleading information to consumers. Article 1365 of the Civil Code states that any tortious act causing harm to another person obligates the perpetrator to compensate for such harm.[45] In electronic transactions, non-conformity of goods is often caused by a lack of transparency in information from the business operator. For example, the consignment service provider may only display photos of goods that do not match their actual condition or fail to explain the detailed specifications of the goods. Such actions violate the business operator's obligation to provide accurate, clear, and honest information as stipulated in Article 7(b) of the Consumer Protection Act.[46]

Consumers/buyers have the right to receive compensation, damages, and/or a replacement if the goods and/or services received do not conform to the agreement or are not as they should be. Meanwhile, business operators are obligated to provide compensation, damages, and/or replacement if the goods and/or services received or utilized do not conform to the agreement; this provision is contained in Article 7(g) of the Consumer Protection Law.

The liability of online consignment service providers for product discrepancies is fundamentally based on the principle of liability for breach of contract and liability under the Consumer Protection Act. The consignment service

[45] Kitab Undang-Undang Hukum Perdata, Pasal 1365
[46] Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, Pasal 7 huruf b.

provider is obligated to deliver goods in accordance with the consumer's order and is liable for any losses incurred in the event of non-conforming goods. Article 19(1) of the Consumer Protection Act states that business operators are liable to provide compensation for damage, contamination, and/or losses suffered by consumers resulting from the consumption of goods and/or services produced or traded.[47]

The compensation in question refers to the replacement of an item due to a loss suffered by the consumer (the party that is often the victim of the loss), with an item of equal value to the one originally agreed upon. Essentially, compensation for consumer losses serves to:

1. Restore rights that have been violated;
2. Compensation for both material and immaterial losses suffered;
    a. Material losses, namely losses to purchased goods.
    b. Immaterial losses, namely losses that may endanger the consumer's health and/or life.

In the context of online consignment services, the forms of business operator liability may include:

1. Refund the customer if the item does not match the order.
2. Replace the item with one that meets the order specifications.
3. Provide compensation for the consumer's loss.
4. Cover the cost of returning non-compliant goods.

The liability of the consignment service provider cannot be eliminated simply because the transaction was conducted online. The Electronic Information and Transactions Law recognizes that electronic transactions have legal validity.

[47] Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, Pasal 19 ayat (1).

Article 5(1) of the Electronic Information and Transactions Law states that electronic information and/or electronic documents, along with their printed copies, constitute valid legal evidence.[48]

With this recognition, social media conversations, transfer receipts, invoices, and screenshots of conversations can be used as evidence in the event of a dispute between consumers and consignment service providers. Additionally, electronic business operators are required to provide complete and accurate information to consumers. Article 9 of the Electronic Information and Transactions Law states that business operators offering products through electronic systems must provide complete and accurate information regarding contract terms, the manufacturer, and the products being offered.[49]

These provisions stipulate that online shopping service providers are required to provide clear information about the items to be purchased, including their condition, size, color, price, and estimated delivery time. If the information provided is inaccurate and results in consumer losses, the business operator may be held liable.

Consumers are entitled to protection, advocacy, and dispute resolution as provided for in the Consumer Protection Act. If goods or services do not conform to the agreement, the business operator is obligated to provide compensation in the form of reimbursement for losses resulting from the receipt or use of goods and/or services that do not meet the agreed terms, in accordance with Article 7(g) of the Consumer Protection Law.

Disputes between consumers and online consignment service providers can be resolved through either litigation or non-litigation channels. Non-litigation dispute resolution can be carried out through negotiation, mediation, arbitration, or

[48] Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, Pasal 5 ayat (1).
[49] Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, Pasal 9.

through the Consumer Dispute Resolution Agency (BPSK). Article 45 of the Consumer Protection Act grants aggrieved consumers the right to sue businesses through institutions tasked with resolving disputes between consumers and businesses or through the courts.[50] Thus, consumers have the freedom to choose the dispute resolution mechanism they deem most effective.

Resolution through the BPSK is considered simpler and faster than going through the courts. The BPSK has the authority to handle and resolve consumer disputes through mediation, arbitration, or conciliation. Additionally, consumer is not subject to high fees, making it more accessible. However, in practice, the resolution of disputes involving online consignment services often faces obstacles. One of the main obstacles is the difficulty in identifying the business operator because transactions are conducted via social media without a clear identity. Furthermore, the relatively small amount of loss discourages consumers from pursuing legal action.

Consumers also often face difficulties in providing evidence because businesses can delete conversations or deactivate their social media accounts. Therefore, consumers need to save transaction evidence such as screenshots of conversations, proof of payment, and photos of the items received. From a legal perspective, electronic evidence has legally binding evidentiary weight as stipulated in the Electronic Information and Transactions Act. Consequently, electronic evidence may be used in dispute resolution proceedings both in and out of court.

Based on an analysis of online shopping agency practices on the Instagram account @jastipby.civi, it was found that the resolution methods employed by shopping agents regarding discrepancies in the goods received by consumers vary from case to case. These differences in resolution methods indicate variations in

[50] Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, Pasal 45.

the level of accountability among business operators in fulfilling their obligations to consumers under the previously agreed-upon terms. In online shopping agency transactions, business operators are fundamentally obligated to deliver goods in accordance with the consumer's order, in terms of type, quantity, and specifications. If a discrepancy occurs, the business operator is responsible for compensating the consumer for any resulting losses.

In the first case, Customer A encountered a product discrepancy in the form of incomplete name engravings on two tumblers that had been ordered. In this instance, the service provider failed to respond or take any form of responsibility for the complaint submitted by the consumer. This action indicates that the service provider did not fulfill its obligations as agreed upon at the outset of the transaction. From a positive law perspective, this situation can be categorized as a breach of contract because the business operator did not fulfill the agreement as agreed upon by the parties. Furthermore, the lack of a response or resolution from Jastiper also indicates a failure to fulfill the consumer's right to receive goods consistent with the order, as well as the right to receive compensation for the losses incurred.

Unlike the first case, in the second case, the service provider accepted liability for the non-conformity of the goods received by Customer B. The resolution involved issuing a refund to the consumer, on the condition that the non-conforming goods be returned to the service provider first. This resolution demonstrates the business operator's effort to compensate the consumer for losses incurred due to the incorrect delivery of goods. From a legal perspective, this action reflects the business operator's fulfillment of its responsibility toward the consumer, as the logistics provider provided compensation for the non-conforming goods received. Additionally, returning the goods to the logistics provider aims to restore the parties' situation to what it was before the transaction error occurred.

Next, in the third case, Customer C received an item that had been mixed up with another customer's order. In response to this issue, the delivery service resolved the matter by exchanging the items between the customers until each party received the item they had ordered. This resolution demonstrates the delivery service's good faith in correcting errors that occurred during the packaging or delivery process. From a positive law perspective, this action can be viewed as a form of the business operator fulfilling its responsibility to deliver goods in accordance with the agreement made with the consumer.

Thus, it can be understood that the resolutions reached by the consignment service provider in the second and third cases were essentially in line with the principle of business operator liability under positive law, as there were efforts to compensate for losses and fulfill consumers' rights to goods in accordance with the agreement. However, in the first case, the service provider did not fully fulfill its obligations because it failed to provide a response or resolution regarding the losses suffered by the consumer. Therefore, the fulfillment of business operator liability in online consignment transactions is crucial to providing legal protection for consumers and establishing legal certainty in electronic transaction practices.

C. Analysis of Online Consignment Service Agreements Regarding Discrepancies in Goods Received by Consumers from an Islamic Law Perspective

Buying and selling is an agreement to exchange objects (goods) of value based on mutual consent (agreement) between two parties in accordance with an agreement or provisions that have been validated by *Sharia*. What is meant by *Sharia* provisions is that buying and selling must fulfill the pillars, requirements, and other matters related to buying and selling. Therefore, if the pillars and conditions are not fulfilled, it means that the transaction does not comply with the requirements of *Islamic law.*

Thus, in Islam, buying and selling is actually encouraged, whereas any transaction involving usury is strictly prohibited. Allah has made buying and selling lawful and usury unlawful. So that people may avoid actions in their economic activities that could lead to the severing of good relations among one another, transactions— —should be conducted in accordance with Islamic law. As Allah, the Exalted, states in Surah al-Baqarah, verse 188:

هوهل هتَكُل وْا اهمهوالهكُمْ به.يْ.نهكُمْ ب لهْبا طل هوتُدْلُوْا بهآ اهل الْ كا م لهتاْكُلُوْا هف ريْ.قًا لمنْ اهمهوا ل النا س

ب لْ ث هواهنْ.تُمْ هت.عْهلمُ

هوْن ١٨٨

"And let not some of you devour the wealth of others among you unjustly, nor bring such matters before the judge so that you may consume a portion of others' wealth through sin, even though you know it is wrong."

A contract plays a crucial role in commercial transactions; such transactions are considered valid if the contract meets all its conditions and essential elements. Conversely, a contract may be deemed void if it fails to meet these conditions and essential elements. In an *online* shopping agency service (jastip) transaction, a user or consumer authorizes a service provider to purchase an item on their behalf in exchange *for a fee* for the service. From a substantive perspective, the *online* shopping agency service transaction is essentially a representation contract with a fee; in Islamic law, it is more accurately referred to as a *wakalah bil ujrah* contract. *Wakalah* is a contract containing an agreement whereby the first party entrusts the second party to represent the first party in the purchase of the first party's property. The implementation of the *Wakalah bil Ujrah* contract is regulated in DSN-MUI Fatwa No. 113/DSNMUI/IX/2017 regarding *Wakalah bil Ujrah.*

Based on the results of field research on the practice of *online* shopping agency services conducted by the *Instagram* account @jastipby.civi, the author analyzes the implementation of the *wakalah bil ujrah* contract in this practice. A contract is considered valid when its conditions and essential elements have been fulfilled. Therefore, an analysis was conducted on the buying and selling practices using the online shopping agency system on the Instagram account @jastipby.civi, reviewed in terms of the pillars and conditions of the *wakālah bil- -ujrah* contract as stipulated in the Fatwa of the National Sharia Council of the Indonesian Ulema Council No. 113/DSN-MUI/IX/2017, as follows:

1. *Al-aqidain* are the parties entering into the contract

    In a *wakālah bil ujrah* contract, the parties to the contract are *the principal* and *the agent*. The *principal* is the consumer or customer who uses the shopping service, and the *agent* is the owner and operator of @jastipby.civi, the provider of the shopping service.

    According to the results of the interviews conducted by the researcher, the parties to the contract are the proxy service provider (*agent*) Civi and the consumers or *customers* (*principals*), namely Vivi, Laila, and Via. The requirement for *the principal is* that they must be obligated and able to pay the fee, whereas the items purchased through the shopping service at the @jastipby.civi store already include the shopping service fee, so *the principal* is considered able and meets the requirement. Additionally, the requirement for the *agent* themselves is that they must be legally competent and capable of performing the tasks entrusted to them.

2. *Mahallul 'Aqd* is the subject matter of the contract

    The essential terms of the *wakālah bil ujrah* contract must be clear and known to *the agent*. In this case, the service provider posts photos of the products on Instagram and in WhatsApp groups so that *the principal* clearly understands that the items to be purchased on their behalf include a variety of fashion items, makeup, or other necessities.

3. *Ijab qabul* (*Sighat al-Aqd*)

In a *wakālah bil ujrah* contract, *the offer* in the context of online shopping via the consignment service at the @jastipby.civi store occurs when a customer wishes to place an order for a consignment service for selected items and contacts the admin via the WhatsApp number listed in *the* @jastipby.civi Instagram *bio*. The admin then sends an order form containing the customer's personal information ( ) and the total payment amount. As for the form of *qabul*, the admin receives proof of payment transfer from the customer, then the admin purchases the items and packs them to be shipped to the customer.

In a sale and purchase transaction, the determination of the ijab and qabul is not based on who speaks first. The first statement is called the ijab, as it serves as the basis for establishing the validity of the contract and as the foundation of the contract's validity, while the second statement is called the qabul because it is based on the first statement and indicates consent. This is considered valid, as it binds both parties the seller and the buyer.[51]

The essential terms of *the ijab qabul* in a *wakālah bil ujrah* contract must be clear and understandable to both contracting parties, whether verbally, in writing, or via digital media. In practice, this consignment service is conducted online, and communication between the consignment service provider and the customer takes place via the WhatsApp app.

4. *Ujrah*

Ujrah is the compensation for services rendered by *the agent*. The essential conditions in a *wakālah bil ujrāh* contract, as explained in MUI DSN Fatwa No. 113/DSN-MUI/IX/2017, stipulate that the payment of ujrah must be clear and transparent in terms of the percentage, nominal amount, or calculation

[51] Enang Hidayat, *Fiqh Jual Beli* (Bandung: PT Remaja Rosdakarya, 2015), hlm. 22.

agreed upon and known by both parties entering into the contract, namely *the principal (muwakkil)* and the agent *(wakil)*.[52]

In the shopping service provided by the @jastipby.civi store, the service provider charges a fee for the services rendered. The shopping service provider charges a fee of Rp. 10,000 – Rp. 20,000 for each item purchased. This fee is disclosed and agreed upon between the shopping service provider and *the customer* as the user of the service.

Based on MUI DSN Fatwa No. 113/DSN-MUI/IX/2017 regarding *Wakālah Bil Ujrah*, all activities implementing a *wakālah bil ujrah* contract must be conducted in strict compliance with the provisions and limitations established by Sharia law. Regarding *ujrah*, as explained in MUI DSN Fatwa No. 113/DSN-MUI/IX/2017, *the ujrah* must be clear in terms of both quality and quantity specifically, the amount and nominal value must be known to both parties to prevent either party from being disadvantaged during the contract.

When *a customer* (*muwakkil*) uses a shopping service to purchase products from a shopping service provider, they clearly provide the provider acting as *their representative*—with information and specifications regarding the items they want or need. The clarity referred to includes the model of the desired item, the appropriate product price, the quantity of products needed, and the practicality of obtaining the items *the customer* needs. The explanation provided by *the customer* (*Muwakkil*) prompts a response from *the* Personal Shopper acting as the agent indicating that they understand *the customer's* desires and needs, thereby allowing the agreement to proceed to the next stage of the transaction. This is in accordance with the provisions *of* the *Wakalah bil Ujrah* contract in DSN-MUI Fatwa No. 113/DSN-MUI/IX/2017 regarding *Wakalah bil Ujrah*.

[52] Fatwa DSN MUI No. 113/DSN-MUI/IX/2017 tentang Akad Wakālah Bil Ujrah.

In Islamic law, every contract must be carried out in accordance with the agreement made by the parties. Allah SWT states in Surah Al-Maidah, verse 1:

يٰ. هيا ال ذيْنه اُمهنُ. ْ ٓوا اهوْفُ.وْا
ب لَعُقُوْ د

"O you who have believed, fulfill your contracts."

This provision stipulates that each party is obligated to fulfill the terms of the agreed-upon contract. In the context of online consignment services, the service provider is obligated to deliver goods in accordance with the customer's order. If the goods received do not match the order, this may be classified as a breach of contract. Such discrepancies may include differences in color, size, quality, or condition of the goods.

In this study, as previously explained, some consumers received goods that did not conform to the previously agreed-upon specifications. This non-conformity caused losses for consumers because the goods received did not meet their needs or expectations. From the perspective of Islamic law, non-conformity of goods can be viewed as a form of negligence if the service provider fails to fulfill their trust properly. Trust is an important principle in Islamic transactions. Every party entrusted with a responsibility is obligated to carry out their duties honestly and responsibly.[53]

Under Islamic law, the party entrusted with a mandate is obligated to fulfill that mandate with full responsibility. As the party entrusted by the consumer, the consignment service provider has the obligation to purchase and deliver the goods as ordered. If there is a discrepancy in the goods due to the negligence of the consignment service provider, the provider is liable for the losses incurred by the

[53] Yusuf Qardhawi, *Halal dan Haram dalam Islam*, (Jakarta: Robbani Press, 2003), hlm. 273.

consumer. This liability may take the form of replacement of goods, a refund, or another form of resolution agreed upon by the parties.

This responsibility is based on the principle of justice in Islam. Islam teaches that any loss caused by a person's mistake must be resolved fairly so as not to harm others.[54] In the practice of online consignment services, dispute resolution is generally carried out through communication between the consumer and the service provider. Service providers typically offer solutions such as refunds, exchanges, or specific compensation. If the service provider demonstrates good faith in resolving the issue, this reflects the implementation of the principles of responsibility and trust in Islamic law. Conversely, if the service provider ignores the consumer's complaint, such action contradicts the principles of justice and the protection of consumer rights in Islam.

In addition, the responsibility of service providers is also related to the concept of dhaman, or compensation. In Islamic law, the party that causes a loss is obligated to compensate the aggrieved party.[55] Therefore, consumers are entitled to a resolution if they receive goods that do not match their order.

In Islam, personal responsibility is a necessity, as exemplified by the Prophet Muhammad (peace be upon him). As business operators, we must act honestly in trade and be accountable to consumers. In Surah Al-Baqarah, verse 194:

اهل شهْرُ الْهِرامُ بِا شهْ ر الْهِرا م قصها ص فمه ن اعْتهّدى عهلهيْكُمْ فهاعْتهدُوْا عهلهيْ ه ب ث ل

هوالْرمُت

مها اعْتهّدى عهلهيْكُ م قُوا لاّل هواعْلهمُوا اه ن لاّل مهعه الْمُت قيْه ١٩٤

[54] Abdul Aziz Muhammad Azzam, *Fiqh Muamalat Sistem Transaksi dalam Islam*, (Jakarta: Amzah,

2010), hlm. 56.

[55] Wahbah az-Zuhaili. *Fiqh Islam wa Adillatuhu*, Jilid VI. hlm 480

Meaning: *"...so whoever wrongs you, retaliate against him in a manner commensurate with the wrong he has done to you. Fear Allah and know that Allah is with those who fear Him*."

Under Islamic law, a consumer who receives goods that do not conform to what was agreed upon is granted the right of *khiyar*. This means that there is a mutual agreement between the two parties entering into the contract to prevent the consumer from suffering a loss. The purpose of *khiyar* is to grant all parties involved the right to avoid future losses or disputes arising from specific issues related to the price, quality, or quantity of the transaction.

Among the various forms *of khiyar* is what is known as *khiyar aib*. *Khiyar aib* is a situation in which one of the parties has the right to cancel or proceed with the contract when a defect (*'aib*) is discovered in the subject matter of the contract that was unknown to the owner at the time of the exchange of consent. Scholars agree that *the right of khiyar* aib takes effect from the moment the defect in the subject matter of the transaction is discovered.[56] This right of withdrawal due to defects often arises in online transactions once the goods have been delivered to the consumer. This is because, in such transactions, the goods are delivered at a later date. Therefore, if there is a defect or discrepancy in the purchased item, the consumer has the right to file a complaint with the seller. It is the seller's obligation, as a business operator, to assume responsibility for the consumer's losses in accordance with an agreement between both parties.

Based on the analysis, the online shopping service provided by the Instagram account @jastipby.civi essentially fulfills the elements of a contract under Islamic law, specifically the wakalah and ijarah contracts. There is an agreement between the parties, a clear subject matter of the contract, and a mutually

[56] Fitriana Deva Yanti, "Tanggung Jawab Hukum Pelaku Usaha Atas Produk Hijab Perspektif Hukum Islam dan Undang-Undang No 8 Tahun 1999 Tentang Perlindungan Konsumen", UIN Maulana Malik Ibrahim, (2021), 71

agreed-upon service fee. However, in practice, several issues have been identified regarding discrepancies in the goods received by consumers. These discrepancies indicate that the execution of the contract has not yet fully adhered to the principles of trust and transparency.

From an Islamic legal perspective, online consignment services may be deemed compliant with Sharia law if they meet the following principles:

1. The willingness of the parties involved;
2. Clarity regarding the subject matter of the transaction;
3. It does not contain elements of gharar and tadlis;
4. Honesty and transparency of information;
5. Accountability in the event of loss.

If consignment service providers are able to conduct transactions honestly, transparently, and responsibly, then online consignment services can serve as a form of modern commerce that aligns with the principles of Islamic law. Conversely, if such practices involve fraud, lack of transparency, or disregard for consumer rights, they contradict the values of justice in Islam. Therefore, it is important for online consignment service providers to improve information transparency, uphold trust, and provide fair resolutions in the event of discrepancies regarding goods. In this way, the relationship between consignment service providers and consumers can be balanced and in accordance with Sharia principles.

CHAPTER V

CONCLUSION

A. Conclusion

Based on the conclusions drawn from the analysis and discussion conducted by the author, the author can draw the following conclusions:

1. The practice of online shopping agency services on the Instagram account @jastipby.civi meets the elements of a contract as stipulated in Article 1234 of the Civil Code and constitutes an electronic transaction recognized under Law No. 11 of 2008 on Electronic Information and Transactions. However, in practice, breaches of contract are still found in the form of discrepancies in the goods received by consumers, such as errors in order details, mismatched goods, and the exchange of goods between consumers. From a positive law perspective, shopping service providers have a responsibility to protect consumers through replacement of goods, refunds, or other forms of liability in accordance with the provisions of the Civil Code and the Consumer Protection Law.

2. From an Islamic legal perspective, the online shopping service provided by the @jastipby.civi account can essentially be categorized as a wakalah bil ujrah contract due to the delegation of authority from the consumer to the service provider in exchange for a specific fee. However, discrepancies in the goods indicate a failure to uphold the principles of trust, clarity regarding the subject matter of the contract, and the agent's responsibility in exercising the authority granted by the principal. Therefore, the shopping service provider is obligated to fairly compensate the consumer for their loss as a form of responsibility and

the implementation of the principles of honesty and good faith in Islamic commercial transactions.

B. Recommendations

1. Online consignment service providers are encouraged to improve their attention to detail, transparency, and communication throughout the ordering, purchasing, and delivery processes to prevent discrepancies in goods that could harm consumers. Additionally, service providers should establish clear and efficient complaint resolution mechanisms as a demonstration of their responsibility toward consumers.

2. Consumers are advised to exercise greater caution when using online shopping services by verifying the product details, payment methods, and the service provider's credibility before placing an order. Consumers should also understand their rights under both secular law and Islamic law so that they can seek legal protection in the event of losses incurred through online shopping services.

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APPENDIXES

A. INTERVIEW GUIDLINE

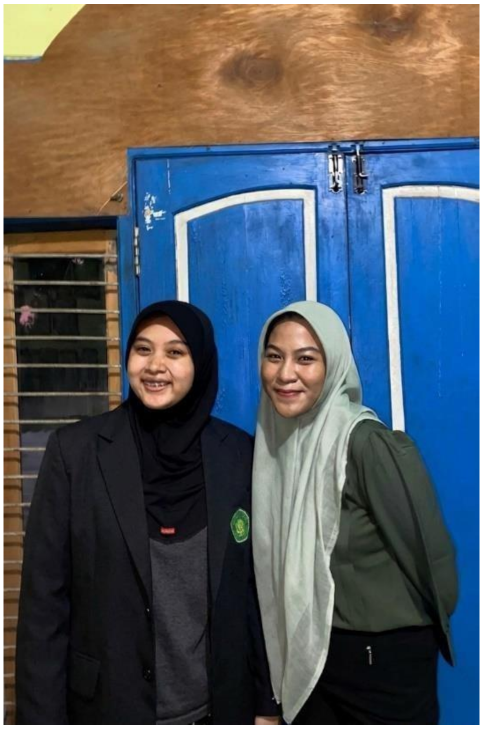
INFORMANT BIODATA

1. Full Name :
2. Gender :
3. Place Date Birth/ Age :
4. Last Education :
5. Position :
6. Length of Service :
7. Meeting Date :

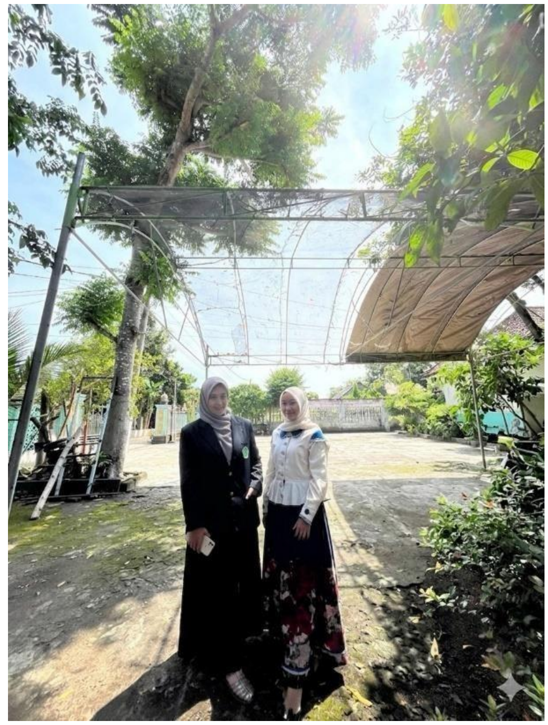
QUESTIONS

1. Bagaimana awal proses pemesanan barang yang Anda lakukan melalui akun Instagram jastipby.civi, mulai dari komunikasi hingga kesepakatan pembelian barang?
2. Apakah sebelum melakukan pemesanan terdapat informasi yang diberikan oleh pihak jastip mengenai spesifikasi barang, seperti model, warna, ukuran, merek, atau kondisi barang? Bagaimana penjelasan tersebut disampaikan kepada Anda?
3. Ketika barang diterima, ketidaksesuaian seperti apa yang Anda alami dibandingkan dengan barang yang sebelumnya dipesan?
4. Apa langkah yang Anda lakukan setelah mengetahui barang yang diterima tidak sesuai pesanan, dan bagaimana tanggapan atau penyelesaian yang diberikan oleh pihak jastipby.civi?
5. Menurut Anda, apakah penyelesaian yang diberikan oleh pihak jastipby.civi sudah memenuhi rasa keadilan dan sesuai dengan kesepakatan awal? Jelaskan alasan Anda.

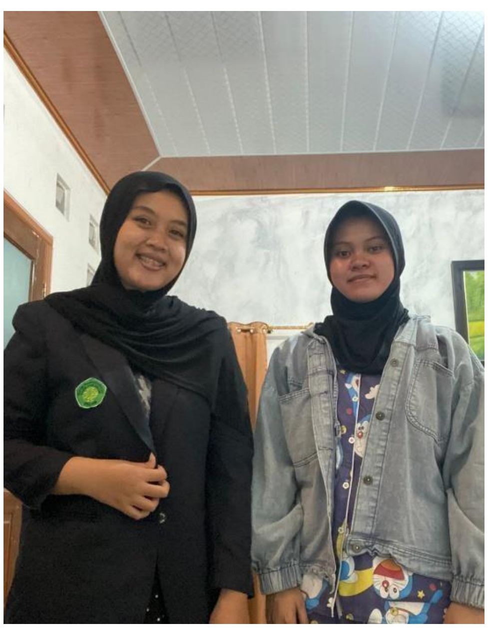
B. INTERVIEW DOCUMENTATION



Customer B. Laila



Customer A. Fifi



Customer C. Fia